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10 UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
11 WESTERN DIVISION  
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13 ALLAN J. FAVISH, ) No. CV 97-1479-WDK(Ex)  
14 Plaintiff, )  
15 v. ) DATE: March 5, 2001  
16 OFFICE OF THE INDEPENDENT COUNSEL, ) TIME: 10:00 a.m.  
17 Defendant. )

- 18  
19 (1) NOTICE OF MOTION AND MOTION TO ALTER OR AMEND JUDGMENT  
AND FOR CLARIFICATION  
20 (2) MEMORANDUM OF POINTS AND AUTHORITIES  
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1 Favish, 217 F.3d at 1174. The family's legitimate privacy  
2 concerns are not limited to the most gory photographs.

3 The five Polaroid photographs that this Court ordered  
4 released depict Mr. Foster's dead body in a manner that disturbs  
5 the surviving family's "memory of the deceased loved one." Id. at  
6 1173. All five Polaroid photographs show Mr. Foster's dead body in  
7 Ft. Marcy Park. In two Polaroid photographs Mr. Foster's face is  
8 clearly visible (photograph 3 of the first set and photograph 5 of  
9 the third set). In three photographs, blood stains and/or blood  
10 is clearly visible (photograph 3 of the first set, photograph 5 of  
11 the first set, and photograph 4 of the third set). In none of the  
12 pictures is Mr. Foster's neck or the back of his head visible.  
13 While one can subjectively judge which of the photographs are most  
14 shocking or gory, there can be no doubt that the release of these  
15 color death-scene Polaroid photographs implicates the family's  
16 privacy interest in preserving their memory of the deceased. The  
17 compelling and deep-seated nature of the privacy interests of the  
18 surviving Foster family -- including Mr. Foster's 86-year old  
19 mother, his widow, Lisa Foster Moody, and their three children,  
20 and his sister Sheila Foster Anthony -- were vividly articulated  
21 in Ms. Anthony's declaration. The declaration states:

22 "Our family has suffered a great loss under  
23 extremely tragic circumstances, compounded by the  
24 barrage of newspaper and magazine articles and  
25 televisions reports that followed Vince's death. An  
26 intensely emotional and private matter drew national  
27 attention, and reporters, as well as simply curious  
28 individuals, harassed my grieving family in unbelievably

1 against the significant privacy interests of the family in  
2 preserving the memory of the deceased.

3 c. "Starr failed to explain why Dr. Lee failed to find  
4 evidence that the body was dragged, when it was dragged." (Favish  
5 Motion at 18). Favish referred in this section to the conclusion  
6 of Dr. Lee (a forensic pathologist retained by Independent Counsel  
7 Starr) that Mr. Foster's clothing did not show evidence that the  
8 body had been dragged to the place it was found. (See Report on  
9 the Death of Vincent W. Foster, Jr. at 51, 112; see also pg. 63 at  
10 n. 187) Favish asserts that the body was "dragged" based on the  
11 testimony of Park Police officers who stated that it began to  
12 slide downhill when it was rolled over and that they pulled it  
13 back up to keep it from sliding down. Obviously Favish and Dr. Lee  
14 did not use the term "dragged" in the same context. As relevant to  
15 this case, none of the five Polaroid photographs ordered to be  
16 disclosed provides any information regarding Dr. Lee's conclusion  
17 that there was no evidence of dragging on Mr. Foster's shirt or  
18 pants, and the officer's testimony regarding Mr. Foster's body  
19 sliding downhill. None of the photographs shows the back of Mr.  
20 Foster's trousers or shirt. Thus, Favish's factual assertion fails  
21 to meet his burden to show there are specific public interests  
22 cognizable under FOIA which could be satisfied by the release of  
23 the five Polaroid photographs which this Court ordered disclosed.  
24 The defendant respectfully requests this Court to consider that  
25 the disclosure of the five photographs would not serve any public  
26 interest alleged by Favish in the Court's balancing the public  
27 interest against the significant privacy interests of the family  
28 in preserving the memory of the deceased.

1 dead in the Park." (Favish Motion at 31)<sup>10</sup> Favish asserts in this  
2 section that witnesses who were in Fort Marcy Park after 4:00 p.m.  
3 (by which time Mr. Foster is presumed to have been dead) did not  
4 see Mr. Foster's car in the parking lot. Even if Favish had  
5 correctly characterized the witnesses' statements, nothing in the  
6 five Polaroid photographs which the Court has ordered disclosed  
7 has any relevance to whether Mr. Foster's car was in the parking  
8 lot.<sup>11</sup> Favish's factual assertion fails to meet his burden to show  
9 there are specific public interests cognizable under FOIA which  
10 could be satisfied by the release of the five Polaroid photographs  
11 which this Court ordered disclosed. The defendant respectfully  
12 requests this Court to consider that the disclosure of the five

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14 <sup>10</sup>The Report on the Death of Vincent Foster, Jr. analyzes each  
15 of the private citizen statements as to the car, including one  
16 citizen who saw a dark metallic grey Japanese sedan (Report at  
17 pp. 20-21), and the actions of the official personnel who  
18 responded to the scene and who examined Mr. Foster's car (Report  
19 at pp. 23-24, 26-27, 68-69). The only non-official cars  
20 positively identified and known to law enforcement and the OIC  
21 were those of Mr. Foster, and two other citizens. (Id. at 69) The  
22 Report acknowledged that the "witnesses' recollections of precise  
23 details at Fort Marcy Park" varied "in some respects", but that  
24 the "evidence from the scene - including the gun, the apparent  
25 residue, the nature of the wound, the blood, the lack of any  
26 signs of a struggle - points to the conclusion that death  
27 resulted from suicide by gunshot." (Report at 28)

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29 <sup>11</sup>The Polaroid photographs already produced to Favish at pp.  
30 50-54 of Exhibit II to the Joseph Declaration filed on January 5,  
31 1998 are the Polaroid photographs taken of Mr. Foster's car on  
32 July 20, 1993, the date of Mr. Foster's death. The color copies  
33 of these Polaroid photographs were produced to Mr. Favish on June  
34 11, 1998. These Polaroid photographs are identified on page 46 of  
35 Exhibit II to the Joseph Declaration as Polaroids 1-5 in the  
36 middle section of the page. See also pp. 78-80, 86-87 of Exhibit  
37 II to the Joseph Declaration. In addition, numerous non-Polaroid  
38 photographs of Mr. Foster's car were also produced in Exhibit II  
39 to the Joseph Declaration, and color copies were subsequently  
40 produced on June 11, 1998. (See pp. 190-193, 195-198, 129-130,  
41 134-137, 140-141, 180-181 showing a light gray car, with other  
42 photographs of the car found at pp. 74-75, 106-107, 108-112, 114-  
43 117, 119-122, 124-127, 131-132, 142-143, 145-148, 150-153, 155-  
44 158, 160-163, 165-168, 170-173, 175-178, 185-188).



3. As part of my duties, I supervised the OIC employees involved in the *in camera* production of the ten Polaroid photographs to the Court on January 10, 2001. I caused the originals of the ten Polaroids at issue to be placed in a binder and that binder was transferred to a Federal Bureau of Investigation Special Agent in Los Angeles who transported the binder of Polaroids to the Court for *in camera* inspection.

4. The Polaroids placed in the binder were the original Polaroids that correspond to the Polaroids listed on the May 2, 1994 property receipt. The markings on the Polaroids correspond to the markings described on the property receipt and the descriptions of the photographs on the property receipt correspond to the content of the Polaroids. On the backs of the Polaroids numbered 3, 4, and 5 in the top group on the property receipt is the notation "from C202 Sgt. Edwards 7-20-93 on scene #93 --." On the backs of the Polaroids numbered 1 and 3 through 8 in the bottom group on the property receipt is the notation "JCR 7/20/93 93-30502." (JCR are the initials of John C. Rolla.) The Polaroids placed in the binder were not copies of the originals, but the originals themselves.

I declare under penalty of perjury that the foregoing is true.



Karl N. Gellert

Executed in Washington, D.C., this 20<sup>th</sup> day of February, 2001.

FEDERAL BUREAU OF INVESTIGATION  
Receipt for Property Received/Returned/Released/Seized

Page 1 of 1

On (date) 3/2/94

- item(s) listed below were:
- Received From
  - Returned To
  - Released To
  - Seized

(Name) Capt Charles Hume  
(Street Address) U.S. Park Police  
(City) CITB. - Anacostia Oper. Facility  
Wash. DC

Description of  
Item(s):

5 Polaroids marked 1-2-3-4-5 depicting  
1 - Rear of Cannon  
2 - Heavily foliage area  
3 - VF's body looking down from top of beam  
4 - VF's body - focusing on face  
5 - VF's body - focusing on RT. side shoulder/arm  
(notation on back of 1-5 - from Cor Sgt. Edwards 7/20/93 on scene #93)

5 Polaroids (Marked on back 7/20/93 1930  
CBS # 30502)  
1 - Driver Seat  
2 - Rear seat - driver side  
3 - Rear seat - passenger side  
4 - Ft seat - passenger side  
5 - Rear of Vehicle

8 Polaroids (Marked on back JCR 7/20/93 93-30502)  
1 - Right hand showing gun & thumb in guard  
2 - glasses on ground  
3 - VF's body taken from below feet  
4 - VF's body focusing on right side & arm  
5 - VF's body - focus on top of head then heavy foliage  
6 - VF's body - focus on head & upper torso  
7 - VF's face - looking directly down into face  
8 - VF's face - taken from right side focusing  
on face & blood on shoulder

Received by:

Wm O. Campbell  
(Signature)

Received from

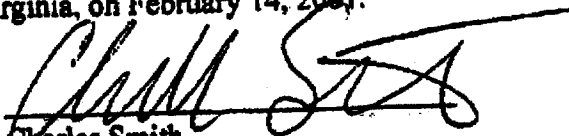
Charles W. Hume  
(Signature)

**DECLARATION OF CHARLES SMITH**

I am over 18 years of age. I am a citizen of Virginia.

Attached hereto as Exhibit 7 is a true and correct copy of documents that I received from the Virginia Office of Chief Medical Examiner in response to my request under the Virginia Freedom of Information Act. I was not allowed to see the original Haut Report.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Midlothian, Virginia, on February 14, 2001.

  
Charles Smith

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DECLARATION OF JOHN CLARKE

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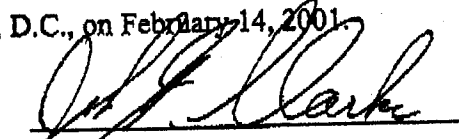
I am over 18 years of age. I am an attorney licensed to practice law in the District of Columbia. I represent Accuracy in Media in its Freedom of Information Act lawsuit in Washington, D.C., entitled *Accuracy in Media, Inc. v. Office of Independent Counsel*, No. 99-CV-3448 (ESH). I also represent Patrick Knowlton in his lawsuit entitled *Patrick Knowlton v. United States of America, et al.*, No. 96-2467 (JGP), that was filed in Washington, D.C.

Attached hereto as Exhibit 9 is a true and correct copy of the title page and page 17 from a report by Dr. Henry Lee to the Office of Independent Counsel that was given to me in the last 60 days by the Office of Independent Counsel in response to AIM's Freedom of Information Act lawsuit described above.

Attached hereto as Exhibit 10 is a true and correct copy of a declaration that I obtained from the author of the book, "The Secret Life of Bill Clinton: The Unreported Stories," Ambrose Evans-Pritchard, that I filed in *Knowlton v. United States*.

I am the attorney who represented Mr. Knowlton when he submitted his comments and factual information in response to portions of the Office of Independent Counsel's report on the death of Vincent Foster. Those comments and factual information is contained in the appendix to that report. The Office of Independent Counsel attempted to prevent Mr. Knowlton's comments and factual information from being included in that appendix, but that attempt was overruled by the United States Court of Appeals for the District of Columbia Circuit, Division for the Purpose of Appointing Independent Counsels.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed in Washington, D.C., on February 14, 2001.

  
John Clarke

S. Hrg. 103-889

**HEARINGS RELATING TO MADISON GUARANTY  
S&L AND THE WHITEWATER DEVELOPMENT  
CORPORATION—WASHINGTON, DC PHASE**

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**HEARINGS  
BEFORE THE  
COMMITTEE ON  
BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE  
ONE HUNDRED THIRD CONGRESS**

**SECOND SESSION**

**VOLUME I**

**ON**

**DEATH OF VINCENT W. FOSTER, JR.**

**JULY 29, 1994**

Printed for the use of the Committee on Banking, Housing, and Urban Affairs



U.S. GOVERNMENT PRINTING OFFICE

86-147 CC

WASHINGTON : 1994

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

**EXHIBIT 1**

**HEARINGS RELATING TO MADISON GUARANTY S&L AND THE WHITEWATER DEVELOPMENT CORPORATION—WASHINGTON, DC PHASE**

**VOLUME I**

**FRIDAY, JULY 29, 1994**

**U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
Washington, DC.**

The Committee met in room 106, of the Dirksen Senate Office Building at 10 a.m., Senator Donald W. Riegle, Jr. (Chairman of the Committee) presiding.

**OPENING STATEMENT OF CHAIRMAN DONALD W. RIEGLE, JR.**

The CHAIRMAN. The Committee will come to order. Let me invite all those that are standing to find seats so that we can begin.

Good morning to everyone and welcome to all those in attendance this morning. Today, the Senate Banking Committee begins the public hearing phase of our inquiry on the so-called Madison Guaranty/Whitewater matter. We do so under specific legislative instructions from the full Senate. Senate Resolution 229 mandated this inquiry and it instructed our Committee to begin these public hearings by today, July 29, 1994.

The scope of our present effort was carefully defined by the Senate Resolution 229 to pursue only three specific matters in order to not interfere or compromise in any way the full-scale inquiry being directed by Independent Counsel, Robert B. Fiske, Jr.

Now, Mr. Fiske's effort began on January 20, 1994, when Attorney General Janet Reno announced the appointment of this respected former prosecutor to serve as Independent Counsel to investigate allegations relating to Whitewater/Madison. He has full Federal authority to prosecute any violations of both civil and criminal laws.

On March 7, then, Mr. Fiske, aware that some in Congress were pressing for hearings on this subject, wrote to our Committee requesting that we not hold hearings that might compromise his investigation and jeopardize any later prosecutorial efforts he might undertake. The Senate itself recognized the importance and the primacy of Mr. Fiske's concerns on March 17 by a unanimous vote of 98 to zero.

The Senate passed a resolution authorizing hearings into all matters related to Whitewater but carefully provided that any Senate hearings should, and I quote:

(1)

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Be structured in sequence in such a manner that in the judgment of the leaders, they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

The Senate was very explicit on that matter. So for this reason, Senator D'Amato and I have met periodically with Mr. Fiske. We have done so in order to carefully structure our investigative process in a way that preserves the integrity of Fiske's inquiry and protects any prosecutorial effort he may later undertake, while at the same time providing our Committee with access to the information that we need to meet our investigative mandate from the Senate.

Now, Senate Resolution 229 directed this Committee to conduct hearings on three specific matters in this phase. No. 1, and I'm quoting directly:

Communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings & Loan Association.

No. 2, I quote again:

The Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster.

And No. 3, and I quote:

The way in which White House officials handled documents in the Office of White House Deputy Counsel Vincent Foster at the time of his death.

Mr. Fiske later informed us on July 15—that's just 2 weeks ago—that contrary to his earlier expectation, he had not yet concluded his inquiry into the handling of Mr. Foster's documents. He, therefore, asked that we not address this issue at this time, and, in deference to his request, we have put it aside until he indicates his work in this area is completed.

In every step we have maintained direct working contact with Mr. Fiske to discuss and resolve any matters of potential conflict and in that regard, I will now make available for the record 12 different letters that illustrate this careful line-drawing process that we have followed.

So these current hearings will focus upon two specific areas, and our purpose will be to examine all the relevant facts in order to determine whether any "improper conduct" may have occurred.

Now, it's our duty as Members of this Committee to be faithful to the Committee's and the Senate's instruction to us. As Chairman, it is my responsibility, together with my Ranking Member, Senator D'Amato, to be certain that each of us adheres to the scope of the inquiry by Senate Resolution 229 so we don't jeopardize Mr. Fiske's investigation and I ask for the cooperation of every Member in that regard.

As Chairman of the Committee for the past 6 years, I have sought the greatest possible degree of bipartisan cooperation. During this current inquiry, Senator D'Amato and I have worked cooperatively in every step to resolve various differences as they have arisen. Should additional disputes arise, the Committee will act, of course, to resolve them.

I will protect the right of each Senator, just as I must, and will protect the integrity of our Committee's work effort. I ask that each Member understand my commitment to see that the time is accorded fairly to both sides and that the individual time allotments are respected and adhered to.

**EXHIBIT 1**

this Committee by Mr. Altman and the series of explanatory letters that followed.

I'm hopeful, however, that today's hearing focusing on the tragic death of Vincent Foster can be conducted in a manner which will not unnecessarily add to the personal grief his family has already endured. This is not the time, nor the place for sensationalism. I did not know Mr. Foster but from what I've heard about him, he was a good man who came to Washington to serve his President and his country.

Mr. Fiske concluded, and I quote:

That Vincent Foster committed suicide in Fort Marcy Park on July 20, 1993. Although the contributing factors to his depressed state can never be precisely determined, there is no evidence that any issues relating to Whitewater, Madison Guaranty, or CMS played any part in the suicide.

While I do not advocate that this Committee should be bound by all of Mr. Fiske's findings, I do find reprehensible the attempts by some to invent a new scenario surrounding Mr. Foster's death. Let us deal solely with the facts as they occurred.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bryan.  
Senator Bennett.

#### OPENING STATEMENT OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman.

I'd like to say a few things about myself. No. 1, my name is Robert Bennett, but I am not the President's lawyer.

No. 2, I will be happy to stipulate that Vincent Foster committed suicide. There was a time when the rumors in the press led me to believe there was some credence to an additional theory. I find no possible justification for that now. I am one Senator who is willing to say that this hearing should not be about whether or not Vincent Foster committed suicide. He committed suicide. I will so stipulate.

I will not stipulate that the investigation of that suicide was handled in a proper fashion. I think that's a legitimate thing for us to go into. Now, I see some of my colleagues in the other body saying we shouldn't even be having these kinds of hearings. What a terrible thing. What a waste of time. Why are we here? I agree with some of my colleagues who mention why we're here. We're here because the U.S. Senate by a unanimous vote told us to be here to investigate this.

That is not a frivolous reason for the Committee to meet. Why is it in this Committee? I think it's very appropriately in this Committee because this is the Committee that has oversight and a long history of involvement with the RTC.

This Committee by public law last year went to lengths to amend the original RTC Act to make sure the RTC would be as independent as possible, that it would not be a politicized arm of any Cabinet level department. And the reason we're here is that we have evidence coming from the deposition that suggests that in this Administration, there has been an attempt to create that circumstance where the RTC would be politicized and run as if it were an arm of the Treasury Department.

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give incomplete answers based on tortured interpretations of our questions is unacceptable.

Mr. Chairman, in trying to understand all of this, let us not forget human nature. In my view, the White House/Treasury contact stemmed from an all too human desire to ensure that something that happened 8 years ago not interfere with the urgent task of governing.

Since the Whitewater events happened so many years ago, before this President was President, why not simply keep the White House staff out of it completely. If there's a problem with press inquiries, refer those to a private attorney who is handling the issue.

So yes, Mr. Chairman, there are lessons that have been learned and lessons to be learned by all of us. No one on this Committee should be high and mighty and superior about all this. No one of us is perfect, and I hope these hearings will help all of us do a better job for the American people.

The CHAIRMAN. Senator Boxer, I might just make one comment before yielding to Senator Domenici, and that is, as you spoke about Mr. Foster and the tragedy of his death and the impact upon his family, I was so struck, as I'm sure you were in reading of the report of Mr. Fiske, that Mr. Foster in days just before his death did try to get help.

He called professionals who might have been able to counsel him in dealing with this depression problem that he obviously had. And one of the great ironies is that he called at a time when the professional was not there.

So the evidence we have was that although he tried on two occasions to reach for help, it's just fate that he was not able to get the help at that moment and then sadly didn't try it again.

Senator BOXER. And he also feared that if he did make this contact, he could lose his clearance.

The CHAIRMAN. Yes. And that is a matter of the record and we'll get into that at some point. Senator Domenici.

Senator MACK. If I could, Mr. Chairman, since you're having dialogue back and forth on these different issues and questions. I feel compelled to make a response here that there's an implication that at some point there are going to be some questions asked about Foster's death, and somehow that's going to be terrible for us to do that on this side. But I would just remind everyone that we are here because, frankly, of the way the whole situation was handled. There have been serious questions raised so I think people ought to be sensitive to that.

The CHAIRMAN. Let me say, Senator Mack, and I don't want to digress at this point, but that certainly wasn't the implication or intention of my remark.

Senator Domenici.

#### OPENING STATEMENT OF SENATOR PETE DOMENICI

Senator DOMENICI. I hope it wasn't the implication of anyone's remarks because I don't think that's the intention on this side, and I think we'll just let it evolve with reference to his death.

I don't think anyone on our side is challenging whether or not it was a suicide. So perhaps we can get rid of that rather quickly.

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about this hearing. I'm hopeful we'll clear this issue up once and for all and get back to the work of the people that sent us here. Thank you.

The CHAIRMAN. Senator Hatch.

**OPENING STATEMENT OF SENATOR ORRIN G. HATCH**

Senator HATCH. Thank you, Mr. Chairman.

Mr. Chairman, the Senate has named me as a Special Member of the Whitewater Committee for the express purpose of considering matters within the jurisdiction of the Committee on the Judiciary of which I am the Ranking Member. Consistent with this mandate, I intend to focus most of my inquiry on matters related to the Department of Justice's involvement in Whitewater.

Let me emphasize at the outset that the scope of these hearings has been very narrowly defined by the Majority side. We are permitted to explore only matters relating to the death of Vincent Foster or to communications between the White House and the Department of Treasury or the Resolution Trust Corporation that involve Whitewater or Madison Guaranty.

In other words, whole areas of inquiry such as how the Department of Justice handled the Madison Guaranty criminal referral from the RTC, that named President and Mrs. Clinton as potential beneficiaries of criminal misconduct, and whether there was any improper influence exercised by the White House or other Administration officials on DOJ's, Department of Justice's, handling of criminal referrals regarding Madison Guaranty and Whitewater may have to wait for another day to have a full airing.

Nevertheless, there are numerous Justice Department matters that bear directly on communications between the White House and the Treasury Department or the RTC with respect to Whitewater and Madison Guaranty. These matters include but are not limited to the following:

On March 23, 1993, shortly after Roger Altman had been informed of a pending Whitewater criminal referral that the RTC made to the Department of Justice, President Clinton took the extraordinary step of dismissing all sitting U.S. Attorneys, including the U.S. Attorney in Little Rock to whom the Whitewater criminal referral had already been sent.

I believe, and I believe history will show, that this was an unprecedented action, and I can remember being shocked at the time this happened because it did happen.

Again, in late September 1993, the RTC leaked to the White House the fact that the RTC was forwarding nine additional criminal referrals concerning Whitewater to the U.S. Attorney's Office in Little Rock.

A few weeks later, in late October, Paula Casey, President Clinton's appointee as U.S. Attorney in Little Rock and a former campaign worker of his, informed the RTC that her office would not prosecute the initial Whitewater criminal referral.

In early November, then-Associate Attorney General Webster Hubbell and Ms. Casey announced their recusal from participation in Whitewater matters.

Around early January 1994, according to an entry in Roger Altman's diary, the White House was trying to negotiate the scope

**EXHIBIT** 1

of its Independent Counsel with Attorney General—let me give you the quote according to the diary, the White House quote was:

Trying to negotiate the scope of its Independent Counsel with Attorney General Reno and was having enormous difficulty.

In February, facing a recusal decision by Mr. Altman, the White House was concerned that RTC attorney Ellen Kulka might be too "tough" in pursuing RTC's civil claims related to Whitewater. In order to avoid this tough litigator, the White House considered whether it might be preferable to have Special Prosecutor Robert Fiske take over the RTC civil investigation.

In late February, White House officials, alarmed that the former U.S. Attorney, Jay Stephens, had been retained by the RTC to conduct its civil investigation of Whitewater, had a series of contacts with Treasury and RTC officials to see if he could be replaced. The facts refute the suggestion that these contacts can be dismissed as simply blowing off steam.

In short, these matters raise serious questions that demand full and honest answers. What relation, if any, exists between Ms. Casey's nomination as U.S. Attorney in Little Rock and the White House's knowledge that the RTC's criminal referrals regarding Madison Guaranty would be sent to that office? Why did Ms. Casey not recuse herself from the outset from matters relating to Whitewater? Why were the RTC's criminal referrals to the Justice Department leaked to the White House? Did the White House exert any influence to control the scope of authority to be given to the Special Prosecutor? Has the White House attempted to use the Special Prosecutor for its own ends? Overarching all of these questions, of course, is the question of whether Administration officials have been honest in informing Congress and the American people of what really happened.

Finally, let me just say—let me note it is not the role of the Committee to act as a rubber stamp for the Special Counsel or for Special Counsel Fiske's conclusions. We have conducted our own investigation and, frankly, in a lot of respects, we have uncovered a lot more in 5 weeks than Special Counsel Fiske uncovered in 6 months. So let's focus on the evidence before the Committee.

Now, finally, I would like to say this with regard to the Foster part of this. Pursuant to Resolution 229, this Committee was instructed by the Senate:

To conduct hearings into whether improper conduct occurred regarding the Park Police investigation into the death of Vincent Foster.

I know this has to be a terrible ordeal for the Foster family and my heart goes out to them. It is unfortunate that the tragic events of last summer must be the subject of conjecture. The Senate has instructed this Committee to review this matter, and I commend Senator Riegle and Senator D'Amato for their willingness to comply with the Senate's instructions. This is a disagreeable facet of Washington life and I want to express my remorse to Mrs. Foster and the children and friends.

Accordingly, I want to be clear on one point. There is absolutely no credible evidence to contradict the Fiske Report's conclusion that Vincent Foster took his own life and it happened at Fort Marcy Park. There is no credible evidence to the contrary. I suspect conspiracy theorists will always differ with this conclusion and lit-

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tle this Committee does is going to muffle their speculation. Nonetheless, the Committee may ponder whether had Mr. Fiske been somewhat more assiduous in investigating the cause of Mr. Foster's depression, some of the added speculation we have witnessed in recent weeks would not have surfaced.

The conclusion of Mr. Fiske that there is no evidence involving issues of Whitewater were a factor in Mr. Foster's death is tenuous. The Majority's reluctance to fully examine this issue is unfortunate. But in all honesty, I just want to make it clear that the conclusion is correct.

Thanks, Mr. Chairman.

The CHAIRMAN. Senator Moseley-Braun.

**OPENING STATEMENT OF SENATOR CAROL MOSELEY-BRAUN**

Senator MOSELEY-BRAUN. Thank you, Mr. Chairman.

Mr. Chairman, under Senate Resolution 229, this Committee is directed to review whether improper conduct occurred regarding: One, communication between White House officials and RTC or Treasury officials regarding Whitewater or Madison Guaranty. Two, the Park Service Police investigation into the death of White House Deputy Counsel, Vincent Foster. Three, the way White House officials handled documents in Vincent Foster's office at the time of his death.

At the outset, let me say, Mr. Chairman, I would like to associate myself with the remarks of Senators Bennett and Boxer regarding the Vincent Foster issue. We are not conducting an investigation into a suicide. Our investigation is only into the propriety of the investigation surrounding his tragic and untimely death.

My condolences and sympathy also go out to his wife and family. This is no doubt a very painful time for them, and it's probably more painful to them that this matter has not yet been put to rest. However, we do have an obligation, nonetheless, to the public to ensure that no untoward or inappropriate activities occurred that would reflect on the remaining issues before this Committee. The first part of this hearing, I believe, will rightfully look into the process by which that investigation took place.

What this means, therefore, Mr. President, is that at least in part, we are still dealing with the legacy of the savings and loans crisis. I was not in the Senate in the 1980's as that crisis exploded onto the scene. Like every Illinoisan, and I imagine every person in the country, I watched it develop with horror. It made me and my service here determined everything I could to prevent anything similar from ever happening again and to see that everything possible was done to minimize the public cost of completing the resolution of the savings and loan debacle. That is why, along with Senator Murray and a number of others on this Committee, I joined in insisting that a final taxpayer payment to the Resolution Trust Corporation include a wide variety of management and other reforms designed to bring more order and discipline to the RTC and to improve its efficiency.

It is most important for us to protect the public interest in the final stages of the savings and loan issue and to ensure the integrity of the process in which that resolution occurs. Madison Guaranty is one of the thousands of savings and loan failures that

**EXHIBIT 1**

# Report of the Independent Counsel In Re Vincent W. Foster, Jr.

*Washington, D.C.  
June 30, 1994*

**Robert B. Fiske, Jr.**  
Independent Counsel

**Roderick C. Lankler**  
Deputy Independent Counsel

**Mark J. Stein**  
**Carl J. Stich, Jr.**  
Associate Independent Counsel

**EXHIBIT 1**

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would have been recovered in the soil beneath his head. If Foster was standing up, "he would not have ended up in the orderly position in which he was found." Pathologist Report, ¶ 6.

If Foster were seated, however, the position of the body was as would be expected following the loss of all motor function caused by bullet-generated trauma to the brainstem. The Pathologist Report concluded that "[a]fter firing the weapon, because of the sloped terrain, he would have fallen backward, with his arms falling to their respective sides by gravity, aided on the right by the weight of the revolver affixed to his thumb." Pathologist Report, ¶ 6.

3. Why was the gun still in Foster's hand?

After firing, the trigger of Foster's gun rebounds forward. Based on an analysis of scene photographs and an autopsy photograph showing a mark on Foster's right thumb, the Pathologist Panel and FBI ballistic experts concluded that Foster's thumb was "trapped and compressed" between the trigger and the trigger guard of the gun. Pathologist Report, ¶ 8. This conclusion is corroborated by the statement of Park Police Technician Peter Simonello who removed the gun from Foster's hand. He stated that Foster's knuckle initially prevented him from removing the gun from Foster's hand. As a result, Simonello half cocked the gun causing the trigger to be pulled back. Only then could Simonello remove the gun.

EXHIBIT 1

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**DEPOSITION OF CHARLES W. HUME  
IN RE: S. RES. 229**

FRIDAY, JULY 22, 1994

U.S. SENATE,  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,  
Washington, DC.

Deposition of CHARLES W. HUME, called for examination pursuant to notice of deposition, at 9:00 a.m. in Room SC-10 of the U.S. Capitol, before CINDY L. SEBO, a Notary Public within and for the District of Columbia, when were present:

GLENN F. IVEY, Esq.  
Majority Counsel  
ROMAN E. DARMER, III, Esq.  
JULIE FALLON, Esq.  
IRA PAULL, Esq.  
Minority Counsel  
Committee on Banking, Housing, and Urban Affairs  
U.S. Senate  
On behalf of the Committee.

**EXHIBIT 1**

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1 Whereupon,  
2 CHARLES W. HUME  
3 a witness, called for examination by counsel and, after  
4 having been sworn by the notary, was examined and  
5 testified as follows:

6 EXAMINATION

7 BY MR. IVEY:

8 Q Let's cut to the chase, I guess. My name is  
9 Glenn Ivey, I'm counsel for Senate Banking Committee.  
10 Normally I do a longer version of this, but because of  
11 the time constraints, I'll do a short version.

12 This is a deposition related to the  
13 investigation in the death of Vincent Foster. It's  
14 being done pursuant to Senate Resolution 229, and there  
15 are going to be hearings next week that also stem from  
16 that resolution, and you may be called as a witness at  
17 these hearings.

18 This is a deposition we've taken in  
19 preparation for that. It's being transcribed as you  
20 see. You're under oath, as you know, so I ask that you  
21 give honest answers, obviously.

22 And to the extent that you give answers that

1 include any type of guesswork or speculation, just let  
2 us know in advance. If I ask a question that you don't  
3 understand or you want repeated, feel free to ask me to  
4 repeat it. And if you want to take a break as we just  
5 discussed off the record, feel free.

6 Would you state your full name for the  
7 record, please, and spell your last name?

8 A Charles W. Hume, it's H-U-M-E.

9 Q And what do you do for a living, sir?

10 A I'm a police officer.

11 Q How long have you been a police officer?

12 A Well, with the U.S. Park Police, 24 years.

13 Q Were you an officer before that?

14 A Right.

15 Q Where?

16 A City Police Office in Fredericksburg,  
17 Virginia.

18 Q And how long were you there?

19 A I was a sworn officer for a year.

20 Q Okay. And what's your position with the Park  
21 Police now?

22 A I hold the rank of \_\_\_\_\_ and the position

**EXHIBIT**

XAMINATION

3, 335  
125, 336

IDENTIFIED

66, 860  
273, 867  
276, 869

1 is assistant commander of the criminal investigations  
2 branch.

3 Q And what are your responsibilities as  
4 assistant commander?

5 A Well, to oversee the different sections of  
6 the branch and to also act as the executive officer,  
7 you know, from an administrative point of view, which  
8 means make sure the typewriter works and the computer  
9 works and the secretary shows up on time and things  
10 like that, you know.

11 Q Okay. And what does CIB handle, what types  
12 of crimes does CIB handle?

13 A Well, we handle all types of crimes. We have  
14 a major crime section which handles your normal rapes,  
15 robberies, assaults, death investigations and that sort  
16 of crime. And then we have a drug unit that handles  
17 narcotic and vice investigations.

18 Q Okay. Now, let's go to July 20th, 1993.  
19 Were you on duty on that day?

20 A Yes, I was.

21 Q Okay. Did there come a point when you  
22 learned about a death at Fort Marcy Park?

1 A I did but not on July the 20th.

2 Q When did you learn about that?

3 A I learned about that on July 21st.

4 Q How did you learn about the death at Fort  
5 Marcy Park?

6 A I came into work sometime between 6:00 and  
7 6:30, I guess, which is my normal arrival time in the  
8 office, and I just picked up on the conversation and  
9 the activity that was going on in the office.

10 Q What type of conversation and activity was  
11 there?

12 A Typically what you would have in a bare area  
13 of a detective office, the previous night's crimes  
14 being discussed, and what was unusual about this one  
15 was I noticed a couple of the investigators that had  
16 worked the previous evening were still there.

17 Q Which ones?

18 A If I remember, and this is the best as I can  
19 recall --

20 Q Yes, sir.

21 A -- Investigator Rolla and Investigator Cheryl  
22 Braun.

**EXHIBIT 1**

1 Q Did you

2 A I don't  
3 have lieutenants  
4 under me. They  
5 learned that, but

6 I don't i  
7 a brief meeting,  
8 some other thing

9 Q Well, if  
10 what did you do

11 A Well, I

12 really what I wd  
13 sergeants was try

14 you know, give  
15 type of activity

16 the mornings, it  
17 spilled over into

18 needs follow up  
19 And

20 investigator  
21 these various  
22 detective ser

1 sergeant for  
2 that long

3 Q  
4 A Ser

5 Q  
6

7 but I was  
8 sure

9 was Ser

10 trying  
11 super

12  
13 the

14 who

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1 Now that's best from my memory; okay?

2 Q Sure.

3 A I think I have those facts right and the  
4 other part was the father or was it the daughter?  
5 Maybe the daughter -- it was related, the father could  
6 have a problem, and he was dying and they supposedly  
7 went and got the guns, and you go and get the guns.

8 I tend to think that they were probably  
9 depressed, but I mean maybe they're just settling the  
10 estate, I don't know. Somehow or another I came away  
11 that there were two other family members of the Fosters  
12 that had suffered from some type of depression which I  
13 don't think, you know, those things -- you know, I  
14 think when you're looking at suicide are significant.

15 Q Did you come away hearing any factors that  
16 you thought could feed into a homicide scenario?

17 A No, I don't remember anything that would make  
18 us change our review of our evidence and fact. I don't  
19 recall ever learning a fact or discovering any new  
20 evidence that would make us think anything other than  
21 suicide at that point. I mean even today, even today  
22 with all of this learning about Whitewater and all of

1 this other stuff that I never knew anything about, I  
2 still -- I still see nothing that would change our way  
3 of thinking or change our evidence.

4 Q Did you interview any other family members?

5 A Let's see. Beryl Anthony, Mrs. Foster. We  
6 did not interview any of the Foster children,  
7 Mr. Hamilton would not make them accessible to us,  
8 because we were concerned about trying to retrace some  
9 -- more of that time that we hadn't accounted for  
10 around 1:00 and 1:15 until we found the body.

11 And also the Secret Service was concerned  
12 that he brought the gun in the car to work with him  
13 that day, you know, meaning either in his briefcase, in  
14 his pocket or in the glove box or trunk or whatever, or  
15 if he had gone home and gotten it and we wanted -- we  
16 would have like to have talked to the son, because I  
17 remember Ms. Foster -- the youngest son, perhaps 17 or  
18 18, I'm not sure of his age. he may have slept in  
19 late. And even if Mr. Foster had come in from the time  
20 he went from the office and went to Fort Marcy, the son  
21 might not hear it, because he either slept in the  
22 basement or there was something there that she felt

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EXHIBIT 1

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division (94-1) for the Purpose of  
Appointing Independent Counsels

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REPORT ON THE DEATH OF VINCENT W. FOSTER, JR.,  
BY THE OFFICE OF INDEPENDENT COUNSEL  
IN RE: MADISON GUARANTY SAVINGS & LOAN ASSOCIATION

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**EXHIBIT** 2

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by Park Police officers at Fort Marcy Park and in photographs taken at the autopsy. However, based on traditional privacy considerations, this report does not include death scene or autopsy photographs. The potential for misuse and exploitation of such photographs is both substantial and obvious.<sup>24</sup>

#### IV. FACTUAL SUMMARY

##### A. Mr. Foster's Background and Activities on July 20, 1993

Vincent W. Foster, Jr., was born on January 15, 1945, in Hope, Arkansas, to Alice Mae and Vincent W. Foster. He had two sisters, Sheila and Sharon. He was graduated from Hope High School in 1963 and from Davidson College in 1967. He married Elizabeth (Lisa) Braden in 1968, and they had three children, two boys and a girl. Mr. Foster was graduated first in his class from the University of Arkansas School of Law in 1971, where he was Managing Editor of the Law Review. He joined the Rose Law Firm in Little Rock in 1971 as an associate, and he became a Member of the Firm in 1974. Mr. Foster left the Rose Law Firm and moved to Washington in January 1993 to serve as Deputy White

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<sup>24</sup> Cf., e.g., Navy Report Omits Suicide Notes, N.Y. Times, Nov. 2, 1996, at 9 (regarding suicide of Admiral Boorda: "The Navy Department decided not to make the notes public. . . . Many other items in the report are blacked out, like the autopsy report and the identities of people interviewed by investigators."); Katz v. National Archives and Records Administration, 68 F.3d 1438, 1441 (D.C. Cir. 1995) ("Out of concern for the Kennedy family's privacy, . . . the x-rays and photographs did not become a part of the record of the Warren Commission.").

**EXHIBIT** 2

to the Parkway) to Washington. A parking lot for the park is adjacent to the outbound side of the GW Parkway.<sup>29</sup> Inside the park, as of July 1993, were two cannons -- one closer to the GW Parkway and a second (the one near which Mr. Foster was found) closer to Chain Bridge Road. That second cannon is approximately 200 yards from the parking area.<sup>30</sup>

Thirty-one witnesses, 19 of whom observed Mr. Foster's body, have provided relevant testimony about their activities and observations in and around the Fort Marcy Park area on July 20, 1993. They include:

6 private citizens (one of whom discovered and observed Mr. Foster's body);<sup>31</sup>

13 Park Police personnel (9 of whom observed Mr. Foster's body);

11 Fairfax County Fire and Rescue Department (FCFRD) personnel (8 of whom observed the body); and

Dr. Haut, the doctor representing the Medical Examiner's Office who responded to the scene and examined the body.

Between about 2:45 and 3:05 p.m., a citizen (C1) driving

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<sup>29</sup> A pedestrian can enter Fort Marcy Park from Chain Bridge Road, but a chain-link fence prevents vehicle entry and did so in July 1993, according to information provided by the Park Service. OIC Doc. No. DC-229-1. Moreover, trees and thick vines are growing through the fence in a manner that reveals that the fence has been there for some years. OIC Investigators' Memorandum, 3/1/96, at 72.

<sup>30</sup> The trees, brush, and hills within the park were such that one would not walk in an absolutely straight line from the parking lot to the second cannon.

<sup>31</sup> For privacy reasons, the names of the private citizens will not be included in this report.

<sup>20</sup>  
**EXHIBIT 2**

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outbound on GW Parkway saw "a dark metallic grey, Japanese sedan" occupied by a single, white male abruptly enter Fort Marcy Park.<sup>32</sup> C1 said in his initial 1993 statement to the Park Police that the license plate was from Ohio or Arkansas.<sup>33</sup> Months later, on April 18, 1994, during Mr. Fiske's investigation, C1 was shown photographs of Mr. Foster's car. C1 stated that the car in the photographs looked "similar" to the car he recalled, but that the license plate on it differed from that which he recalled.<sup>34</sup>

Another citizen (C2) drove his rental car into the Fort Marcy parking lot at approximately 4:30 p.m. While there, C2 saw one unoccupied car, which he described as a "rust brown colored car with Arkansas license plates."<sup>35</sup> C2 also saw another nearby car; that car was occupied by a man who exited his car as C2 exited his own car.<sup>36</sup> C2 described this man as having "a look like he had a -- an agenda," although "everything I based my observation of this guy, was from my gut, more than anything else."<sup>37</sup> C2 and the man did not speak to one another.<sup>38</sup> C2

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<sup>32</sup> USPP Report, 7/26/93 and 8/2/93, at 1 (C1 interviews). Mr. Foster's car was a gray Honda Accord, 4-door, with Arkansas license plates.

<sup>33</sup> Id.

<sup>34</sup> 302, 4/18/94, at 2.

<sup>35</sup> OIC, 11/1/95, at 22, 28.

<sup>36</sup> Id. at 25.

<sup>37</sup> Id. at 27, 62.

<sup>38</sup> Id. at 61-62.

**EXHIBIT 2**

Dr. Lee reported that each test-fired shot of the revolver found in Mr. Foster's hand at Fort Marcy Park produced a significant amount of unburned and partially burned gunpowder.<sup>112</sup>

Relatedly, Dr. Lee reported that the gun had an "extraordinary front cylinder gap"<sup>113</sup> (the space between the cylinder and the barrel) of .01 inch through which gunpowder residue is expelled when the gun is fired. Dr. Lee stated that the gap was one "possible cause[] of the deposit of a large amount of gunshot residue particles on Mr. Foster's body and clothing."<sup>114</sup>

(2) Indentation on Thumb

The revolver was recovered from Mr. Foster's right hand at the scene at Fort Marcy Park by Park Police Technician Simonello. Technician Simonello reported that Mr. Foster's thumb was trapped in the trigger guard of the gun.<sup>115</sup> Consistent with Technician Simonello's observation, the autopsy photographs depict an indentation mark on the inside of the right thumb.

The mark on the inside of the right thumb which is visible in the [autopsy] photograph is consistent with a mark produced by the trigger of the . . . revolver when this portion of the right thumb is wedged between the front of the trigger and the inside of the front of the trigger guard of the . . . revolver when the trigger rebounds (moves forward). The trigger of the . . . revolver automatically rebounds when released

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<sup>112</sup> Id.

<sup>113</sup> Id. at 487.

<sup>114</sup> Id.

<sup>115</sup> USPP Report (Simonello) at 1 ("The right thumb was trapped between the trigger and inside front edge of the trigger guard."). Thus, Technician Simonello indicated that the revolver could not be easily removed. 302, 2/7/95, at 3.

stated:

Photographs of the victim at the incident scene depict apparent blood stains on his face and the right shoulder of his dress shirt. The staining on the shirt covers the top of the shoulder from the neck to the top of the arm and consists of saturating stains typical of having been caused by a flow of blood onto or soaking into the fabric. The stains on his face take the form of two drain tracks and one larger contact stain.

The contact stain on the right cheek and jaw of the victim is typical of having been caused by a blotting action, such as would happen if a blood-soaked object was brought in contact with the side of his face and taken away, leaving the observed pattern behind. The closest blood-bearing object which could have caused this staining is the right shoulder of the victim's shirt. The quantity, configuration and distribution of the blood on the shirt and the right cheek and jaw of the victim are consistent with the jaw being in contact with the shoulder of the shirt at some time.<sup>127</sup>

Dr. Lee also examined the photographs taken at Fort Marcy Park. He noted that the photographs of the shirt show several areas of bloodstains, including "saturated-type bloodstains" on the "shoulder and collar region."<sup>128</sup>

On a separate bloodstain issue, Dr. Lee examined the photographs and reported that "[h]igh velocity impact type blood spatters were observed on Mr. Foster's face, hands, and shirt."<sup>129</sup> Dr. Lee stated that "[t]his type of blood spatter typically is produced at the time when a weapon is discharged and

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<sup>127</sup> FBI Lab Report, 5/9/94, at 9.

<sup>128</sup> Lee Report at 494. The FBI Laboratory determined that blood on the shirt and t-shirt was consistent with Mr. Foster's blood type. FBI Lab Report, 5/9/94, at 10.

<sup>129</sup> Lee Report at 495.

the spatters result from the backspatter of the gunshot wound.<sup>130</sup> Dr. Lee reported that "[t]hese blood spatters are intact and no signs of alteration or smudging were observed."<sup>131</sup> This finding is in conflict with any theory that the fatal shot was fired elsewhere and the head wrapped during movement or cleaned upon arrival -- because those actions likely would have altered, smudged, or eliminated the blood spatters, contrary to what Dr. Lee found.<sup>132</sup>

c. Blood Drainage After Movement from Fort Marcy Park and Bloodstains on Clothing at Autopsy

Dr. Lee noted that Dr. Beyer had "observed a large amount of liquid blood in the body bag and in Mr. Foster's body," which "further indicates that the location where the body was found is consistent with the primary scene [and that it] is, therefore, unlikely that Mr. Foster's body was moved to the Fort Marcy Park scene from another location."<sup>133</sup>

The shirt itself, which was removed at the autopsy after movement of the body to the morgue, contains bloodstains on areas where blood does not appear in the photographs of the body at the

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<sup>130</sup> Id.

<sup>131</sup> Id.

<sup>132</sup> OIC Investigators' Memorandum (Lee). In addition, Dr. Lee examined the shoes and found "[n]o heavy bloodstains or dripping type bloodstain patterns," Lee Report at 492, contrary to what might have been found had the body somehow been moved in an upright position. OIC Investigators' Memorandum (Lee).

<sup>133</sup> Lee Report at 495.

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Tarzana, CA 91356-1802

Voice & Fax: (818) 343-9095  
E-mail: ajfavish@worldnet.att.net  
Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ALLAN J. FAVISH,

Plaintiff,

vs.

OFFICE OF INDEPENDENT COUNSEL,

Defendant

Case No. 97-1479 WDK (Ex)

DECLARATION OF HUGH H. SPRUNT IN  
SUPPORT OF PLAINTIFF'S MOTION FOR  
SUMMARY ADJUDICATION OF ISSUES

I, Hugh H. Sprunt, of Farmers Branch, Texas, declare as follows:

I have an MBA and JD degrees from Stanford University and BS and MS degrees in earth and planetary science from the Massachusetts Institute of Technology. I am a Certified Public Accountant certified as a Personal Financial Specialist by the American Institute of CPAs.

While examining copies of Senate "Whitewater" documents at the National Archives in Washington, DC, on Saturday, July 19, 1997, Patrick Knowlton and I found a copy of a document entitled "Report of Investigation by Medical Examiner" that was created and executed by a Medical Examiner assigned to the Virginia Office of the Chief Medical Examiner, Northern Virginia District, in connection with the death of Deputy White House Counsel Vincent Foster (Haut Report).

The Haut Report was found in an Archives file box among the set of several dozen boxes containing the records transferred by the Senate "Whitewater" Committee to the Archives and, with very few exceptions, published by the Senate in January 1995 as S. Hrg. 103-889, Volumes I and II.

**EXHIBIT 2**

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**EXHIBIT 3**

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The Haut Report was *not* published in the Senate Hearings Volumes, even though it was among the documents gathered by the Senate "Whitewater" Committee during the course of its investigation into the death of Vincent Foster and transferred to the Archives.

I photocopied the Haut Report (two 8-1/2" by 11" photocopied sheets) while at the Archives and a true and correct copy of this document, as I found it at the Archives (reproduced, as required by the Archives, on 8-1/2" by 14" paper and with the addition of the mandatory wording at the top of the photocopy: REPRODUCED AT THE NATIONAL ARCHIVES), is attached to this declaration.

I declare under penalty of perjury that the foregoing is true and correct. Executed within the United States on February 6, 1998.

  
\_\_\_\_\_  
Hugh H. Sprunt

**EXHIBIT 2**

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**EXHIBIT 3**

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