HAMILTON, JAMES

codicil
re-phrased Q
letter
↓
next day
or so

Jim
responses to Q's

clients prepared to respond

items - why do you need them?
#1, 2, 3

contents of folder
- .45 calibre pistol ⇒ in Sharon's possession
  - why?
  - when can get it back?

magazine - list
why?

original book of quotes?
→ Lisa not comfortable?
↳ why?

John ⇒ information re: Travel Office
* disinclined to do that

confirm description of it

nobody checked to see if ammo chambered in it ⇒

limit to VWF Sr.

in DC Tuesday
Wed - govt agency

Fri - South Carolina -
couple of weeks

not opposed to put them in writing

(1) gray
bright blue
blue-gray
bright + light pink + white
dark red (maroon)
dark blue
beige

(2) yes
sometimes

(3) he possessed
kept in garbage can to
feed birds

(4) maybe Bright + VWF III -
don't remember
VWF III all the time

(5) Laura had several roadmaps
in car b/c didn't know
where he was going?
NO? ⇒ maps in car

(6) Tom ⇒ Tom Burnett,
friend of Laura's

(7) NO

(8) NO

(9) NO ONE HAS SEEN CODICIL || [redacted] 302 *

(10) p.63 New Yorker

[redacted] * auto withdrawals

$35.00
↳ auto drafts from Chevron $35
came through as $3500 ⇒ mistake

(11)

letter to Ham.

① codicil

② responses

③ book of quotes -
pages ⇒ from 307

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

July 15, 1996

James Hamilton, Esq.
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

Dear Jim:

I am writing regarding two closely related subjects, both involving the completion of our investigation of the circumstances of Vince Foster's death. Your cooperation on the second of these subjects likely will help to expedite that process.

At the outset, some context may be helpful. Mr. Foster would have been an important witness with respect to at least three separate issues that have been investigated extensively by various regulatory agencies, committees of Congress, and law enforcement agencies (including this Office): the operation of Whitewater Development; the operation of Madison Guaranty, including the Rose Law Firm's work for Madison Guaranty; and the Travel Office firings. In addition, there is a fourth issue that has been extensively investigated and that obviously implicates Mr. Foster's name: the handling of his documents and papers by White House officials and others in the aftermath of his death. These issues are in addition to our ongoing investigation of the circumstances of Mr. Foster's death.

These issues have been investigated in multiple fora and have been the subject of innumerable media stories. We understand the family's distress at seeing or hearing Mr. Foster's name bandied about in media stories or congressional hearings in connection with these issues. Recent stories on a new subject -- the FBI background files matter -- must further add to that distress. As you know, however, we cannot control the media's interest in these issues, and we cannot control any investigation but our own.

[redacted] there also has been a great deal of media focus on Mr. Foster's death. That attention has involved primarily the motive, rather than the manner or location, of the death. But some outlets, [redacted] have devoted a great deal of attention as well to the manner and location of the death.

We suspect that the primary reason Mr. Foster's death still gathers attention from the media and the public is, at least in part, because of these issues still under investigation (Whitewater, Madison, the Travel Office, the Foster documents, and the FBI background files matter). Indeed, a national editorial as recently as last Friday illustrates that point. See Wall Street Journal, page A-12, July 12, 1996. [redacted] Please be assured that there has been no deliberate delay or decision to prolong the investigation of Mr. Foster's death, or any of our other investigations for that matter.

There are at least four reasons that we have not yet been able to announce any results of our investigation of Mr. Foster's death. We believe you are aware of these reasons, but they are worth repeating. First, we insisted upon a painstaking review of the physical evidence, a process that we believed had the potential to be quite helpful in resolving some unanswered questions and in assessing the manner and location of the death. That process, as you might imagine, has taken a great deal of time, frankly more than we anticipated. Second, we have been in litigation with you for six months over certain pre-death notes of your conversations with Mr. Foster and certain post-death notes that likely contain relevant evidence regarding Mr. Foster's activities and state of mind in the days before his death. Third, assessing the motive of Mr. Foster's death is complicated because it may be intertwined with at least some of the issues noted above; indeed, the family itself has referred to the Travel Office as an important factor weighing on Mr. Foster. Finally, as you have implored us, we must take great care in any report issued or filed with the Court, which means that any report-writing process also takes a good deal of time.

[redacted] Media attention on Mr. Foster derives at least in part from other ongoing issues, not from the pendency of our investigation of Mr. Foster's death. Indeed, it is our understanding that a committee

of Congress was contemplating holding hearings on Mr. Foster's death in late 1995 or early 1996, but determined not to do so because this Office had not yet concluded its investigation. Such hearings no doubt would have greatly increased the public attention devoted to Mr. Foster's death.

In sum, let us assure you and the family that we do consider them to be victims of all of this publicity and that we have tried, to the extent we can, not to cause them further distress.

[redacted] We are proceeding, we believe, with appropriate dispatch, and we appreciate the patience and understanding of you and the family.

The second matter I want to raise involves the acquisition of further information relevant to our investigation of Mr. Foster's death. In the course of gathering additional evidence, a few questions have arisen that, we believe, can only be answered by your clients, the Foster family members. Although it might be easier for us simply to ask to interview the family members again, we recognize that might be more burdensome on you and them. Hence, we are prepared to obtain this additional information by means of written responses to a few questions and requests for materials.

The prompt provision of this small amount of additional information will significantly assist us in our effort to bring the investigation of Mr. Foster's death to closure in the near future. Therefore, please provide answers to the written questions and responses to the requests for materials that are enclosed herewith, on behalf of your clients Lisa Foster Moody, the Foster children, Beryl Anthony and Sharon Bowman. We would appreciate any efforts you and your clients can make to provide this information by August 2, 1996. We hope and strongly believe that the provision of written responses will obviate the need for any additional interviews of family members as part of our investigation of Mr. Foster's death.

Thank you for your assistance. Please feel free to contact me if you or your clients have any questions or want to voice further concerns.

Sincerely,

John D. Bates
Deputy Independent Counsel

QUESTIONS FOR FOSTER FAMILY

1. Please describe the colors of the carpets located in the Foster home in Washington, D.C.

2. Did Vince Foster ever eat sunflower seeds, and, if so, how frequently?

3. Did anyone see Vince Foster buy, eat, or possess sunflower seeds in the days immediately prior to his death?

4. Did any other Foster family members or friends buy sunflower seed, or eat or possess them in the grey Honda sedan, in the days immediately prior to Vince Foster's death?

5. Do Laura Foster or Vincent Foster III recall seeing a road map of the Washington, D.C., metropolitan area on the front passenger side floorboard of the Honda on the morning of July 20, 1993?

6. A birthday card addressed to "Tom" was found in the car; who is Tom, what is Tom's relationship to Vince Foster, and why was the card in the Honda?

7. Was the "cowboy" type gun ever located at the Foster home in Washington, D.C. after July 20, 1993? Was it ever found anywhere else?

8. Was any ammunition found in the Foster house after July 20, 1993? If so, where was it found? (Other than the .45 caliber bullet which Lisa Foster showed SA James Clemente in Little Rock.)

9. Do any Foster family members know of or possess any hand guns which were formerly owned by Vincent Foster, Sr., but which were not listed on the codicil to his will?

10. In Lisa Foster's New Yorker interview, she reportedly stated that there was a White House Credit Union (WHCU) error that caused an overdraft in Foster's account shortly before his death. This overdraft reportedly caused Lisa Foster to request and obtain weekly account statements from the WHCU. However, a review of WHCU records and interviews of WHCU employees reveals no such occurrence prior to July 20, 1993. Please explain in full.

PRODUCTION OF ITEMS

1. Please deliver to OIC the .45 caliber semi-automatic "squared-off" pistol, and any ammunition that was or is currently loaded therein, which Lisa Foster has stated is in the possession of Beryl Anthony.
2. Please deliver to OIC the .45 caliber magazine and bullet that were removed from the "squared-off" gun before it was given to Beryl Anthony.

3. Please deliver to OIC the original book of quotes that had notations around the quotes about death and about life after death.

4. Please deliver to OIC the file folder labeled "Insurance policy" (and its contents) that was shown to SA Russell Bransford on April 13, 1994 at Mr. Hamilton's office.

5. Please deliver to OIC Mr. Foster's passport.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

June 30, 1996

Mr. James Hamilton
Mr. Michael Spafford
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

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

Dear Jim and Mike:

This Office has a need for the [redacted] that were subpoenaed by the grand jury and that we reviewed at your office. We request that you have those documents delivered to our office as soon as possible, preferably before this Thursday.

Please do not hesitate to call me or John Bates if you have any questions about this request. Thank you very much for your cooperation.

Sincerely yours,

Brett M. Kavanaugh

Brett M. Kavanaugh
Associate Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 6-30-96

TO: Jim Hamilton/Michael Spafford

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: Bret Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: Please deliver one copy to Mr. Hamilton and one copy to Mr. Spafford.

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a:\faxform.nmr

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	2269
CONNECTION TEL	94247643
SUBADDRESS	
CONNECTION ID	
ST. TIME	06/30 21:50
USAGE T	00'40
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL
1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 6-30-96

TO: Jim Hamilton/Michael Spafford

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: Bret Kavanaugh

Number of Pages: 2 (including this cover sheet)

Message: Please deliver one copy to Mr. Hamilton and one copy to Mr. Spafford.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

April 12, 1996

James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Dear Jim:

We write to request that you produce to this Office as soon as possible two narrow categories of documents: (1) all correspondence between your firm and the White House reflecting the transfer of any of Vince Foster's files or documents from the White House to Swidler & Berlin or from Swidler & Berlin back to the White House; and (2) all labelled or unlabelled file folders (as opposed to the documents within the folders) that were used to store Vince Foster's documents at the White House. We request such information in order to enable us to wrap up our investigatory work with respect to the movement of documents from Vince Foster's office.

We of course recognize that this Office is currently in litigation with you over a broader category of documents, but we nonetheless hope that you could produce these limited categories in order to facilitate the completion of this particular aspect of our investigation. We would agree that production of these documents in no way waives or affects any right you may possess not to produce any other documents.

Please do not hesitate to call me if you have any questions.

Sincerely,

John D. Bates
Deputy Independent Counsel

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1402
CONNECTION TEL	94247643
SUBADDRESS	
CONNECTION ID	
ST. TIME	04/12 10:11
USAGE T	00'47
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 4/12/96

TO: Jim Hamilton

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: John Bates

Number of Pages: 2 (including this cover sheet)

Message: _____

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: 4/12/96

TO: Jim Hamilton

Company Name: _____

Fax Number: 424-7643 Telephone Number: _____

FROM: John Bates

Number of Pages: 2 (including this cover sheet)

Message: _____

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SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

March 4, 1996

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

Last year some items were removed from the Foster family home in Hope to allow the FBI to obtain fingerprints from them. Vince Foster's mother very much wishes that these items be returned and is upset that they have not been. Would you please have them returned at your earlier convenience.

I appreciate your cooperation in this regard.

Sincerely,

James Hamilton

JH/cmb

3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

SWIDLER & BERLIN
CHARTERED
3000 K STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: March 4, 1996 Time: 5:35pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 2 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

March 4, 1996

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

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I appreciate your cooperation in this regard.

Sincerely,

James Hamilton

JH/cmb

3000 K STREET, N.W. ■ SUITE 300
WASHINGTON, D.C. 20007-5116
(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

SWIDLER & BERLIN
CHARTERED
3000 K STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: March 4, 1996 Time: 5:35pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 2 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

March 14, 1996

James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

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

Dear Jim:

As we understand it, [redacted] We also understand that you have gathered all documents that Swidler & Berlin received from the White House following Vince Foster's death. As we have agreed, we will review those documents in the first instance at Swidler & Berlin beginning on Thursday, March 21. After we have reviewed the documents, we may request the documents (or copies of them) from you and [redacted] We have agreed that the review process will not in any way affect our right to seek those documents. We have also agreed that the review process will not in any way affect or waive any right [redacted] may possess to object to production of documents.

Thank you and please do not hesitate to contact me if you have any questions.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: MARCH 14 1996

TO: JAMES HAMILTON, ESQ.

Company Name: SWIDLER & BERLIN

Fax Number: 202-424-7643/45 Telephone Number: 202-424-7826

FROM: JOHN D. BATES, ESQ., DEPUTY INDEPENDENT COUNSEL

Number of Pages: 2 (including this cover sheet)

Message:

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****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1068
CONNECTION TEL	94247643
SUBADDRESS	
CONNECTION ID	
ST. TIME	03/14 15:39
USAGE T	00'57
PGS.	2
RESULT	OK

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: MARCH 14 1996

TO: JAMES HAMILTON, ESQ.

Company Name: SWIDLER & BERLIN

Fax Number: 202-424-7643/45 Telephone Number: 202-424-7826

FROM: JOHN D. BATES, ESQ., DEPUTY INDEPENDENT COUNSEL

Number of Pages: 2 (including this cover sheet)

Message:

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

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

April 20, 1995

BY FEDERAL EXPRESS

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

William S. Duffey, Jr., Esq.
Deputy Independent Counsel
Office of the Independent Counsel
Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211

Dear Bill:

Best regards,

James Hamilton

JH/cmb

Enclosures

820-00000001

6037551.1

Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

December 13, 1995

VIA TELECOPIER

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

Mr. James Hamilton
Attorney-at-law
Suite 300
Swidler & Berlin
3000 K Street, N.W.
Washington, DC 20007

Re: Grand Jury Subpoena

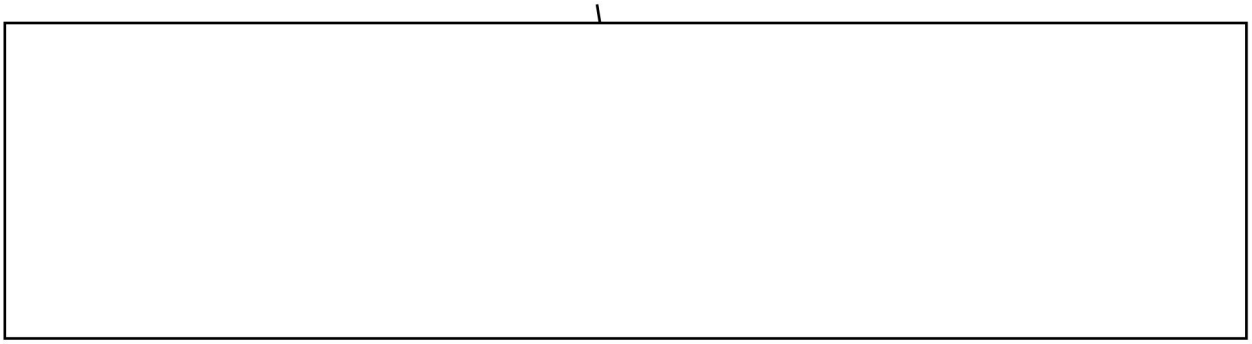
Dear Jim:

On Friday, a grand jury subpoena was issued to relating to said documents to be produced for the grand jury in

In our telephone conference on the afternoon of December 12, I advised you that it was our position that all such records should be produced.

It was your position that you did not think that some of the documents would be relevant. I advised you, that at this point, any and all documents related to the following should be produced, without waiving the total subpoena at this point:

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



If you have any questions regarding this, please give me a call.

Very truly yours,

W. Hickman Ewing, Jr.

cc: Alden Atkins, Esq.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 13, 1995

James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116

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

Dear Jim:

Attached is a grand jury subpoena calling for certain documents in the possession, custody, or control of your client [redacted] The subpoena has a return date of [redacted] Thank you for agreeing to accept service on her behalf.

This subpoena does not call for [redacted]

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

Sincerely yours,

John D. Bates
Deputy Independent Counsel

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

Dear Jim:

As you know, after lengthy discussions with you, this Office sent you a document request on November 9, 1995, that called for certain documents in the possession, custody, or control of you or your firm. On November 15, 1995, you indicated in writing that you and your firm believed that privileges applied to some of the requested documents, and you asked us to reconsider our request. We responded promptly by telephone that your November 15 letter had not altered our document request, and that you should produce a log for any documents that, because of privilege claims, you would not produce. As we have consistently explained to you, such a log is necessary to permit informed scrutiny of any privilege claims.

In your letter of December 1, 1995, you stated that you and your firm would not comply with this Office's document request, and indeed would not even produce a log. Because of your unwillingness voluntarily to provide the requested documents or a log, grand jury subpoenas were issued today to you and to the law firm of Swidler & Berlin requiring production of certain documents on or before December 18, 1995.[1]

Your letter of December 1, 1995 made several other points that warrant a brief response.

You point out the family's concerns about our requests and the continuing nature of our investigation. We are sorry for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued

[1] Our document request of November 9, 1995 also requested documents from your client Lisa Foster. We will continue to discuss with you and pursue any requests or subpoenas to the Foster family separately from the grand jury subpoenas to you and your law firm.

interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief, however, that we must continue to press forward to obtain all relevant information.[2]

With respect to documents in the possession, custody, or control of you or your law firm that were created either before or after Mr. Foster's death, and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) concern that we have not received the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death. Those concerns have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that had not been provided to this Office or, indeed, to any law enforcement officials. We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death.

Regarding documents created after Mr. Foster's death that are relevant to possible obstruction of justice with respect to the July-August 1993 federal investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony, as you well know. Given the role of you and Mr. Spafford in those events, it has become apparent to us, after talking to you, Mr. Spafford, and a number of other people, that you and your law firm may have relevant documentary information about the events occurring in the days after Mr. Foster's death.

We do recognize that some of the documents created before or after Mr. Foster's death that are in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. As you know, however, we have serious doubts about some of the general claims you have made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents that we believe are in your possession or your firm's possession.

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

Sincerely yours,

John D. Bates
Deputy Independent Counsel

---

[2] That does not mean that we must publish all information provided to this Office; appropriate safeguards can be used to protect against the dissemination of sensitive information.

M E M O R A N D U M

TO : Steve Colloton

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

FROM : Currie Brankstone CB

DATE : January 30, 1996

RE : Subpoena compliance - James Hamilton/Lisa Foster

Attached please find four subpoenas, [redacted] that were served on [redacted] I have searched the compliance files, as well as Rbase, for any documents produced that would have been responsive to these subpoenas, and have found nothing. Even the correspondence files did not yield any information as to the status of these subpoenas.

[redacted] The original subpoena (noting service) has not been returned to this office, therefore I can only assume that it either has not been served, or that nothing has been produced. When Hickman returns to the office, I will ask him if he has had any word from Mr. Hamilton with regard to this subpoena.

Sorry I couldn't be of more help. Let me know what else I can do.

Thanks,
Currie

ADDENDUM:

Pam gave me a letter that Hickman wrote to Mr. Hamilton on December 13, 1996. It will probably tell you what you want to know.

CB

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

file
WH Water

January 5, 1994

BY HAND

The President
The White House
Washington, D.C. 20500-2000

Dear Mr. President:

At Renaissance you asked for my ideas on management of the Whitewater and trooper matters. This responds.

As a preface let me mention that, because of my representation of the Foster family, I've had numerous calls from the media about these issues and thus know the views that some of them hold. Let me also say that, so far, the White House generally has handled these matters well.

Here are my ideas, some of which are obvious and have been implemented, but perhaps bear repeating.

1. Despite the falsity of the allegations, these remain treacherous matters. L.A. Times reporters basically believe the troopers (although this confidence should now be shaken). Washington Post reporters consider the Lyons report a "joke" because of its incompleteness, and suspect a cover-up when it is cited in response to current inquiries. Reporters are intrigued by Vince's inexplicable death, and thus continue to search for Whitewater connections.

2. Investigations, like other significant matters, must be carefully managed. One person in the White House (Bruce, I assume) should be assigned responsibility for coordinating information gathering, responses to official inquiries and public statements about these matters. This cannot be treated as an incidental assignment.

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(202)424-7500 ■ TELEX 701131 ■ FACSIMILE (202)424-7643

3. The White House should say as little and produce as few documents as possible to the press. Statements and documents likely will be incomplete or inconclusive, and could just fuel the fires.

4. The White House should ensure that what statements it does make are consistent and coordinated. Erroneous or conflicting statements could be disastrous; the Nixon White House brought huge trouble upon itself by issuing inaccurate, inconsistent statements about Watergate. The Washington Times in particular has been dissecting current White House communications.

5. Responses to official inquiries -- both written and oral -- must be carefully made. Even oral misstatements could result in investigations and sanctions. Moreover, the Department of Justice, FBI and Park Police all leak unconscionably (and already have as to these matters), and some officials obviously are inclined to attack the White House's handling of the inquiries.

6. The White House should not forget that attorney-client and executive privileges are legitimate doctrines in proper contexts. While the on-going release of Whitewater documents to Justice seems appropriate, Bernie initially acted properly in protecting the contents of Vince's files.

7. If politically possible, Janet Reno should stick to her guns in not appointing an independent counsel for Whitewater. An independent counsel -- who might pursue his or her self-aggrandizement rather than the truth -- is a recipe for trouble.

8. The White House must let Justice do its investigation without interference. Any hint of attempts at interdiction or manipulation would raise the spectre of Watergate.

9. The White House also should avoid any future contacts with subjects of the investigation that might provoke cover-up allegations.

10. You should continue to demonstrate that you are engaged fully in the business of running the government and not distracted by these side shows. If the press senses concern, its efforts redouble.

11. Because you will continue to receive reporter questions about these matters, I respectfully suggest that you always be prepared personally with a response to the issues of the day. I expect that "no further comment" often will suffice.

I hope the above views are at least somewhat useful. Kristina and I hugely enjoyed the opportunity to visit and recreate with you and Hillary in Hilton Head. The football game was stupendous fun; the "scrum play" was the call of the day. I only wish the rest of America knew you as the Renaissance family does and had heard your moving remarks on Saturday night.

Best regards,

James Hamilton

JH/cmb

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

file
Wh. Water

January 5, 1994

BY HAND

The President
The White House
Washington, D.C. 20500-2000

Dear Mr. President:

At Renaissance you asked for my ideas on management of the Whitewater and trooper matters. This responds.

As a preface let me mention that, because of my representation of the Foster family, I've had numerous calls from the media about these issues and thus know the views that some of them hold. Let me also say that, so far, the White House generally has handled these matters well.

Here are my ideas, some of which are obvious and have been implemented, but perhaps bear repeating.

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Best regards,

James Hamilton

JH/cmb

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

November 15, 1995

BY HAND

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

I appreciate your November 9, 1995 letter because it allows me to comment on your specific requests to this firm and Lisa Foster. Let me say at the outset that this response is made without an exhaustive review of our firm's voluminous Foster family files, which are more than three feet thick. Such a review would be extremely time consuming and could not be accomplished before the Wednesday, November 15 deadline on which we agreed. Thus, my responses of necessity are preliminary. Nonetheless, I hope my comments below will convince you, Ken and others that many of your requests are overly broad and seek materials that are privileged. As set forth below, however, there are a number of areas as to which, in appropriate circumstances, we voluntarily would provide information.[1/]

In my conversation today with you, I requested a meeting with Ken, and others he may wish to assemble, to discuss these matters. You said this would occur after you have reviewed

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1/ This letter should be viewed, pursuant to Federal Rule of Evidence 408, as an attempt to compromise the disputes between your office and our clients and us. Also, it is submitted pursuant to the on-going non-waiver agreement we have reached.

this submission. This firm also will be represented by our partners, Tony Fitch and Andrew Lipps.

Your requests seem essentially to deal with four different areas:

A. My relations with Vince Foster before he died;

B. Documents in Vince's possession before he died;

C. Documents relating to our representation of the Foster family; and

D. Documents in Lisa Foster's possession.

I will respond seriatim to the requests relating to these four categories. Certain legal issues regarding the work product privilege are discussed in more detail in a separate attachment to this letter.

A. Let me deal first with your requests that appear to involve, at least in part, my relations with Vince before he died. These requests are Nos. 1, 2, and 4.

Most of my involvement with Vince during the specified time period related to my work as transition counsel (which mainly involved vetting Cabinet officials, some sub-Cabinet officials and White House staff) and my work after this Administration took office in heading the outside vetting teams examining Supreme Court candidates. For example, Vince, I, and others interviewed Justices Ginsburg and Breyer and Secretary Babbitt. I believe my notes

relating to these meetings are irrelevant to your concerns.[2/] In any event, the White House now has them if they exist.

As I have informed you on a non-waiver basis, I had a private, privileged conversation with Vince about my retention regarding the White House Travel Office matter. This conversation, and my notes of it, would be protected, absent waivers, by the attorney client privilege and also by the work product privilege, for the conversation was had and the notes were made in anticipation of various expected investigations and any ensuing litigations.[3/] Nevertheless, these notes could be made available to you in appropriate circumstances.

I should note, however, another significant legal obstacle your office would face in attempting to subpoena information from me about my contacts with Vince before he died. You seek this information in connection with your investigation of Vince's suicide. We all know, after the many official investigations that have been undertaken, that his death was just that, and not a homicide. Under Sec. 9-2.161(a) of the Criminal Division Guidelines, which your office is obligated to follow by Sec. 594(F)(1) of the Independent Counsel statute, your office may issue a subpoena to an attorney only if there are "reasonable grounds to believe a crime has been . . . committed." You do not have "reasonable grounds to believe" Vince was

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[2/] I also believe my other dealings with Vince regarding vetting or other transition matters are irrelevant to your inquiry.

[3/] A criminal trial regarding the Travel Office proceeds as I write.

murdered, and thus any subpoena to me to investigate his death would contravene the authorizing statute.

B. I have certain documents that were in Vince's possession before he died. These include the documents we received from his office, all of which personnel assigned to your office already have reviewed. As you know, in appropriate circumstances and under certain conditions, the Foster family would not object to another review. There are certain documents whose copying the family strongly would resist because of their fear of leaks, their concern about how the briefcase was handled by your office, and the realization that, as in the past, Congress may be given records (e.g., 302's) that will then be made public.

I also have in my possession certain documents relating to Vince's work at the Rose Law Firm, which Vince had kept at home. Some of these documents were turned over to the FDIC; others were not because of privileges the law firm asserted or other reasons. They all predate 1992, many by a number of years, and likely are irrelevant to your inquiries.

I have copies of other documents from Vince's White House office that recently have been released by the White House or the President's attorney, which I obtained in the course of representing the family. You undoubtedly have copies of those documents and do not need them from me. I also have copies of Vince's note, which, of course, you have.

C. Many of the requests in your letter -- see, ¶¶ 1, 3, 4, 5, 7 and 8 -- seek work product created during our representation of our clients, including many pages of handwritten notes regarding conversations with various parties. These notes embody our mental

impressions, conclusions, opinions, theories, thought processes, selection of topics of importance, and strategies. Not only are these notes work product, they are to a significant degree core work product.[4/] Your requests also cover certain legal research done by our office relating to our representation of the family.

I believe the work product doctrine protects these documents.[5/] Your sole response appears to be that these materials were not created or collected in anticipation of litigation. This is simply not so.

I was engaged by the Foster family to represent it regarding all investigations relating to Vince's death and "any ensuing litigation." See, United States v. Paxson, 861 F.2d 730, 736 (D.C. Cir. 1988). Having been involved in (and written extensively about) many very public Washington controversies, I anticipated that litigation might well result, as it has.[6/] Indeed, virtually everything we did was done with "an eye toward litigation" -- see, In Re Sealed Case, 29 F.3d 715, 718 (D.C. Cir. 1994) -- for we recognized that the events relating

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[4/] Item 7 requests documents regarding contacts with various persons "or any attorneys of the above-named persons" that relate to various matters. In addition to the work product protections that pertain to those conversations, certain conversations were conducted under a joint defense or common interest privilege.

[5/] You asked us, if we claim privilege as to any documents requested, to identify the documents and the precise privilege claimed. We have not done so in part because of the burden involved.

[6/] I was, after all, retained because I have experience in litigation and criminal, Congressional, and other investigations, not because I am a probate, estates, or corporate attorney. See, United States v. Bonnell, 483 F. Supp. 1070, 1078 (D. Minn. 1979).

death and its aftermath (particularly those concerning the search of his office and his note) eventually might end up in court. Among the litigations we anticipated were the following:

1. Early on we anticipated that litigation might result because of grand jury or Congressional requests for information from the Foster family. After reviewing the documents received from Vince's office, Mrs. Foster concluded that she did not want these records turned over to investigating authorities because they were, in some respects, highly personal and the family feared leaks. Litigation almost resulted after the Department of Justice issued a subpoena to Mrs. Foster for these documents. We prepared papers seeking a protective order, but did not file them because an accommodation with Mr. Fiske's office was reached after he assumed responsibility for the investigation.

2. In 1993, Mrs. Foster concluded that she did not want her children interviewed by investigating authorities. Had a grand jury or Congressional committee sought to do this by subpoena, litigation could well have resulted. We also have considered and researched how to resist other investigative activities by Mr. Fiske's and your offices that fortunately have not been undertaken. Indeed, a major focus of our representation has been protecting the family from overreaching investigations; use of litigation always has been a distinct possibility in this regard.

3. Early on, the family requested the Attorney General not to release a photocopy of Vince's note, and she agreed. However, we anticipated FOIA requests and subsequent litigation, which indeed occurred. Dow Jones and the editor of The Wall Street Journal

brought an FOIA suit that sought a photocopy of Vince's note.[7/] Mrs. Foster has intervened in this suit, which is still pending and which required a balancing of the public's right to know against the Foster family's privacy interest and consequently directly raised issues concerning the discovery of the note, the briefcase, the note's handling and its authenticity. Your requests, e.g., ¶8, seek attorney work product directly related to this litigation and actions taken in anticipation of it.

4. We also anticipated that Mrs. Foster or other clients could well be involved as witnesses in grand jury and Congressional investigations and in litigations against others regarding various matters, including the handling of the note.[8/] For example, as you know Mrs. Foster was at the White House on July 27, 1993, and participated in discussions about the note, its discovery, its authenticity and how it would be handled.

5. As you also know, Mike Spafford and I, as representatives of the Foster family, were involved in events at the White House concerning the search of Vince's office and discussions about discovery of the note, its authenticity and how it would be handled. We anticipated that we might be witnesses in grand jury and Congressional investigations and

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[7/] We also anticipated that The Journal, which had attacked Vince, would be the entity taking such action.

[8/] Cases cited in the attached memorandum -- see, Sec. B(4), p. 10 -- indicate that the work product privilege applies to work related to Congressional proceedings, even though no litigation is contemplated.

litigations concerning what we had done for the family in these regards. This is one reason for Mike's copious documentation as to the matters in which he participated.

6. We anticipated, given the wild allegations that have swirled around regarding Vince's death and conduct, that the various investigations somehow might focus (however wrongly) on our clients -- e.g., that someone falsely might claim that our clients participated in or knew about conduct in which Vince allegedly was involved. Even you now seek information about Vince's travel -- a question we assume relates to the totally false allegations that Vince had a secret bank account in Geneva and was involved in nefarious spying activities. There are equally false allegations that attempt to tie Sheila Anthony and Lisa Foster to this alleged conduct -- i.e., untrue allegations that shortly before Vince's death Mrs. Anthony wired a large sum of money to Mrs. Foster. These false allegations appear intended to leave the impression that Vince was paid to keep quiet about something. Without giving credence to such outlandish allegations, we did anticipate that family members' conduct might be investigated.

7. We also actively have considered the suits family members could bring against those who defame them, invade their privacy, and use Vince's name and image and events surrounding his death (including discovery of his note) for commercial reasons. And on various occasions we have asked government bodies -- the Department of Justice, the Department of Interior and the Special Senate Whitewater Committee -- to investigate and seek prosecution of persons leaking items related to Vince's death, including a photocopy of his

note. I will be pleased to provide you with the letters I have written to government officials in these regards.

The attached memorandum provides authority for the proposition that the work product doctrine protects the notes generated during our representation of the Foster family. And it shows (as does the above discussion) that the anticipation of litigation requirement is more than met.

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In addition to the legal principles that protect work product material from grand jury subpoena, the Independent Counsel statute places specific obligations on your office to respect that privilege and the attorney-client relationship. As discussed above, that statute requires you to follow the Criminal Division guidelines regarding subpoenas to attorneys. Several guidelines are relevant.

Guideline E(6) provides that, for a subpoena to issue, "[t]he information sought shall not be protected by a valid claim of privilege." As described above and in the attached memorandum, the notes you seek are protected by the work product privilege belonging both to our clients and to us.[9/]

[9/] The D.C. Circuit has held that the work product privilege belongs to both the lawyer and his or her clients. In Re Sealed Case, 29 F.3d 715, 718 (D.C. Cir 1994).

Guideline E(4) provides that "[t]he reasonable need for this information must outweigh the potential adverse effects upon the attorney-client relationship." Surely, if our notes can be subpoenaed in the present circumstances, we and other attorneys will be greatly handicapped in representing our clients.[10/]

Guideline E(3) provides that "[a]ll reasonable attempts to obtain information from alternative sources shall have proved to be unsuccessful." You thus generally must try to

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10/ As said in Horn & Hardart Co. v. Pillsbury Co., 703 F. Supp. 1062, 1972 (S.D.N.Y.), aff'd, 808 F.2d 8 (2d Cir. 1989):

> Had the notes been ordered to be produced, . . . we are certain that Stringer and any other attorney learning of such a happening would long hesitate before again making a similar memorandum, with resulting erosion of conscientious representation of their clients.

obtain information about our conversations with third parties from them before you seek information from us by a subpoena. We are not informed that you have done so.[11/]

--- 0 ---

[redacted]

11/ Moreover, Rule 3.8(f) of the American Bar Association Model Rules of Professional Conduct provides:

> The prosecutor in a criminal case shall:
> ...
>
> (f) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless:
>
> (1) the prosecutor reasonably believes
>
> (a) the information sought is not protected from disclosure by any applicable privilege;
>
> (b) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution;
>
> (c) there is no feasible alternative to obtain the information; and
>
> (2) the prosecutor obtains prior judicial approval after an opportunity for an adversarial proceeding.

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

The current request calls for some materials covered by the subpoena. For example, both specifically Moreover, identified in ¶7 of your current requests dealt with subjects covered by the subpoena. Surely, the prior understanding pertains to now requested that were covered by the subpoena.

The family would not have agreed to the visit to Hope had they been informed that As Mark knows, the subpoena was a major subject of controversy and your office had every opportunity to inform me that more information would be sought, which it did not. I certainly believed no further subpoena would issue. There are issues here of good faith and fair dealing.

D. Let me now respond to your requests to Mrs. Foster, first stating each request. I assume you are not asking for any documents covered by the attorney-client privilege.

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

A request covering such documents was made in the Department of Justice's [redacted] [redacted] She has no additional documents, except she now may have pertinent newspaper clippings and public documents, such as Mr. Fiske's report.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

Mrs. Foster has no such documents except newspaper clippings and public documents, such as the Fiske report.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

This request is overbroad, burdensome, and seeks irrelevant information. It would cover any travel at any time by Mr. Foster -- foreign, domestic, or within Arkansas. For example, it would cover documents relating to the Foster's honeymoon in 1968. It would cover documents pertaining to travel to Hope to see his parents or travel to appear in court or to take depositions. I believe, however, that Mrs. Foster would agree to a review of certain documents, such as Vince's passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

This request is overbroad, burdensome and seeks irrelevant information. For example, it seeks every check written by Vince during the time period. It would cover all messages, no matter how personal or trivial, from Mr. Foster to his wife, even though any such confidential communications would be protected by the marital privilege. It may be, however, that Mrs. Foster would agree to a review of certain documents if the request were narrowed.

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

This request is overbroad, burdensome and seeks irrelevant information. For example, it would cover messages, however personal or trivial, from Mr. Foster's family to him. Confidential messages from his wife would be covered by the marital privilege. Again, if the request is narrowed, Mrs. Foster might agree to a review of certain documents.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

This request is overbroad, burdensome and seeks irrelevant information. For example, it would include messages or records of meetings that have nothing to do with his state of mind or other matters under investigation. Perhaps Mrs. Foster would respond to a more limited request.

John, I hope you and Ken will rethink these requests to Mrs. Foster, which truly are invasive and would produce considerable irrelevant information. Given the fact that Mrs.

Foster, her children, Vince's sisters and his mother have been interviewed extensively (thrice in some instances), the material you now request seems most unnecessary. Moreover, these requests -- which would require extensive review of her husband's records -- are particularly harsh at this time as Mrs. Foster prepares for marriage and a new life. She understandably is loath to undertake such a review and to turn over highly personal, irrelevant information. She also finds most disturbing the prospect of even more requests (which you allude to in your letter) that would arrive almost two and one-half years after Vince's death. She wonders, as does Mrs. Anthony, why these requests come at such a late date in your investigation, which the family fervently believes should have been concluded long ago.

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We ask you, given the above considerations, to reconsider the sweeping requests contained in your letter. We hope a compromise can be reached that allows this matter to be resolved without a subpoena and litigation, which we firmly believe you would lose. Indeed, it would be quite extraordinary for a court to allow your office to intrude in a major way into our analyses, research, inquiries, and strategies regarding an almost two and one-half year representation, which has involved both litgation and multiple investigations (including that by your office) and where the potential for other litigation always has loomed large.

May I close by reminding you again how cooperative the family and this firm have been during your investigation. Your office has achieved much that it would not have -- or would not have without controversy -- without this cooperation, for example:

a. the interviews with Vince's mother

b. access to the family home in Hope to remove articles belonging to Vince's father in order to obtain fingerprints

c. the bullets found in Hope, which were volunteered

d. additional interviews with family members

e. interviews with Vince's children

f. the turning over of Mike's notes, memorandum and inventory relating to the search of Vince's office

g. my two interviews, on a non-waiver basis, which you have said provided helpful information.

The family and this firm remain willing to cooperate with reasonable requests.

Sincerely,

James Hamilton

JH/cmb

cc: The Honorable Kenneth W. Starr
Mark H. Tuohey, III, Esq.
Professor Samuel Dash
(all by hand)

6048201.1□

MEMORANDUM RE WORK PRODUCT PRIVILEGE

Introduction

The work product privilege finds its genesis at common law, where the English courts protected "all documents prepared by or for counsel with a view to litigation." Hickman v. Taylor, 329 U.S. 495, 510 n.9 (1947); In re Grand Jury Proceedings, 473 F.2d 840, 844-45 (8th Cir. 1973). In Hickman, the Supreme Court adopted this common law privilege and extended it to all information, both tangible and intangible, prepared by or for counsel "with an eye toward litigation." 329 U.S. at 511. The Supreme Court articulated the strong public policy underlying the work product doctrine:

> In performing his various duties...it is essential that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties or their counsel. Proper preparation of a client's case demands that he assemble information, sift what he considers to be relevant facts from irrelevant facts, prepare his legal theories and plan his strategy without undue or needless interference. . . . This work is reflected, of course, in interviews, statements, memoranda, correspondence, briefs, mental impressions, personal beliefs, and countless other tangible and intangible ways -- aptly though roughly termed by the Circuit Court of Appeals as the "Work product of the lawyer." Were such materials open to opposing counsel on mere demand, much of what is now put down in writing would remain unwritten. An attorney's thoughts, heretofore inviolate, would not be his own. Inefficiency, unfairness and sharp practices would inevitably develop in the giving of legal advice and in the preparation of cases for trial. The effect on the legal profession would be demoralizing. And the interests of the clients and the cause of justice would be poorly served.

Hickman v. Taylor, 329 U.S. at 511.

Rule 26(b)(3) partially codified Hickman, by providing that:

> a party may obtain discovery of documents and tangible things otherwise discoverable under subdivision (b)(1) of this rule and prepared in anticipation of litigation or for trial....only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, **the court shall protect against disclosure of**

> **the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation**." (Emphasis added).

Rule 26 thus accords special protection to documents that record an attorney's thought processes.

A. Attorneys Notes Are Sacrosanct

An attorney's notes are entitled to special protection. The Supreme Court observed that "[n]ot even the most liberal of discovery theories can justify unwarranted inquiries into the files and mental impressions of an attorney." Hickman v. Taylor, 329 U.S. at 510. Since Hickman, "the Supreme Court has never permitted intrusion into work product revealing the attorney's thought processes." 3 Weinstein's Evidence, ¶ 612[04], pp. 612-45.

In Upjohn Co. v. United States, 449 U.S. 383 (1981) the Supreme Court held that discovery of notes and memoranda prepared by an attorney in connection with an internal investigation, including notes summarizing witness interviews, is particularly disfavored because:

> it tends to reveal the attorney's mental processes....Rule 26 accords special protection to work product revealing the attorney's mental processes...Based on the foregoing, some courts have concluded that no showing of necessity can overcome protection of work product which is based on oral statements from witnesses.... Those courts declining to adopt an absolute rule have nonetheless recognized that such material is entitled to special protection.
>
> * * *
>
> The notes and memoranda sought by the Government here...are work product based on oral statements....[T]hey reveal the attorneys' mental processes in evaluating the communications. As Rule 26 and Hickman make clear, such work product cannot be disclosed simply on a showing of substantial need and inability to obtain the equivalent without undue hardship.

Upjohn v. United States, 449 U.S. at 400.

The lower courts generally have refused to order the production of an attorney's notes, including witness interviews, absent proof of criminal activity by the attorney sufficient to satisfy

the crime fraud exception. For example, in United States v. Paxson, 861 F.2d 730 (D.C. Cir. 1988), the lower court denied a criminal defendant discovery of notes taken by a witness' attorney during the witness' interviews with prosecutors. The "notes of the interviews were not verbatim but rather contained assessments, thought processes, analyses and strategy of counsel, and reflected his judgment on how best to advise and protect the interests of his client." Id. at 735. The Court of Appeals for the District of Columbia affirmed, holding that a party seeking such materials bears a heavy (if not impossible) burden that the criminal defendant in Paxson could not meet.

> While the Supreme Court in Upjohn did not adopt a rule of absolute protection for an attorney's notes and memoranda, neither did it reject such a rule. The Court simply found it unnecessary to reach the question of absolute protection, holding instead that discovery of such material required "a far stronger showing of necessity and unavailability by other means than was made by the Government. . . in this case."

Id. at 736 (quoting Upjohn Co. v. U.S., 449 U.S. 383, 402 (1981).

The District Court in In Re Grand Jury Investigation, 412 F. Supp. 943 (E.D. Pa. 1976), reached a similar conclusion, holding that a file memorandum prepared by an attorney of a telephone conversation with an officer of the client was "so much a product of the lawyer's thinking and so little probative of the witness's actual words that they are absolutely protected from disclosure." 412 F. Supp. at 949. See also In Re Grand Jury Proceedings, 43 F.3d 966, 970 (5th Cir. 1994) (documents that reflect oral conversations between an attorney and third parties are entitled to strict protection as opinion work product "due to the likelihood that such documents will reveal the attorney's mental processes or litigation strategy"); In Re Grand Jury Investigation, 599 F.2d 1224, 1230-33 (3d Cir. 1979) (interview notes protected).

This protection also has been extended to writings other than interview notes. In Horn & Hardart v. Pillsbury, 888 F.2d 8 (2d Cir. 1989), a takeover competitor sought to discover notes prepared by the acquiring corporation's counsel about meeting (which the attorney did not attend) between representatives of the competitors to discuss negotiation ground rules. The district court had denied discovery on the ground that the notes contained "mental impressions." Id. at 12. The Second Circuit affirmed. "[P]ermitting discovery of the [ ] notes would have contradicted 'the general policy against invading the privacy of an attorneys' course of preparation [that] is so well recognized and so essential to an orderly working of our system of legal procedure." Id.

In United States v. Bonnell, 483 F. Supp. 1070 (D. Minn. 1979), the court accorded protection to an attorney's memorandum summarizing his meeting with clients and others concerning certain IRS inquiries. "Although [the memorandum] is hardly replete with legal theories and strategies, it is a personal recollection or memorandum," discovery of which cannot be obtained absent extraordinary circumstances. Id. at 1078.

The mere fact that an attorney has selected documents or other evidence for review or elected to retain them may be enough to trigger work product protection. In U.S. v. Horn, 811 F. Supp. 739 (D.N.H. 1992), rev'd in part on other grounds, 29 F.3d 754 (1st Cir. 1994), the prosecutor ordered copies for the government of documents selected for copying by defense counsel. When defense counsel discovered the prosecutor's conduct, he demanded return of the extra copies, but the prosecutor refused. The district court sanctioned the prosecutor, finding that "[t]he high degree of selectivity resulting in a relatively small number of documents being copied clearly reflected the thought processes of defense counsel" and thus fell "within the highly-protected category of opinion work product." 811 F.Supp. at 746-47.

In Sporck v. Peil, 759 F.2d 312 (3d Cir. 1985), cert. denied, 474 U.S. 903 (1985), the Third Circuit reversed the lower court's order that counsel produce documents shown to a witness prior to his deposition. "[N]one of the individual documents. . . contained work product of defense counsel." Id. at 313. Nevertheless, the group of documents constituted opinion work product because they were selected by counsel.

> Opinion work product includes such items as an attorney's legal strategy, his intended lines of proof, his evaluation of the strengths and weaknesses of his case, and the inferences he draws from interviews of witnesses. Such material is accorded an almost absolute protection from discovery because any slight factual content that such items may have is generally outweighed by the adversary system's interest in maintaining the privacy of an attorney's thought processes and in ensuring that each side relies on its own wit in preparing their respective cases.
>
> We believe that the selection and compilation of documents by counsel in this case in preparation for pre-trial discovery falls within the highly-protected category of opinion work product.

Id. at 316 (citations omitted).

B. In Anticipation of Litigation

Most courts have interpreted broadly the Rule 26(b)(3) requirement that documents be created "in anticipation of litigation" to mean "with an eye toward litigation." Hickman v. Taylor, 329 U.S. at 511; In re Sealed Case, 29 F.3d 715, 718 (D.C. Cir. 1994); Martin v. Bally's Park Place Hotel & Casino, 983 F.2d 1252, 1260-61 (3d Cir. 1993); United States v. Paxson, 861 F.2d at 736. It is not necessary that a complaint be filed or that litigation be imminent in order for the work product privilege to apply. "[T]he generic prospect of litigation may be enough." United States v. Exxon Corp., 87 F.R.D. 624, 638 (D.D.C. 1980) (documents prepared two years before litigation commenced may be work product). The fact that the attorney did not or could not "foresee the specific litigation that has resulted" is not determinative. United States v. Bonnell,

483 F. Supp. 1070, 1078 (D. Minn. 1979); see also In re Grand Jury Proceedings, 43 F.3d 966, 967, 971 (5th Cir. 1994) (successive grand jury investigations). As long as the "materials [were] prepared or collected by an attorney in the course of preparation for possible litigation," they are work product. In re Grand Jury Investigation, 599 F.2d 1224, 1228 (3d Cir. 1979).

"Only by looking to the state of mind of the party preparing the document...can [a court] determine whether [the in anticipation of litigation] test has been satisfied....This rule is limited, however, by the requirement that the preparer's anticipation of litigation be objectively reasonable." Martin v. Bally's Park Place Hotel & Casino, 983 F.2d at 1260. In applying this rule, courts look to see whether the materials were "assembled in the ordinary course of business, or pursuant to public requirements unrelated to the litigation or for other nonlitigation purposes." Fed.R.Civ.P. 26(b)(3) Advisory Committee Note. Attorney-prepared documents that do not fall within those categories typically are accorded work product protection, particularly where they are prepared by a litigation attorney. See, e.g., United States v. Bonnell, 483 F. Supp. at 1078 ("Levine is the head of the Dorsey firm's trial department; he was clearly not brought into the case as a business advisor").

Courts have held that the work product protection extends to the following:

(1) In Anticipation of Grand Jury Investigations or Proceedings. In re Sealed Case, 29 F.3d 715 (D.C. Cir. 1994), involved an attorney who met with his client and gave him legal advice. Almost two years later, a grand jury investigation of the client commenced. When the client learned he was a target of the investigation, he met with the prosecutor and recounted in some detail his consultations with the attorney. The client did not assert the attorney-client privilege. 29 F.3d at 718. A grant jury subpoena for the attorney's files followed. The Court of Appeals for the District of Columbia rejected the lower court's determination that "the [work

product] privilege was inapplicable because no grand jury investigation had commenced at the time."

> Even though the grand jury investigation had not begun when the Lawyer met with the appellant and prepared his file, he may well have had an eye toward litigation . . . . "Some cases [interpreting work product privilege] have attributed significance to whether a document was obtained before or after litigation was commenced, but this cannot be sound. Prudent parties anticipate litigation, and begin preparation prior to the time suit is formally commenced."

29 F.3d at 718 (citations omitted) (quoting 8 Wright & Miller, Federal Practice & Procedure § 2024, at 197-98 (1970)).

In another In Re Sealed Case, 676 F.2d 793 (D.C. Cir. 1982), a grand jury subpoena sought production of the files of a corporation's former general counsel. Two of the documents were notes prepared by the attorney in accumulating information relevant to IRS inquiries, but prior to any formal litigation or grand jury proceeding. The Court of Appeals found the notes to be "material 'obtained or prepared by an adversary's counsel' in the course of his legal duties. . . 'with an eye toward litigation,'" 676 F.2d at 809-10 (quoting Hickman v. Taylor, 329 U.S. at 511), that clearly "were not meant for any eyes but the author's." Id. at 811.

In re Grand Jury Proceedings (McCoy), 601 F.2d 162 (5th Cir. 1979), involved a client who retained counsel to determine whether his conduct was subject to criminal sanctions; counsel retained an accountant to assist him. Over two years later, a grand jury commenced an investigation of the client and subpoenaed the accountant's work. The Third Circuit held that the accountants' financial analyses were prepared "in anticipation of litigation" because they were prepared to assist the attorney "in assessing [the client's] potential criminal liability." 601 F.2d at 171. The court found it significant that the records prepared by the accountant were not records that the client ordinarily kept for his business. Id.

In re Grand Jury Investigation (Appeal of United States), 599 F.2d 1224 (3d Cir. 1979), involved a law firm's investigation of "suspected criminal violations" begun over a year prior to a grand jury investigation.

> [T]he [law firm's] investigation concerned suspected criminal violations . . . . If further investigation confirmed that suspicion, litigation of some sort was almost inevitable. The obvious possibilities included criminal prosecutions, derivative suits, securities litigation, or even litigation by [the client] . . . .
>
> * * *
>
> [W]e perceive no reason to distinguish between the [law firm]'s role as a legal advisor and its role as an investigator. The attorney in Hickman acted in a similar dual capacity when he interviewed witnesses. Under these circumstances we conclude that the district court did not err in holding that [the law firm] was acting in contemplation of litigation and that the work-product doctrine applies to the questionnaires and interview memorandum at issue.

599 F.2d at 1229-30. See also United States v. Nobles, 422 U.S. at 236 ("[a]lthough the work-product doctrine most frequently is asserted as a bar to discovery in civil litigation, its role in assuring the proper functioning of the criminal justice system is even more vital").

(2) Documents Prepared in Connection with an Administrative Proceeding. In Upjohn Co. v. United States, the company's attorneys commenced an internal investigation when its outside auditors discovered "questionable payments" by company employees to foreign government officials. Subsequently, the IRS issued a summons demanding production of the "files" created as a result of the internal investigation. Even though no litigation was pending or even imminent, the Supreme Court overruled the lower court's enforcement of the summons. The attorney's notes and memoranda were prepared in anticipation of litigation because they were "'written statements, private memoranda and personal recollections prepared or formed by an

adverse party's counsel in the course of his legal duties.'" 449 U.S. at 397 (quoting Hickman, 329 U.S. at 510).

In United States v. Bonnell, 483 F. Supp. 1070 (D. Minn. 1979), an attorney attended a meeting to discuss his client's responses to certain requests for information from the IRS. Subsequently, the IRS subpoenaed his notes. The court found that the notes were work product because, as a trial attorney, the lawyer

> was clearly not brought into the case as a business adviser, a private investigator or a tax expert. He was present as a result of [his client]'s reasonable belief that [their] tax problems would produce litigation. Litigation need only be a reasonable contingency for the work-product doctrine to apply. That [the client] and [the attorney] could not foresee the specific litigation that has resulted does not mean that [the attorney] did not prepare his document "with an eye toward litigation."

483 F. Supp. at 1078 (citations omitted).

In Martin v. Bally's Park Place Hotel & Casino, 983 F.2d 1252 (3d Cir. 1993), OSHA notified Bally's of an employee's complaint and directed Bally's to investigate the allegations and make corrections, if necessary. As a result, Bally's counsel retained an expert and conducted an internal investigation of those allegations. OSHA subsequently sought a copy of the consultant's report. The Third Circuit held that the report was protected work product.

> The Secretary [of Labor] reads [Rule 26(b)(3)] to insulate work product prepared for litigation only when the litigation has begun or is at least "imminent," a standard narrower than that embodied in Fed. R. Civ. P. 26(b)(3), which requires only that the material be prepared "in anticipation of litigation." As we previously indicated, a document satisfies Rule 26(b)(3) where "in light of the nature of the document and the factual situation in the particular case, the document can fairly be said to have been prepared or obtained because of the prospect of litigation.
>
> * * *

> In limiting work product to materials prepared "in anticipation of litigation," the drafters of Rule 26(b)(3) excluded from the rule's protection "[m]aterials assembled in the ordinary course of business, or pursuant to public requirements unrelated to litigation, or for other nonlitigation purposes." Fed. R. Civ. P. 26(b)(3) advisory committee note . . . . The consultant's report . . . was not such a routine record . . . .

984 F.2d at 1260-61.

(3) Notes concerning witnesses in a criminal investigation. In Paxson, the Court of Appeals for the District of Columbia held that the attorney's notes were protected as work product, even though the witness was neither a target of the investigation nor a defendant in the ensuing litigation.

> Paxson further argues that the material sought is not within the work product doctrine because [the attorney] "did not prove as he must, that the primary motivating purpose behind the creation of the [memorandum was] to aid in possible future litigation.'" This argument is an unusually lame one. The entire record is to the effect that [the witness] retained [his attorney] only for the purpose of protecting himself against criminal exposure in an ongoing antitrust investigation and any ensuing litigation.

861 F.2d at 736.

(4) In anticipation of a congressional investigation or hearing. In United States v. Davis, 131 F.R.D. 391 (S.D.N.Y. 1990), the government sought discovery of documents prepared as a result of an internal investigation conducted in response to a newspaper article about a former employee. Company counsel's affidavit stated that he ordered the internal investigation, in part, to enable him "to offer informed advice and counsel to the Company's Chairman and Chief Financial Officer, who were scheduled to testify at a Congressional hearing" concerning the former employee's allegations. The court rejected the government's contention that "the assertion of the work product privilege is improper because the documents were not

prepared in the anticipation of imminent or concrete litigation." 131 F.R.D. at 403. Instead, the court found that the work product privilege applicable because:

> the investigation was conducted at the behest of the general counsel. Contrary to the Government's assertion, it is of no consequence that the investigation followed the publication of [the employee's] allegations.

The court thus assumed that an attorney's preparation for a congressional hearing may be work product. 131 F.R.D. at 404. See also In re Air Crash Disaster at Sioux City, Iowa, 133 F.R.D. 515, 526 (N.D.Ill. 1990) (drafts of letter to a member of Congress concerning questions posed to client during Congressional hearing were work product); Eagle-Pitcher Industries, Inc. v. United States, 11 Cl. Ct. 452 (US Claims Court 1987) ("documents and other sources of information" used by the Assistant Attorney General to prepare for his testimony before Congress are protected by the work product doctrine).

C. All reasonable attempts shall be made to voluntarily obtain information from an attorney before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to subpoena such information from the attorney if such attempts prove unsuccessful.

D. No subpoena may be issued in any matter to an attorney for information relating to the representation of a client without the express authorization of the Assistant Attorney General of the Criminal Division.

E. In approving the issuance of a subpoena in any matter to an attorney for information relating to the representation of a client, the Assistant Attorney General of the Criminal Division shall apply the following principles:

(1) In a criminal investigation or prosecution, there must be reasonable grounds to believe that a crime has been or is being committed and that the information sought is reasonably needed for the successful completion of the investigation or prosecution. The subpoena must not be used to obtain peripheral or speculative information;

(2) In a civil case, there must be reasonable grounds to believe that the information sought is reasonably necessary to the successful completion of the litigation.

(3) All reasonable attempts to obtain the information from alternative sources shall have proved to be unsuccessful;

(4) The reasonable need for the information must outweigh the potential adverse effects upon the attorney-client relationship. In particular, the need for the information must outweigh the risk that the attorney will be disqualified from representation of the client as a result of having to testify against the client;

(5) Subpoenas shall be narrowly drawn and directed at material information regarding a limited subject matter and shall cover a reasonably limited period of time; and

(6) The information sought shall not be protected by a valid claim of privilege.

These guidelines on the issuance of grand jury or trial subpoenas to attorneys for information relating to the representation of clients are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter, civil or criminal, nor do they place any limitations on other-

wise lawful investigative or litigative prerogatives of the Department of Justice.

9-2.162 Grand Jury Subpoenas for Financial Records

The Supreme Court held in *United States v. Miller*, 425 U.S. 435 (1976), that a bank depositor lacks the necessary Fourth Amendment interest to challenge a *subpoena duces tecum* issued to a bank for its records of its depositor's transactions. It is important, nevertheless, that U.S. Attorneys exercise a close control over the obtaining for law enforcement purposes of the business records of banks and other financial institutions. There is a danger that the Congress will curtail the government's access to such financial records unless past abuses and putative abuses of grand jury process are completely avoided.

It is required that:

A. U.S. Attorney or Assistant U.S. Attorney shall personally authorize the issuance of a *subpoena duces tecum* to obtain financial records in such a way as to avoid any appearance that the matter was left to the discretion of an investigative agent serving the subpoena;

B. Every such subpoena shall be returnable only on a date when the grand jury is in session and the subpoenaed records shall be produced before the grand jury unless the grand jury itself has previously agreed upon some different course, *see United States v. Hilton*, 534 F.2d 556, 564, 565 (3d Cir.1976); and

C. If, for the sake of convenience and economy, the subpoenaed party is permitted voluntarily to relinquish the records to the government agent serving the subpoena, a report shall be made in due course to the grand jury as to the nature and contents of the records.

While these three requirements may seem to involve simply an observance of the fundamentals of grand jury practice, there is the broader intention of avoiding any semblance of abuse of the grand jury.

9-2.164 Number of Counts in Indictments

In order to promote the fair administration of justice, as well as the perception of justice, all U.S. Attorneys should charge in indictments and informations as few separate counts as are reasonably necessary to prosecute fully and successfully and to provide for a fair sentence on conviction. To the extent reasonable, indictments and informations should be limited to fifteen counts or less, so long as such a limitation does not jeopardize successful prosecution or preclude a sentence appropriate to the nature and extent of the offenses involved.

proceedings against a member of the news media should be aware of the requirements of 28 C.F.R. § 50.10.

Except in cases involving exigent circumstances, the express approval of the Attorney General is necessary prior to the interrogation, indictment, or arrest of a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media. The Attorney General's authorization is also required before issuance of any subpoena to a member of the news media except in those cases where both a media representative agrees to provide the material sought and that material has been published or broadcast. In addition, the Attorney General's permission is required before the issuance of a subpoena for the telephone toll records of a member of the news media. Failure to obtain the prior approval of the Attorney General, where required, may constitute grounds for disciplinary action.

Whenever the government seeks the Attorney General's authorization pursuant to 28 C.F.R. § 50.10 in a case or matter under the supervision of the Criminal Division, the Legal Support Unit of the Office of Enforcement Operations should be contacted at FTS 786-4987. In cases or matters under the supervision of other divisions of the Department of Justice, the appropriate division should be contacted.

9-2.161(a) Policy With Regard to the Issuance of Grand Jury or Trial Subpoenas to Attorneys for Information Relating to the Representation of Clients

Because of the potential effects upon an attorney-client relationship that may result from the issuance of a subpoena to an attorney for information relating to the representation of a client, it is important that the Department exercise close control over the issuance of such subpoenas. Therefore, the following guidelines shall be adhered to by all members of the Department in any matter involving a grand jury or trial subpoena:

A. In determining whether to issue a subpoena in any matter to an attorney for information relating to the representation of a client, the approach must be to strike the proper balance between the public's interest in the fair administration of justice and effective law enforcement and individual's right to the effective assistance of counsel.

B. All reasonable attempts shall be made to obtain information from alternative sources before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to obtain such information from an attorney if such attempts prove unsuccessful.

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C. If, for the sake of convenience and economy, the subpoenaed party is permitted voluntarily to relinquish the records to the government agent serving the subpoena, a report shall be made in due course to the grand jury as to the nature and contents of the records.

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HAMILTON MEETING - KEY POINTS

Status and Report

1. Status of Foster death investigation

   - Ongoing; attempting to bring fact-gathering to conclusion in near future (within several weeks); final decisions soon thereafter

2. Will OIC issue statement when concluded?

   - Seriously [actively] considering doing so

3. Will OIC issue a public final report on Foster death?

   - At this time, we anticipate preparing a report once investigation complete and no other action to be taken by OIC

   - It must be submitted to the court (Special Division), and it is their decision whether to make it public

4. When would a report be issued?

   - We would anticipate doing an "interim" report at the conclusion of the Foster death investigation, rather than waiting for the completion of all OIC investigations and prosecutions

Our Request for Information

5. What we seek:

   - Three categories of information

      (1) Review of documents from Vincent Foster's office

      (2) Documents and information relating to conversations, etc. that Hamilton had with Vincent Foster prior to Foster's death ("state of mind" materials)

      (3) Documents and information relating to conversations, etc. that Hamilton had with White House officials, DOJ officials or others from July 20, 1993 through July 30, 1993, particularly regarding the search or inspection of Vincent Foster's office and disposition of documents from office

6. Our general position

   - Firm; need to acquire all non-privileged information; not subject to negotiation, although we will discuss process

7. Re: documents from Vincent Foster's office

- Have previously reviewed (Park Police, Gillis, Bransford) - even the diary

- Brett, with his comprehensive knowledge, needs to do so

- Hamilton position that only KWS can review diary (purportedly because of concerns about leaks) is insulting to Brett and to the office

8. Re: conversations, etc. with Vincent Foster ("state of mind")

- Hamilton concedes has some information, including notes of conversation with Vincent Foster a few days before his death (regarding legal help on Travel Office)

- Highly relevant, and we have asked other lawyers these same things (*e.g.*, Jim Lyons)

- White House certainly would not assert any privilege

9. Re: conversations, etc. after Vincent Foster death about search of office and disposition of documents

- Hamilton concedes had such conversations

- Highly relevant to obstruction of justice investigation

- We have asked similar questions of, and sought documents from, other lawyers who interacted with White House, and the White House officials themselves

- No attorney-client privilege, as we do not seek communications with client [may be confidential communication under Code of Professional Responsibility, but not protected from compelled disclosure]

- Not work product - not in anticipation of litigation

10.

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

proceedings against a member of the news media should be aware of the requirements of 28 C.F.R. § 50.10.

Except in cases involving exigent circumstances, the express approval of the Attorney General is necessary prior to the interrogation, indictment, or arrest of a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media. The Attorney General's authorization is also required before issuance of any subpoena to a member of the news media except in those cases where both a media representative agrees to provide the material sought and that material has been published or broadcast. In addition, the Attorney General's permission is required before the issuance of a subpoena for the telephone toll records of a member of the news media. Failure to obtain the prior approval of the Attorney General, where required, may constitute grounds for disciplinary action.

Whenever the government seeks the Attorney General's authorization pursuant to 28 C.F.R. § 50.10 in a case or matter under the supervision of the Criminal Division, the Legal Support Unit of the Office of Enforcement Operations should be contacted at FTS 786-4987. In cases or matters under the supervision of other divisions of the Department of Justice, the appropriate division should be contacted.

9-2.161(a) Policy With Regard to the Issuance of Grand Jury or Trial Subpoenas to Attorneys for Information Relating to the Representation of Clients

Because of the potential effects upon an attorney-client relationship that may result from the issuance of a subpoena to an attorney for information relating to the representation of a client, it is important that the Department exercise close control over the issuance of such subpoenas. Therefore, the following guidelines shall be adhered to by all members of the Department in any matter involving a grand jury or trial subpoena:

A. In determining whether to issue a subpoena in any matter to an attorney for information relating to the representation of a client, the approach must be to strike the proper balance between the public's interest in the fair administration of justice and effective law enforcement and individual's right to the effective assistance of counsel.

B. All reasonable attempts shall be made to obtain information from alternative sources before issuing a subpoena to an attorney for information relating to the representation of a client, unless such efforts would compromise a criminal investigation or prosecution or would impair the ability to obtain such information from an attorney if such attempts prove unsuccessful.

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

December 1, 1995

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

This letter, submitted under Federal Rule of Evidence 408, puts in writing much of what I said to you during our November 29 telephone call concerning your requests for information from Lisa Foster and this firm. I will not repeat here many of the points set forth in my November 15, 1995, communications to you, which still pertain.

Again, I must preface my remarks by stressing the family's concerns. The family fervently believes your investigation into matters relating to Vince's death has gone on much too long. They wonder why your office now asks for information that could have been sought many months ago. Mrs. Foster particularly is upset that you seek information from her at the time of her wedding (now scheduled for January 1). The family also is anxious about how personal and sensitive items would be handled. They know that Mr. Fiske turned over 302s recording their interviews to the Senate; they know that your office gave the Special Whitewater Committee Vince's briefcase without asking or informing the family. They thus are loathe to turn over personal items or information.

This being said, there nonetheless are possibilities for cooperation. As to the documents that were in Vince's White House office, Mrs. Foster is willing to let Brett review those in our offices, with the exception of Vince's so-called diary, which Ken may review. However, Brett's review would be done only with your office's agreement that, if you wish to copy any documents, you would consult with us; if Mrs. Foster believes such items are personal in nature, a subpoena would be required to obtain them, which she might contest. As to the diary, if Ken believes he needs a copy, a subpoena would be required, which Mrs. Foster would contest.

As for the other requests to Mrs. Foster -- items 1 through 6 at pages 2 and 3 of your November 9 letter to me -- she is willing to produce items such as Vince's passport and a

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Mrs. Foster will not voluntarily produce certain documents relating to Rose Law Firm matters Vince had kept at home; all these documents predate 1992 and, in her view, are irrelevant to your investigation.

As to materials I have prepared or gathered during my representation of the Foster family or regarding my conversation in July 1993 with Vince, the firm and family members, in response to a subpoena, will assert whatever privileges are applicable, including the work product privilege. We will not provide you a privilege log now because we believe to do so would be burdensome and would not be required in response to any subpoena you might issue. In any event, given our discussions and my correspondence to you, you already have a fairly good idea of the nature of the materials we have.

I will conclude by stating what I have said many times. The family and the firm are not seeking litigation and hope these matters can be resolved. If they cannot and if you intend to subpoena Mrs. Foster, I ask you to serve the subpoena on me in order to avoid additional stress to Mrs. Foster during the Holiday Season and at the time of her wedding.

Sincerely,

James Hamilton

JH/cmb

6049084.1□

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

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

Dear Jim:

As you know, after lengthy discussions with you, this Office sent you a document request on November 9, 1995, that called for certain documents in the possession, custody, or control of you or your firm. On November 15, 1995, you indicated in writing that you and your firm believed that privileges applied to some of the requested documents, and you asked us to reconsider our request. We responded promptly by telephone that your November 15 letter had not altered our document request, and that you should produce a log for any documents that, because of privilege claims, you would not produce. As we have consistently explained to you, such a log is necessary to permit informed scrutiny of any privilege claims.

In your letter of December 1, 1995, you stated that you and your firm would not comply with this Office's document request, and indeed would not even produce a log.

Your letter of December 1, 1995 made several other points that warrant a brief response.

You point out the family's concerns about our requests and the continuing nature of our investigation. We are sorry for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued

[1] Our document request of November 9, 1995 also requested documents from your client Lisa Foster. We will continue to discuss with you and pursue any requests or subpoenas to the Foster family

interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief, however, that we must continue to press forward to obtain all relevant information.[2]

With respect to documents in the possession, custody, or control of you or your law firm that were created either before or after Mr. Foster's death, and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) concern that we have not received the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death. Those concerns have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that had not been provided to this Office or, indeed, to any law enforcement officials. We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and actions in the days and weeks before his death.

Regarding documents created after Mr. Foster's death that are relevant to possible obstruction of justice with respect to the July-August 1993 federal investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony, as you well know. Given the role of you and Mr. Spafford in those events, it has become apparent to us, after talking to you, Mr. Spafford, and a number of other people, that you and your law firm may have relevant documentary information about the events occurring in the days after Mr. Foster's death.

We do recognize that some of the documents created before or after Mr. Foster's death that are in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. As you know, however, we have serious doubts about some of the general claims you have made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents that we believe are in your possession or your firm's possession.

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

Sincerely yours,

John D. Bates
Deputy Independent Counsel

---

[2] That does not mean that we must publish all information provided to this Office; appropriate safeguards can be used to protect against the dissemination of sensitive information.

Office of the Independent Counsel

Two Financial Centre
10825 Financial Centre Parkway, Suite 134
Little Rock, Arkansas 72211
(501) 221-8700
Fax (501) 221-8707

December 13, 1995

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

VIA TELECOPIER

Mr. James Hamilton
Attorney-at-law
Suite 300
Swidler & Berlin
3000 K Street, N.W.
Washington, DC 20007

Re: Grand Jury Subpoena

Dear Jim:

On Friday, a grand jury subpoena was issued to relating to the said documents to be produced for the grand jury in

In our telephone conference on the afternoon of December 12, I advised you that it was our position that all such records should be produced.

It was your position that you did not think that some of the documents would be relevant. I advised you, that at this point, any and all documents related to the following should be produced, without waiving the total subpoena at this point:

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

[redacted]

If you have any questions regarding this, please give me a call.

Very truly yours,

W. Hickman Ewing, Jr.

cc: Alden Atkins, Esq.

**********FAX TRANSMITTAL SHEET**********

OFFICE OF THE INDEPENDENT COUNSEL
TWO FINANCIAL CENTRE, SUITE 134
10825 FINANCIAL CENTRE PARKWAY
LITTLE ROCK, ARKANSAS 72211

MAIN NUMBER: (501) 221-8700 FAX NUMBER: (501) 221-8707

TO: John Bates DATE: December 13, 1995

TEL: FAX NUMBER: (202) 514-8707

FROM: Hickman Ewing NO. OF PAGES: 3
(Including Cover Page)

TEL: (501) 221-8708

REMARKS:

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

November 9, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

Dear Jim:

By this letter, we request that you produce the following documents in your possession, custody, or control, or in the possession, custody, or control of Swidler & Berlin, to this Office by December 1, 1995:

1. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls to or from Vincent Foster from November 1992 through July 1993, inclusive.

2. Any and all documents to, from, or by Vincent Foster.

3. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

4. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

5. Any and all documents referring or relating to Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

7. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls on or after July 20, 1993, to or from Roger Adams, Bob Barnett, Bill Burton, Lisa Caputo, Thomas Castleton, Hillary Rodham Clinton, President William Jefferson Clinton, Dennis Condon, Mark Gearan, Deborah Gorham, Nancy Hernreich,

Phil Heymann, Webster Hubbell, Carolyn Huber, Charles Hume, Robert Hines, William Kennedy, Evelyn Lieberman, Bruce Lindsey, David Craig Livingstone, James Lyons, David Margolis, Peter Markland, Sylvia Mathews, Nancy McFadden, Thomas Mack McLarty, Cheryl Mills, Dee Dee Myers, Stephen Neuwirth, Bernard Nussbaum, Betsy Pond, Jack Quinn, Scott Salter, Marsha Scott, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Susan Thomases, Patsy Thomasson, Linda Tripp, David Watkins, Dr. Larry Watkins, Margaret Williams, or any attorneys for the above-named persons, that refer or relate to: Vincent Foster; the death of Vincent Foster; the office of Vincent Foster; papers or documents that were within the office of Vincent Foster on or about July 20, 1993; the removal or movement of papers or documents from the office of Vincent Foster on or after July 20, 1993; any search or inspection of the office of Vincent Foster; any notes or writings found in the office of Vincent Foster; or Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

8. Any and all documents referring or relating to any search, inspection, inventory, removal, movement, or disposition of documents, or of a briefcase, in the office of Vincent Foster.

Excluded from these requests are any documents reflecting information communicated in confidence by any client (other than Vincent Foster) for the purpose of seeking legal advice. If you seek to claim any privileges as to the documents requested, please identify both the document and the precise privilege claimed.

We also request to review at your office any and all documents or communications that as of July 20, 1993, were contained in the office of Vincent Foster; within any boxes, drawers, file cabinets, or similar items used to store documents and/or communications of Vincent Foster; or within the office or work space of Deborah Gorham. With respect to this category of documents, we may wish to request copies of these documents after we review them in your office.

We also request that you produce the following documents in the possession, custody, or control of your client Lisa Foster to this Office by December 1, 1995:

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

In these requests to you, your law firm, and your client, the term "documents" includes any typewritten or handwritten notes.

Because we do not know what information may be contained in these documents, we cannot commit that no further requests of you or your clients may be forthcoming.

Thank you for your cooperation and for agreeing with me on the telephone that you will respond to this letter request in some manner by Wednesday, November 15, 1995.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

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

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As you know, after lengthy discussions with you, this Office sent you a document request on November 9, 1995, that called for certain documents in the possession, custody, or control of you or your firm. On November 15, 1995, you indicated in writing that you and your firm believed that privileges applied to some of the requested documents, and you asked us to reconsider our request. We responded promptly by telephone that your November 15 letter had not altered our document request, and that you should produce a log for any documents that, because of privilege claims, you would not produce. As we have consistently explained to you, such a log is necessary to permit informed scrutiny of any privilege claims.

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

Sincerely yours,

John D. Bates
Deputy Independent Counsel

---

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SWIDLER & BERLIN
CHARTERED
3000 K STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: December 1, 1995 Time: 3:12pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 3 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

December 1, 1995

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

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Sincerely,

James Hamilton

JH/cmb

6049084.1D

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SUITE 300
WASHINGTON, D.C. 20007-3841
(202) 944-4300
(202) 424-7643 (telecopier/fax#) - Suite 300
701131 (telex#)

TELECOPIER/FAX TRANSMITTAL

Today's Date: December 1, 1995 Time: 3:12pm

TRANSMITTAL TO

Individual: John D. Bates, Esq.

Telecopy No: 514-8802

Telephone No: 514-8688

Total # of Pages: 3 **(including cover page)**

TRANSMITTAL FROM

Individual: Jim Hamilton

Direct Phone #: 202-424-7286

Attorney Code: 150

Billing Code: 8821.01

Fax Cover Sheet Message:

If there is a problem with this transmission, it is important that you notify:

Name: Charlotte Barrett Phone #: 202/424-7587

SWIDLER & BERLIN
CHARTERED

JAMES HAMILTON
ATTORNEY-AT-LAW

DIRECT DIAL
(202)424-7826

December 1, 1995

BY TELECOPIER

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

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Sincerely,

James Hamilton

JH/cmb

6049084.1□

Brett —
We need to include the substance of our last (telephonic) response/proposal to him — "for the record." My initial reaction to our attempts to convince him of the legitimacy of our pursuit of this topic is that we should condense it — we won't convince Hamilton and it may come across as too defensive. I am not yet comfortable with including numbered paragraph 3 — let's discuss what we could gain apart from the good feelings from just saying it to

John,
This is a rough first draft. I will be working on it some more on Sunday — but any thoughts you have at this point are welcome.
BK

December 4, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007-5116
(202) 424-7826

Dear Jim:

[redacted]

Apart from indicating your unwillingness to provide documents voluntarily, your letter of December 1, 1995 make several other points that warrant a further response.

1. [redacted]

With respect to documents in the possession, custody, or control of you or your law firm that were created before and after Mr. Foster's death and that are relevant to Mr. Foster's state of mind, we have concluded that it is necessary to obtain those documents because of continuing (indeed, increasing) doubt in our minds that we have received the full story about Mr. Foster's thoughts, words, and activities in the days and weeks before his death. Those doubts that have been exacerbated in recent months by, among other things, information provided to The New Yorker and 60 Minutes by you and your clients that has never been provided to this Office or, indeed, to any law enforcement officials.

You must understand that it is vitally important that this Office obtain the full story in order for us -- or the American people -- to have any degree of confidence about the cause and manner of Mr. Foster's death.[1] As a practical matter, moreover, you should recognize that there

[1] As I am sure you know, a recent poll reveals that a majority of American people do not accept the conclusion that Mr. Foster committed suicide.

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

is an enormous public interest in this case, which likely means that this will not be the last investigation of Mr. Foster unless his death is thoroughly examined by this Office.[2] You as well as the White House have suggested in the past that we will never be able to determine precisely what might have driven Mr. Foster to commit suicide. That is a conclusion, however, that legitimately can be reached only after undertaking a full and searching review of Mr. Foster's life and death.

You have drawn our attention in particular to the family's concerns about the continuing nature of our investigation. To be sure, one of the valid criticisms of modern law enforcement is its failure on occasion to consult with, and pay heed to the wishes of, the victims of violence and their loved ones. We have attempted to do so in this case. But it is an unfortunate fact that the desires of family members and the needs of law enforcement may diverge, and they appear to have done so here. We apologize for any pain or inconvenience we have caused Mr. Foster's family and friends, and we understand that they may be upset about and impatient with the continued interest of this Office and the American people in Mr. Foster's death. That does not alter our core belief that we must continue to press forward to obtain all relevant information. Of course, that does not mean that we necessarily must publish all information provided to this Office; appropriate safeguards can be used to ~~guard~~ protect against the dissemination of especially sensitive information. But we simply must seek to obtain all relevant information, even if it is sensitive.

Let there, then, be no mistake about our intentions: We do not plan to halt this investigation until we are confident that we have obtained the full story about Mr. Foster's thoughts, words, and activities in the days and weeks preceding his death. We are fully prepared to deal with any criticism by you or others that may be directed at our Office for the time and effort spent in pursuing that goal, so any veiled threats in that vein do not affect us. Moreover, we are fully prepared to litigate if necessary to obtain all relevant information, even though ~~that we recognize that~~ litigation will occasion even further delay.

With respect to documents created after Mr. Foster's death that are relevant to potential obstruction of justice of the investigation of Mr. Foster's death, there is of course a good deal of confusing and conflicting testimony regarding events in the immediate aftermath of his death. ~~those events~~. (As you know, the congressional testimony revealed numerous important conflicts, including conflicts: (1) between (a) Messrs. Margolis and Adams and (b) Mr. Nussbaum; (2) between (a) Mr. Neuwirth and (b) Mr. Nussbaum; and (3) between (a) Mr. Spafford and (b) Messrs. Nussbaum and Sloan.) Given the the role of you and Mr. Spafford in those events, it has become apparent to us, after interviewing a number of people, that you and your law firm may well have relevant documentary information about the events occurring in the days after Mr. Foster's death.

also confirmed in our discussion with him

2. We do recognize that some of the documents created before and after Mr. Foster's death in the possession, custody, or control of you or your law firm may be subject to meritorious claims of work product or attorney-client privilege. Once we have a privilege log, we will be in a position to evaluate the merit of any such claims. (You seem to suggest in your letter that

[2] In recent weeks, we have received congressional inquiries that lead us to believe that Congress may yet want to re-examine Mr. Foster's death.

you need not produce a privilege log in response to a grand jury subpoena. It is not clear to me what possible justification you would have for refusing to produce a privilege log, but we will await your further response in that regard.) As you know, however, we have serious doubts about some of the claims you have preliminarily made to this Office -- for example, with respect to the "in anticipation of litigation" element of a work product claim as applied to many of the documents we believe are in your possession or your firm's possession.

3. Finally, I note a general reaction of this Office to your recent letters and entreaties. Speaking bluntly, we have come to question the quality of your cooperation and your firm's cooperation with this and other law enforcement investigations. One reason stands above all others: the Michael Spafford incident. For the Spafford information to be provided to law enforcement two years after the fact and only in response to a precisely focused question that elicited a clearly reluctant response -- when both you and he were fully aware of the potentially enormous implications of that information -- is, in our view, unconscionable. That incident dramatically altered the view of this Office about the willingness of you and your law firm to cooperate with law enforcement authorities in the absence of legal process compelling you to do so.

Sincerely yours,

Kenneth W. Starr
Independent Counsel

HAMILTON LETTER

① WH has notes of conversations re: transition counsel + vetting
"if they exist"

② Travel Office notes could be made available
- notes problem that we are not investigating a crime

③ records from VWF's office could be received

④ records from Rose that VWF kept at home → likely relevant

⑤ docs from WH office released by others - WE HAVE

⑥ WORK PRODUCT
you may have been retained in part w/ an eye towards litigation but not everything was done in anticipation of litigation - Hamilton must connect each conversation to the particular litigation contemplated

⑦ fact of overlap w/ prior subpoena does not seem relevant

HAMILTON STRATEGY

- procedure for Mrs. Foster -
  - review

- procedure

- give them a little bit of our assessment of anticipation of litigation - both law and application of law

preliminary

what process to adopt as strs

1. subpoena
2. meeting
3. written communication

- Lisa Foster docs
- docs in office
- Travel Office docs + other docs

notes

MEMORANDUM

TO: File

FROM: Brett Kavanaugh

RE: Meeting with Hamilton

DATE: October 21, 1995

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

I here catalogue for posterity some of the comments, including the many preposterous ones, made by Jim Hamilton in yesterday's meeting.

* "You would be hard-pressed to find someone who has been more cooperative with an investigation" **but** "The family only answered the questions that they were asked" and "Lisa's main concern from Day 1 was to keep records confidential."

* "The family wants a detailed report and wants it now."

* "I will let you see the documents I have from Foster's office, with one condition." [The unstated condition, of course, is that Ken and only Ken look at the diary -- an implicit attack on my integrity and credibility.]

* "Lisa is concerned about leaks from this Office."

* "I want an overall arrangement to deal with these subpoena issues. . . . I'm talking about a deal."

* "Litigation was a possibility even as early as July 21, but even if it was [sic] not a possibility, I still think my post-death conversations are protected by the work product privilege."

* "I hope we do not have to go to litigation, but if we do, I'll say what I've got to say." [the not-too-veiled threat so as to back us down]

* "You don't want to fight Lisa."

* "In the days after the death, I was either investigating or communicating thoughts or trying to get someone to do something." [the underlined portion should give everyone some pause]

* "I anticipated litigation in a future fight over evidence. . . . I'm in litigation [FOIA] right now with the Wall Street Journal over the note." [query whether these are bootstraps]

* "All you are trying to do is substantiate a conclusion you reached 6 months ago."

* "You should have done the search of the park 6 months ago."

* "Our interests are largely congruent."

* "You are not investigating a crime with respect to the death." [Note that this is truly preposterous because it means that an apparent suicide could never be investigated by a law enforcement investigatory body because there would be no crime to investigate.]

[redacted]

* "I think that the children told Lisa about A Few Good Men after the interview. It might have been before, but I think it was after. And she has become convinced that it is true."

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

ask Hamilton
re: note
found in
Foster's wallet

(1)

Jim Hamilton conversation 11/3

John: appreciate your recent cooperation
- need to be consistent with how we've treated other lawyers
- we want your notes
- we are prepared to deal w/ claims of privilege

[redacted]

- we need to look at notes
- subpoena

[redacted]

↓

JH wants letter instead of subpoena

list of people + subject matters

- JB not waiving subpoena option
- JH was willing to discuss areas
  - → wants us to be selective
  - → notes are essence of work product
  - → notes will be filled w/ views on numerous subjects
  - → JH e.g. conversations w/ other lawyers gathering facts
  - → enormous burden
  - → PAXSON

JH: "I didn't think anyone was going to come after us for murder." (/

(2)

JH: → once sent letter to ~~JH~~ JH, have we gotten everything from JH or clients

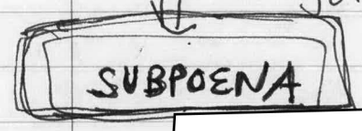
- work product
-

Jim Hamilton - STRATEGY FOR 11/3

① pre-death notes of conversations w/ Foster

② office docs

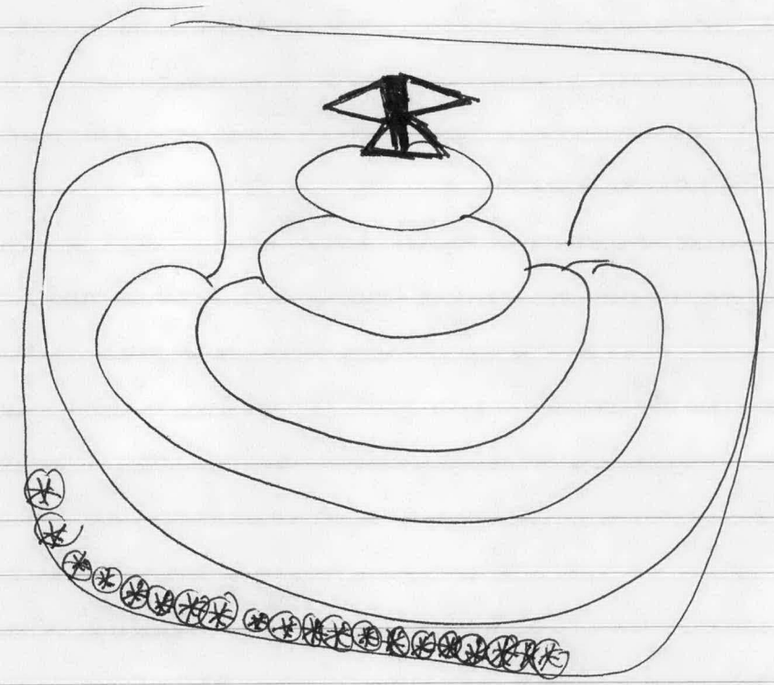
③ post-death notes — complimentary
- we need to look at them
- don't think in anticipation of litigation
- don't buy a joint defense agreement



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

HAMILTON

- new carpet receipts?
- guns
- resign at end of year?



(1)

HAMILTON MEETING 10/20

- no waivers by what JH says at this meeting
- family thinks it's time to be over
- family wants fairly detailed report now

wants
- "overall arrangement"
- docs in office ⇒ yes, but under 1 condition
- conversations w/ Foster ⇒ yes, if get arrangement
- 2 weeks or so after VWF's death ⇒ NO, b/c A-C privilege + WP privilege
  - his investigation
  - analysis

litigation was a possibility but even if not a possibility, still thinks

JH's **WORK PRODUCT** ⇒ information reflecting what JH has done to represent his clients

- only litigation he anticipated was fight over evidence
- Lisa's main concern was to keep records confidential from Day 1

(2)

- subpoena [redacted]

- "deal we made"

- did not make that agreement thinking that 2 months later someone

- threat ⟹ say what he's got to say in litigation if necessary

JB: - who was client in earlier subpoena?

- represented campaign ↓ transition

- MT says facts set forth are "essentially accurate" but quid pro quo is not ~~or~~ accurate

- MT thinks that JH said he wants to resolve issues w/ Wille Rock before turning to the fingerprint issue

[redacted]

CAMPAIGN

(3)

- MT says he would never agree to a quid pro quo
- JH is talking about a deal
- either investigating or communicating thoughts or trying to get someone to do something
- Spafford

NOT
⇒ most all WH

- trying to get BN to do something ⇒ PRIV
- investigating facts ⇒ PRIV

- litigating right now about doc that was in office
⇒ WSJ

Sam's suggestion
proffer of information

[redacted]

"largely congruent interest"

(4)

- 2 are linked together

DOJ policies

- no crime committed
- e(1) ⇒ no crime for #1 or #2
- e(3) ⇒ talk
- e(6) ⇒ privilege
  → restrictive

lawyer's involvement in criminal investigation w/ witness ⇒ NOT subject or target

→ a witness who might resist subpoenas

- trying to substantiate conclusion reached 6 months ago

- "I generally think that I probably would sit down"
- sit down w/ you ⇒

NOTES

- fairly promptly

DO THIS FIRST

Nussbaum - Heymann

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

November 9, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

Dear Jim:

By this letter, we request that you produce the following documents in your possession, custody, or control, or in the possession, custody, or control of Swidler & Berlin, to this Office by December 1, 1995:

1. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls to or from Vincent Foster from November 1992 through July 1993, inclusive.

2. Any and all documents to, from, or by Vincent Foster.

3. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

4. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

5. Any and all documents referring or relating to Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

7. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls on or after July 20, 1993, to or from Roger Adams, Bob Barnett, Bill Burton, Lisa Caputo, Thomas Castleton, Hillary Rodham Clinton, President William Jefferson Clinton, Dennis Condon, Mark Gearan, Deborah Gorham, Nancy Hernreich,

Phil Heymann, Webster Hubbell, Carolyn Huber, Charles Hume, Robert Hines, William Kennedy, Evelyn Lieberman, Bruce Lindsey, David Craig Livingstone, James Lyons, David Margolis, Peter Markland, Sylvia Mathews, Nancy McFadden, Thomas Mack McLarty, Cheryl Mills, Dee Dee Myers, Stephen Neuwirth, Bernard Nussbaum, Betsy Pond, Jack Quinn, Scott Salter, Marsha Scott, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Susan Thomases, Patsy Thomasson, Linda Tripp, David Watkins, Dr. Larry Watkins, Margaret Williams, or any attorneys for the above-named persons, that refer or relate to: Vincent Foster; the death of Vincent Foster; the office of Vincent Foster; papers or documents that were within the office of Vincent Foster on or about July 20, 1993; the removal or movement of papers or documents from the office of Vincent Foster on or after July 20, 1993; any search or inspection of the office of Vincent Foster; any notes or writings found in the office of Vincent Foster; or Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

8. Any and all documents referring or relating to any search, inspection, inventory, removal, movement, or disposition of documents, or of a briefcase, in the office of Vincent Foster.

Excluded from these requests are any documents reflecting information communicated in confidence by any client (other than Vincent Foster) for the purpose of seeking legal advice. If you seek to claim any privileges as to the documents requested, please identify both the document and the precise privilege claimed.

We also request to review at your office any and all documents or communications that as of July 20, 1993, were contained in the office of Vincent Foster; within any boxes, drawers, file cabinets, or similar items used to store documents and/or communications of Vincent Foster; or within the office or work space of Deborah Gorham. With respect to this category of documents, we may wish to request copies of these documents after we review them in your office.

We also request that you produce the following documents in the possession, custody, or control of your client Lisa Foster to this Office by December 1, 1995:

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

In these requests to you, your law firm, and your client, the term "documents" includes any typewritten or handwritten notes.

Because we do not know what information may be contained in these documents, we cannot commit that no further requests of you or your clients may be forthcoming.

Thank you for your cooperation and for agreeing with me on the telephone that you will respond to this letter request in some manner by Wednesday, November 15, 1995.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

October 11, 1995

VIA FACSIMILE AND MAIL

James Hamilton, Esq.
Swidler & Berlin
3000 K Street, Northwest, Suite 300
Washington, D. C. 20007

Dear Mr. Hamilton:

This letter will expand on our recent discussions regarding documents and information we are seeking as part of our ongoing investigations. We are troubled by the position you have taken to date because it would preclude our acquisition of information that we believe is relevant but not protected by any privilege.

At this point, we have requested three categories of information: (1) the documents in your possession that came from Vincent Foster's office as of July 20, 1993; (2) documents and information relating to conversations or other interactions you had with Vincent Foster, Jr., in 1993 prior to his death; and (3) documents and information relating to conversations or other interactions you had with certain individuals during the ten-day period from July 20, 1993 through July 30, 1993, particularly as they relate to a search or inspection of Mr. Foster's office or to the disposition of documents from his office. To date, we have only made an "informal" request for these materials, although we have indicated our willingness and intention to pursue this information through an appropriate grand jury subpoena, if necessary.

You have agreed, with certain conditions acceptable to us, to provide what we seek pursuant to the first and second categories above. We appreciate that, as those materials are relevant to our investigations. For example, you have stated that you had a conversation with Vincent Foster, Jr., just a few days before his death, and that you have notes of that conversation.

However, you have been adamant in your position that you will not voluntarily provide documents or information in your possession relating to category three above, although you have also stated that you had several conversations with White House officials or others that would be responsive to our request. You have asserted your view that many of these conversations are privileged or protected as work product. Moreover, you have

insisted that any willingness by you to provide information responsive to categories one and two above is conditioned on our agreement to forego seeking information responsive to category three that you claim is "privileged" -- in short, you are insisting on a "package" deal.

We have proposed that you meet with us pursuant to our request for information under category three in a session in which we would ask questions, to which you could then either respond or identify a privilege. This would permit us to acquire some relevant information and at the same time narrow, or even eliminate, remaining issues between us. We believe this would be especially useful in that you have indicated that there were several conversations responsive to category three, some of which you concede are not privileged.*

Hence, we continue to urge you to agree to our proposal. We do not seek to question you about, or seek documents concerning, conversations between you and any of the Foster family. Rather, we seek information relating to your conversations or interactions with certain White House personnel, DOJ personnel, and a few other individuals, in the ten days or so following Vincent Foster's death.

Some of these conversations may be relevant to our investigation relating to Mr. Foster's death, while others may be relevant to our investigation of possible obstruction of justice, and some may be relevant to both. Based on our current knowledge, we believe that such conversations are material and very important to our investigative efforts. While there may be some information to which a privilege could apply, it would not seem that the attorney-client privilege is directly applicable because your conversations with clients are not being sought. Moreover, it is unclear to us how the work product doctrine would apply since it does not appear that these conversations were in anticipation of any specific litigation.

We are prepared to go forward with a session with you relating to the third category of information, as described above, at your earliest convenience. We would reserve the right to seek further information from you, either voluntarily or through other methods, following that session. Of course, as we have discussed, any waiver of a privilege on a specific question or subject will not be construed to extend to other questions or subjects. In the meantime, we would like also to go forward to

---

* Given the nature and sensitivity of our investigations, we must decline your request that we provide you with written questions in lieu of a meeting or interview.

acquire the information sought in categories one and two described above, subject to the conditions you have raised and to which we have agreed.

We hope we can resolve this matter voluntarily, and we will continue to work to do so. However, as you have noted, we all would like to bring the fact-gathering in these investigations to a close as soon as possible. If we do not have an agreement within a week from today, we will promptly pursue this information by other means. I look forward to hearing from you.

Sincerely,

John D. Bates
Deputy Independent Counsel

TELECOPY COVER SHEET

OFFICE OF THE INDEPENDENT COUNSEL

1001 Pennsylvania Avenue, N.W., Suite 490N
Washington, D. C. 20004
telephone (202) 514-8688 facsimile (202) 514-8802

Date: October 11, 1995

TO: James Hamilton, Esq.

Company Name: Swidler & Berlin

Fax Number: 202-424-7643 Telephone Number: 202-424-7826

FROM: John D. Bates, Deputy Independent Counsel

Number of Pages: 4 (including this cover sheet)

Message:

a:\faxform.nmr

****
*** ACTIVITY REPORT ***
****

TRANSMISSION OK

TX/RX NO.	8986
CONNECTION TEL	94247643
CONNECTION ID	
START TIME	10/11 11:50
USAGE TIME	02'24
PAGES	4
RESULT	OK

JAMES HAMILTON
ATTORNEY-AT LAW

SWIDLER & BERLIN
CHARTERED

DIRECT DIAL
(202)424-7826

October 19, 1995

VIA FACSIMILE

John D. Bates, Esq.
Deputy Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, D.C. 20004

Dear John:

As you know, I have arranged a meeting with Ken Starr and others on Friday to discuss various matters, including those raised by your October 11, 1995 letter to me. In this meantime, I want to record several brief responses to your letter.

1. Your letter partially recounts our conversations, but omits any reference to my reliance on the understanding that Mark Tuohey and I reached last summer about inquiries into matters involving my representation of the Foster family. That agreement -- as Mark recently has confirmed to me -- essentially was that, if the family allowed your office to obtain fingerprints from the family's home in Hope, your office would accept my claims of privilege as to my representation of the family without requiring me to undergo the burden of searching my voluminous files and preparing a detailed privilege log.

2. You also did not mention my reliance on the Department's guidelines as to subpoenaing attorneys in criminal matters (Department of Justice manual, Sec. 9-2.161(a)), which your office is obligated to follow by Section 594(f)(1) of the Independent Counsel's statute. Those guidelines severely limit your ability to subpoena information from attorneys and restrict your office in the current situation. On Friday, I will discuss my views on the guidelines, which Mark and I discussed before reaching the agreement referred to above.

3. The suggestion on page 2 of your letter that the work product privilege applies only where "conversations were in anticipation of any specific litigation" (emphasis added) is incorrect. Rather, this privilege may attach to a lawyer's work regarding an investigation when litigation might result. See, e.g., United States v. Paxson, 861 F.2d 730, 735-36 (D.C. Cir. 1988) (notes of attorney representing witness taken during

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interview of defendant by government attorneys protected as work product where attorney hired to protect witness during antitrust investigation "and any ensuing litigation" (emphasis added)). See also, in the same vein, Horn & Hardart Co. v. Pillsbury Co., 703 F. Supp. 1062, 1072 (SDNY), aff'd, 888 F. 2d. 8, 12 (2d. Cir. 1989) (notes made "with an eye toward litigation" protected). Litigation always has been a possibility regarding my representation of the Foster family; indeed, we prepared papers seeking a protective order as to an early Department of Justice subpoena to Mrs. Foster, which we did not file because accommodations were made.

4. Any suggestion that I am resisting providing relevant, non-privileged information concerning my contacts with government officials is also incorrect. I have been, and am now, prepared to do so. Moreover, the history of my dealings with your office (and Mr. Fiske's office) regarding your and his investigations has been one of exceptional cooperation.

Sincerely,

James Hamilton

JH/slm

5016100.1

MEMORANDUM

TO: File

FROM: Brett Kavanaugh

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

RE: Meeting with Hamilton

DATE: October 21, 1995

I here catalogue for posterity some of the comments, including the many preposterous ones, made by Jim Hamilton in yesterday's meeting.

* "You would be hard-pressed to find someone who has been more cooperative with an investigation" **but** "The family only answered the questions that they were asked" and "Lisa's main concern from Day 1 was to keep records confidential."

* "The family wants a detailed report and wants it now."

* "I will let you see the documents I have from Foster's office, with one condition." [The unstated condition, of course, is that Ken and only Ken look at the diary -- an implicit attack on my integrity and credibility.]

* "Lisa is concerned about leaks from this Office."

* "I want an overall arrangement to deal with these subpoena issues. . . . I'm talking about a deal."

[redacted]

* "Litigation was a possibility even as early as July 21, but even if it was [sic] not a possibility, I still think my post-death conversations are protected by the work product privilege."

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* "You don't want to fight Lisa."

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* "All you are trying to do is substantiate a conclusion you reached 6 months ago."

* "You should have done the search of the park 6 months ago."

* "Our interests are largely congruent."

* "You are not investigating a crime with respect to the death." [Note that this is truly preposterous because it means that an apparent suicide could never be investigated by a law enforcement investigatory body because there would be no crime to investigate.]

[redacted]

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

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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(202) 514-8688
Fax (202) 514-8802

November 9, 1995

Mr. James Hamilton
Swidler & Berlin
3000 K Street, # 300
Washington, D.C. 20007

Dear Jim:

By this letter, we request that you produce the following documents in your possession, custody, or control, or in the possession, custody, or control of Swidler & Berlin, to this Office by December 1, 1995:

1. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls to or from Vincent Foster from November 1992 through July 1993, inclusive.

2. Any and all documents to, from, or by Vincent Foster.

3. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

4. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

5. Any and all documents referring or relating to Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

7. Any and all documents referring or relating to meetings, conversations, communications, messages, or telephone calls on or after July 20, 1993, to or from Roger Adams, Bob Barnett, Bill Burton, Lisa Caputo, Thomas Castleton, Hillary Rodham Clinton, President William Jefferson Clinton, Dennis Condon, Mark Gearan, Deborah Gorham, Nancy Hernreich,

Phil Heymann, Webster Hubbell, Carolyn Huber, Charles Hume, Robert Hines, William Kennedy, Evelyn Lieberman, Bruce Lindsey, David Craig Livingstone, James Lyons, David Margolis, Peter Markland, Sylvia Mathews, Nancy McFadden, Thomas Mack McLarty, Cheryl Mills, Dee Dee Myers, Stephen Neuwirth, Bernard Nussbaum, Betsy Pond, Jack Quinn, Scott Salter, Marsha Scott, Ricki Seidman, Clifford Sloan, George Stephanopoulos, Susan Thomases, Patsy Thomasson, Linda Tripp, David Watkins, Dr. Larry Watkins, Margaret Williams, or any attorneys for the above-named persons, that refer or relate to: Vincent Foster; the death of Vincent Foster; the office of Vincent Foster; papers or documents that were within the office of Vincent Foster on or about July 20, 1993; the removal or movement of papers or documents from the office of Vincent Foster on or after July 20, 1993; any search or inspection of the office of Vincent Foster; any notes or writings found in the office of Vincent Foster; or Vincent Foster's activities or state of mind from November 1992 through July 1993, inclusive.

8. Any and all documents referring or relating to any search, inspection, inventory, removal, movement, or disposition of documents, or of a briefcase, in the office of Vincent Foster.

Excluded from these requests are any documents reflecting information communicated in confidence by any client (other than Vincent Foster) for the purpose of seeking legal advice. If you seek to claim any privileges as to the documents requested, please identify both the document and the precise privilege claimed.

We also request to review at your office any and all documents or communications that as of July 20, 1993, were contained in the office of Vincent Foster; within any boxes, drawers, file cabinets, or similar items used to store documents and/or communications of Vincent Foster; or within the office or work space of Deborah Gorham. With respect to this category of documents, we may wish to request copies of these documents after we review them in your office.

We also request that you produce the following documents in the possession, custody, or control of your client Lisa Foster to this Office by December 1, 1995:

1. Any and all documents referring or relating to both Vincent Foster and the Whitewater Development Corporation.

2. Any and all documents referring or relating to both Vincent Foster and the White House Travel Office.

3. Any and all documents referring or relating to travel of Vincent Foster, including any passport.

4. Any and all documents from or by Vincent Foster from November 1992 through July 1993, inclusive.

5. Any and all documents to Vincent Foster from November 1992 through July 1993, inclusive, from any personal friends, associates, or family members.

6. Any and all calendars, diaries, datebooks, address books, messages, message pads, message logs, summaries or records of conversations, meetings, or interviews, or similar such documents that belonged to Vincent Foster or were used to keep such records for Vincent Foster from November 1992 through July 1993, inclusive.

In these requests to you, your law firm, and your client, the term "documents" includes any typewritten or handwritten notes.

Because we do not know what information may be contained in these documents, we cannot commit that no further requests of you or your clients may be forthcoming.

Thank you for your cooperation and for agreeing with me on the telephone that you will respond to this letter request in some manner by Wednesday, November 15, 1995.

Sincerely yours,

John D. Bates
Deputy Independent Counsel

LEVEL 2 - 4 OF 47 STORIES

The Washington Post

June 15, 1993, Tuesday, Final Edition

SECTION: FIRST SECTION; PAGE A11

LENGTH: 1252 words

HEADLINE: After 87 Days, Tortuous Selection Process Came Down to Karma

SERIES: Occasional

BYLINE: Ann Devroy, Ruth Marcus, Washington Post Staff Writers

BODY:

When President Clinton phoned Judge Ruth Bader Ginsburg just after 11:30 p.m. Sunday night to offer her a seat on the U.S. Supreme Court, he joked that the selection process "bore some resemblance" to the cliffhanger, triple-overtime NBA championship series game that had just concluded.

For 87 days, it looked a little like that -- the score tight, the crowd boisterous and the players coming on and off the court with dizzying speed: Cuomo, Riley, Babbitt, Breyer, Ginsburg.

White House officials maintained in briefings yesterday that Ginsburg was on their list of top possibilities since Justice Byron R. White announced his resignation on March 19. But they also described an unusual process driven by a president who kept changing his mind or having it changed for him, who threw names into the mix as the days went by, whose criteria seemed to change as the candidate changed and who finally made a decision based on personal karma.

The process began the day after White resigned, giving Clinton the unusual gift of at least two months to choose a nominee who could be confirmed by August and ready for duty the first Monday in October, when the court's annual sessions begin.

Presidents Ronald Reagan and George Bush made a total of eight Supreme Court nominations in less than half the time it took Clinton to make one. There was little time for public discussion of their merits, or Social Security tax-paying status, before their nominations.

The duration of the Clinton process sets a modern record. The public nature of its scenes -- one nominee's lunch menu described to the press, a variety of tentative and real offers described and explained -- had a "Perils of Pauline" quality.

Officials said that on that March day when it began, they handed Clinton an unusually large list, 50 names.

Proudly displaying their handiwork, the officials said they enlisted some 75 outside, volunteer lawyers to prepare lengthy, analytic biographies on some 42 of the candidates, relying on hundreds of scholarly articles and searches of newspapers. They said Clinton's original instruction was to go not for a judicial type but a "public person," someone "with vast public experience."

The vision was of the 1954 Warren Court, where a former governor joined forces with former senators and attorneys general in the landmark Brown vs. Board of Education ruling that ended public school segregation.

The first such possibility was New York Gov. Mario M. Cuomo, the name Clinton had uttered during the campaign when asked what kind of justice he might appoint. He became the example of another Clinton requirement, someone with a "big heart," with demonstrated concern for human beings and not just judicial precedents.

In early April, the president asked Cuomo if he would agree to a more intensive vetting that could lead to his nomination. The response: no thanks. Richard W. Riley, Clinton's education secretary and the former governor of South Carolina, also told the White House he was not interested. By last Tuesday, the third "public person," Interior Secretary Bruce Babbitt, was off the list not by his choice but by the White House's.

Babbitt, said one senior official, "had become problematical": he was such a popular Interior secretary that western members of Congress and environmentalists were besieging the administration to keep him in place.

Administration officials cited Democratic politics in the Babbitt decision: Clinton needs the West to be reelected and Babbitt is popular in the West. "As the president moved away from Babbitt" at midweek, they said, he moved toward federal appeals court Judge Stephen G. Breyer of Boston, and told his staff at midweek to take another look at Ginsburg and some other candidates as a backup.

Breyer, with the public backing of liberal senators and conservatives, looked to be the problem-free answer at the end of the week. Awarded the "centrist" label that Clinton craved, Breyer seemed to have as many Republican backers as Democratic ones. Senate Minority Leader Robert J. Dole (R-Kan.) sang his praises. For a president who had suffered missteps and foulups, a major goal was just to "get this right," according to a senior official.

Officials said yesterday that Breyer's failure to pay Social Security taxes for household help was not "disqualifying." Its public emergence over the weekend, they said, was not a "real" factor in Clinton's decision to pass over the judge, who had been summoned to a Friday White House lunch with Clinton from his hospital bed (he had been hit by a car while riding his bike).

But it left Breyer, officials said, without one of his major selling points -- a problem-free confirmation. That he had neither the "big heart" qualification nor the "public person" qualification was, officials said, not a problem. "Judge Breyer did not lose the nomination," a senior official said yesterday, "Judge Ginsburg won it."

While the White House assessed the potential trouble on Saturday, White House Counsel Bernard Nussbaum arranged a meeting with Ginsburg. The night before, Friday evening after a dinner party, Clinton had told his top aides that it probably would not be Babbitt and they should crank up the process full-scale on Ginsburg.

Some aides said before the Ginsburg-Clinton meeting that she was not the kind of person he would likely warm to. She can seem remote and bookish, associates say, and they envisioned, terror-stricken, the specter of Clinton feeling

comfortable with neither Breyer nor Ginsburg and having to turn to someone else.

White House officials described the emotional connection between Clinton and Ginsburg as the key final ingredient that got her the job. Clinton's 90-minute Sunday meeting with her, they said, was "quite moving" to the president. When Clinton put her "life story with her career," they said, he was enchanted. He found her, they said, "a workhorse, not a showhorse," "prone to self-effacement but offering real strength of character." The meeting, said another official, was "the turning point and what tipped the balance."

No recent president has cited such an emotional standard and aides to former presidents Reagan and Bush, asked about it, were nonplused. One aide to each former president said their bosses had interviewed their candidates, but it had been essentially pro forma. "What's the difference how they get along," asked one senior Reagan aide. "The law precludes them ever speaking again on judicial subjects. Their first substantive conversation about the court will be their last."

The next-to-final act on the Ginsburg front occurred Sunday, after her session with Clinton, when an administration team arrived at her Watergate apartment. The team included White House Counsel Nussbaum, his deputy, Vincent Foster, associate counsel Ronald Klain, deputy communications director Ricki Seidman and James Hamilton, a Washington lawyer who directed the team of outside legal vetters, arrived to prepare her for Monday's events and go over her background one more time.

When a reporter phoned the apartment seeking Ginsburg Sunday afternoon, Nussbaum answered her phone.

Ginsburg was warned to stay awake late, and did. Hours later, after the NBA's Game 3 between the Chicago Bulls and the Phoenix Suns, Clinton picked up his phone in the White House kitchen to call Ginsburg and offer her the job. When the Ginsburg call was over, the other two front-runners, Breyer and Babbitt, got their presidential calls of regret.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 5 OF 47 STORIES

The Washington Post

June 12, 1993, Saturday, Final Edition

SECTION: FIRST SECTION; PAGE A3

LENGTH: 723 words

HEADLINE: Clinton, Breyer Talk;
No Decision Made;
Announcement on Filling Supreme Court Vacancy Is 'Possible' Today, Senior Officials Say

SERIES: Occasional

BYLINE: Ruth Marcus, Washington Post Staff Writer

BODY:
President Clinton interviewed Supreme Court candidate Stephen G. Breyer for nearly two hours yesterday but did not offer him the job and has not made a final decision, the White House said.

Sources familiar with the meeting said they believed it went well, but during the day yesterday, senior officials downgraded the chances of an announcement today from "likely but not definite" to merely "possible."

Clinton "thought he [Breyer] was impressive. He's a very highly intelligent guy and Clinton always appreciates that," one senior official said.

"Every indication is it's likely to be him, but I haven't heard it from the president so I don't trust it," another official said.

Breyer, chief judge of the 1st U.S. Circuit Court of Appeals in Boston, arrived here by Metroliner at midday after spending the night in New York. He is still recovering from injuries suffered in a bicycle accident last week and left the hospital only Thursday.

The 54-year-old judge met Clinton for the first time over lunch -- Breyer had consomme and crab cakes, Clinton seafood chowder and linguini -- in the private dining room off the Oval Office.

After the lunch, which lasted from about 1:25 until 3:10, Breyer met with White House counsel Bernard Nussbaum, who once argued a case before him. Breyer and his wife, Joanna, a clinical psychologist at the Dana Farber Cancer Institute, remained in Washington last night at a friend's house.

Breyer's only competition, White House sources said, is Interior Secretary Bruce Babbitt. Officials said Babbitt fits Clinton's criteria of a nominee with broad public experience and a "big heart," and he has known the president for years.

But Clinton is worried about the political implications of losing him at the Interior Department. "He kept seeing that little blue-and-red map from 1992," one official said, referring to the network tallies of Clinton's wins in the

West. There have also been some rumblings on Capitol Hill about whether Babbitt would be an "activist" judge.

Breyer, on the other hand, while not known to Clinton personally, is a well-respected judge, named to the bench by President Jimmy Carter in 1980, who has a reputation as a consensus-builder on the appeals court, something that aides have said Clinton is looking for in a Supreme Court nominee.

Breyer would be the first Jewish justice on the court since the resignation of Justice Abe Fortas in 1969.

He also appears assured of sailing through the Senate. Yesterday, Senate Minority Leader Robert J. Dole (R-Kan.) praised Breyer's qualifications and said he thought he could be confirmed easily and swiftly.

"It ought to be something we could do rather quickly," Dole said, probably before Congress goes on its month-long summer recess Aug. 6.

"I've indicated -- I hope it doesn't hurt him -- I think he'd be good," Dole said at a news conference.

He said Breyer's stature as a circuit court judge would be a "good plus" and added that, while he did not know Breyer well when he was on the staff of the Senate Judiciary Committee, he found him to be "knowledgeable, very capable."

Having a sponsor like Sen. Edward M. Kennedy (D-Mass.) would also help, Dole said, noting that the sponsorship of Sen. John C. Danforth (R-Mo.) for Justice Clarence Thomas and former senator Warren B. Rudman (R-N.H.) for Justice David H. Souter helped ease confirmations.

After meeting with Breyer, Clinton gathered his senior aides on the issue -- Nussbaum, White House Chief of Staff Thomas F. "Mack" McLarty, personnel director Bruce Lindsey, congressional liaison Howard Paster, associate counsel Ronald Klain and deputy communications director Ricki Seidman -- to discuss the decision. Breyer was interviewed Thursday by White House officials while still in his hospital room in Boston.

They were Klain, Seidman, deputy White House counsel Vincent Foster and Washington lawyer James Hamilton, who headed the team that conducted background checks for nominees during the transition.

In Texas for a bill-signing ceremony yesterday, Babbitt was asked if environmentalists clamoring to keep him at Interior had killed his appointment.

"Well, it is kind of interesting," he said, according to the Associated Press. "You know, I can handle my enemies. But I have a hard time fending off my friends this time around."

GRAPHIC: PHOTO, JUDGE BREYER ARRIVES AT WHITE HOUSE FOR ALMOST-TWO-HOUR TALK WITH THE PRESIDENT. JAMES A. PARCELL

LANGUAGE: ENGLISH

The Washington Post, June 12, 1993

LOAD-DATE: October 14, 1993

LEVEL 2 - 6 OF 47 STORIES

The Washington Post

June 7, 1993, Monday, Final Edition

SECTION: FIRST SECTION; PAGE A17; IN THE LOOP; THE FEDERAL PAGE

LENGTH: 926 words

HEADLINE: Nussbaum Sized Up for the Blindfold

SERIES: Occasional

BYLINE: Al Kamen, Washington Post Staff Writer

BODY:
The mood at the White House last week could best be described as beyond grim in the wake of the Lani Guinier debacle. Some wags resorted to gallows humor, noting that it seemed only fitting that Guinier's fall occurred the same day 14-year-old Geoff Hooper won the National Spelling Bee with the word k-a-m-i-k-a-z-e.

Meanwhile, amid rumors that more shakeups are inevitable, some sources are pointing to White House counsel Bernard Nussbaum as one who would most likely take the hit, citing a string of former Justice Department choices: Zoe E. Baird, Kimba Wood and now Guinier.

Speculation on a replacement includes, among many possibilities, Washington lawyer Jim Hamilton, who worked on the transition and vetted many candidates who later got jobs, but who had the great luck of recusing himself from Justice Department matters because of a conflict of interest.

Another possibility is Washington attorney W. Harrison Wellford, executive associate director of the Office of Management and Budget in the Carter administration, and well-regarded by the Clintonites for his help on transition matters. Former Reagan White House counsel Fred Fielding is not under consideration, sources say.

But a senior White House official insists Clinton would never fire Nussbaum, no matter what. Moreover, another official said Nussbaum had nothing to do with the selection or vetting of Baird. Secretary of State Warren Christopher was Baird's godfather and the vetting was handled by Washington lawyer Lanny Davis.

Nevertheless, critics say that Nussbaum was slow to appreciate the political land mines in Baird's situation.

And this on the White House real estate watch: Communications director-turned-senior adviser George Stephanopoulos may lose his fireplace to his soon-to-be-named successor, Mark Gearan, but he ends up nearer the president, moving into the small office off the Oval Office now used by scheduler Nancy Hernreich. Hernreich, in this game of dominoes, moves into presidential aide Andrew Friendly's office. New presidential counselor David R. Gergen gets a new space being created near the office of Chief of Staff Thomas F. "Mack" McLarty, and deputy chief of staff Roy Neel is likely to get the office Gearan is vacating.

The Washington Post, June 7, 1993

Cardinal Defects From Immigration List

The administration, becoming almost legendary for its ability to infuriate its friends and help its enemies, is having trouble handling its correspondence on matters both great and small.

Cardinal Bernard Law of Boston, appointed head of the Commission on Immigration Reform late last year by President George Bush, had been interested in staying in the job. The nine-member commission was set up under the Immigration Act of 1990 to review the law's effect on immigration and advise Congress on policy questions. Law's appointment lapsed when Bush left.

Sens. Edward M. Kennedy (D-Mass.) and Alan K. Simpson (R-Wyo.) both wanted Law to be reappointed by Clinton. Kennedy and Simpson started in January, writing to then-attorney general-designate Baird. When her nomination went up in flames, the senators say, they wrote Bruce Lindsey and then Howard Paster and then Attorney General Janet Reno. They are still waiting for a reply.

But like so many others seeking work with the administration, Law didn't want to wait any longer. He wrote Clinton a letter last month saying he has better things to do. Kennedy and Simpson are said to be not at all happy with this.

Browner Finds It's Lonely at the Top

Amid the piles of paper around White House personnel boss Lindsey's desk are the prospective nominations of a number of folks to senior jobs at the Environmental Protection Agency, where administrator Carol M. Browner is finding herself in the running for the "Home Alone" award of the month.

So far, Browner has but three senior deputies in place, and is missing assistant administrators for the key policy jobs on air, water, toxics and international matters. Browner's picks have been on Lindsey's desk for weeks awaiting White House clearance, which apparently is contingent upon geographic diversity and their shade of green.

Any day now, we hear.

On the other hand, the administration must be doing something right, White House types say, since -- to date -- they have surpassed both the Reagan and Bush administrations in terms of the number of people confirmed to top positions.

The White House says that as of June 1, the Senate had confirmed 151 Clintonites to senior jobs, while Reagan on June 1, 1981, could count only 140 confirmed people and eight years later, Bush had a paltry 97.

Moving In and Moving On

The Washington Post, June 7, 1993

More Hill types are migrating to administration jobs. . . . Jon Haber, former chief of staff for Sen. Dianne Feinstein (D-Calif.) and before that an aide to Sen. Patrick J. Leahy (D-Vt.), has taken the post of special counsel to Ruth Harkin, president of the Overseas Private Investment Corp.

Moving on. . . . Washington attorney Arthur J. Rothkopf, former deputy secretary of transportation, has been appointed acting president of his alma mater, Lafayette College in Easton, Pa.

Recently made official. . . . Janice R. Lachance has been named director of communications at the Office of Personnel Management. Lachance is the chief legislative and political strategist as well as director of public relations for the American Federation of Government Employees.

And let's not forget former Oklahoma congressman Jim Jones, most recently head of the American Stock Exchange, who was named ambassador to Mexico.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 10 OF 47 STORIES

The Washington Times

March 17, 1993, Wednesday, Final Edition

SECTION: Part A; Pg. A1

LENGTH: 945 words

HEADLINE: Ruff must clear 'Nannygate' on path to Justice

BYLINE: Jerry Seper; THE WASHINGTON TIMES

BODY:

A political battle is brewing between members of the Senate Judiciary Committee and the White House over the expected nomination by President Clinton of Washington lawyer Charles F.C. Ruff as deputy attorney general.

Democrats and Republicans, fearful of charges from women's groups of a double standard, have told the White House it will be difficult to support the nomination because of Mr. Ruff's failure to pay taxes on domestic help in his home, Justice Department sources said.

Mr. Ruff, a Watergate prosecutor, has admitted he did not pay the required Social Security taxes and has been assessed $3,300 in back taxes and penalties.

A similar situation was responsible in part for the withdrawal of Connecticut lawyer Zoe Baird as Mr. Clinton's first choice for attorney general. She admitted during confirmation hearings that she hired two illegal immigrants and did not pay taxes on them.

The second choice for attorney general, New York federal Judge Kimba M. Wood, withdrew from consideration after it was learned that she had hired an illegal alien, although the hiring was not against the law when she did it. Judge Wood had paid the required taxes but was dropped by the White House after political advisers said the public would not understand the difference, the sources said.

Other bipartisan concerns center on Mr. Ruff's involvement in the case of Inslaw Inc., a Washington computer firm that has been in a bitter contract dispute with the Justice Department since 1982. The firm claims - and two courts have agreed - that high-ranking department officials conspired to steal a $10 million computer program.

Mr. Ruff has represented some of the department principals in the Inslaw case and on two occasions refused the House Judiciary Committee access to a witness for a deposition. His actions as an attorney for department officials named in the case flies in the face of calls by some Senate Judiciary Committee members for a new Inslaw investigation, the sources said.

Some Republicans, the sources said, are upset that Mr. Ruff arranged for law professor Anita Hill to take a polygraph test in an attempt to confirm sexual harassment allegations she made during confirmation hearings for

Supreme Court Justice Clarence Thomas.

The test was conducted in Mr. Ruff's office. Senate Judiciary Committee Chairman Joseph R. Biden Jr., Delaware Democrat, refused to accept the test results because the committee could not vouch for the credentials of the examiner and because the panel had "nothing to do" with ordering the test.

The Thomas hearings and subsequent allegations mushroomed into a national debate, much of it focusing on the conduct of Judiciary Committee members.

Mr. Biden, according to the sources, called the White House this week to tell Mr. Clinton a Ruff nomination would be opposed by some panel members. But he was told the Clinton administration looks forward to Mr. Ruff's confirmation, the sources said.

A high-ranking Justice Department official who asked not to be named said first lady Hillary Rodham Clinton and former Watergate prosecutor James Hamilton, who served as counsel to the Clinton transition, are the key forces behind the proposed Ruff nomination.

Mr. Hamilton, who reportedly is in line for a key Justice Department job, worked with Mr. Ruff during the Watergate inquiry. Mrs. Clinton worked for the impeachment inquiry staff of the House Judiciary Committee, which investigated and returned articles of impeachment against President Nixon for his role in Watergate.

"There's no doubt the White House in general and Mrs. Clinton in particular want Ruff in the No. 2 spot at the Justice Department," an official said. "They have made that very clear to the committee and to Mr. Biden."

A challenge of a Ruff nomination would contrast sharply with the Judiciary Committee hearings last week for Attorney General Janet Reno. A panel member described those hearings as a "virtual love fest." No hard questions were asked.

White House spokeswoman Dee Dee Myers declined comment yesterday. Senate Judiciary Committee spokesman Larry Spinelli said he had no information about a pending nomination.

But committee sources said Mr. Ruff's name had been sent to the panel and that a formal announcement would be made soon.

Mr. Ruff declined yesterday to confirm or deny that he is in the running for deputy attorney general.

"I just don't chat about things until and if they happen," he said, adding that if committee members or others are concerned about his past legal dealings, "they'll just have to come to grips with those concerns on their own."

Mr. Ruff, 53, served as U.S. attorney in the District from 1979 to 1982 and was responsible for the prosecution of several members of Congress during the Abscam bribery investigation.

As a Justice Department lawyer, he successfully prosecuted former United Mine Workers President W.A. "Tony" Boyle for illegal campaign contributions.

His term as a special prosecutor in the Watergate hearings came from 1975 to 1977. In 1976 he cleared President Ford of allegations of GOP campaign finance improprieties.

In private practice, Mr. Ruff represented Sen. John Glenn, Ohio Democrat, in the "Keating Five" investigation; Sen. Charles S. Robb, Virginia Democrat, in the recent grand jury wiretapping probe; and Exxon Corp. in the government's criminal investigation of the Exxon Valdez oil spill.

* Frank J. Murray contributed to this report.

LANGUAGE: ENGLISH

LEVEL 2 - 11 OF 47 STORIES

The Washington Post

February 17, 1993, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A17; THE FEDERAL PAGE; THE NEW REGIME

LENGTH: 861 words

HEADLINE: DNC Peppered With Democrats of All Flavors

SERIES: Occasional

BYLINE: Al Kamen

BODY:

David Wilhelm, chairman of the Democratic National Committee, has filled most of the key posts at the DNC with an ideological smorgasbord that includes veterans of the Democratic Leadership Council, Jesse Jackson's National Rainbow Coalition and women's political organizations.

The new outreach coordinator, Minyon Moore, and assistant coordinator, Heather Booth, come from the liberal wing of the party. Moore was deputy political director of the Rainbow Coalition. Booth was field director of Sen. Carol Moseley-Braun's campaign, and before that a leader in the Coalition for Democratic Values and Citizen Action. Catherine Moore, who handled press for the centrist Democratic Leadership Council (DLC), is director of media affairs and press secretary. Martha Phipps, who had been executive assistant to Wilhelm during the campaign and projects director at the DLC, is deputy chief of staff.

Two women active in the National Women's Political Caucus have key posts: Ertharin Cousin, a national trainer for the caucus and state director of government relations for AT&T, is director of research. Anita Perez Ferguson, vice president of the women's caucus, is director of training.

Carol Willis, of Arkansas, who was field director of the Clinton-Gore campaign, is director of voter registration, and Simon Rosenberg, who was campaign communications director for state operations, is director of policy.

Maybe They Meant the Next Inaugural

The administration, which once predicted up to 200 top appointments by Inauguration Day, is still inching along with scarcely three dozen names sent to the Senate for confirmation. Reasons for delay apparently include: the goal of diversity by ethnicity, race and, most importantly, gender, as well as FBI background checks and caution after the Zoe E. Baird-Kimba M. Wood fiascoes.

Preliminary vetting by Clinton transition aides should not be a problem; Washington lawyer James Hamilton is said to have had about 100 lawyers from various firms working on the process, using a list of questions to assess candidates' fitness.

Committed, but Not Yet to Paper

The State Department failed to send up the names of a dozen senior people that Secretary of State Warren M. Christopher said weeks ago he intended to nominate. Christopher has yet to announce his second batch of assistant secretary-designates, although Harvard vice president John Shattuck is said to be a likely pick for the human rights slot and Wendy Sherman, a former aide to Sen. Barbara A. Mikulski (D-Md.), is in line to run legislative affairs.

Over at the Defense Department, James P. "Jock" Covey, the early front-runner for assistant secretary for regional security affairs, has slipped behind the pack. Covey's nomination last summer for assistant secretary of state for South Asia had been left dangling because of questions raised about his involvement in U.S. policy toward Iraqi leader Saddam Hussein before the Persian Gulf War.

Secretary of Defense Les Aspin and policy undersecretary Frank Wisner have been told by the White House that there are not enough women in senior policy positions and they are looking to fill that job with a woman, eying, among others, two women who are senior Foreign Service officers, one in Paris and the other in Africa.

Aspin has been looking at several female candidates for service secretary jobs -- there has never been a female service secretary -- but has political obligations to work out. Former Maryland representative Beverly B. Byron, thought a strong contender for Navy secretary, may be fading. Washington attorney John Holum is a strong contender for that job, but former Mississippi governor Ray Mabus, an old Friend of Bill, is making a run for it. Meanwhile, Sheila Widnall, an associate provost at the Massachusetts Institute of Technology, appears to be the top contender for Air Force. Former Air Force undersecretary Antonia Chayes is being considered as interim director of the Arms Control and Disarmament Agency.

The long-awaited report on the Tailhook controvery will not be released, Pentagon spokesman Bob Hall said yesterday, until a new Navy secretary is on the job.

Labor Stands Up for Secretary Reich

Down in Florida, Labor Secretary Robert B. Reich wowed the union faithful at the AFL-CIO convention and received a standing ovation after what AFL-CIO president Lane Kirkland said was a "long, dry spell" of Republicans at the department. Traveling with him were Tom Glynn, a Brown University vice president who is expected to be confirmed as deputy secretary, and Roger Hickey, formerly with the Economic Policy Institute, who is the unofficial assistant secretary for public affairs.

Doctor-Fee Adviser May Fill Health Post

Philip R. Lee, chairman of the Physician Payment Review Commission, which advises Congress, is likely to be named assistant secretary for health in the Department of Health and Human Services. Lee held a similar job at the old Department of Health, Education and Welfare in the Johnson administration. He formerly was director of the Institute for Health Policy Studies at the University of California at San Francisco.

LANGUAGE: ENGLISH

LEVEL 2 - 12 OF 47 STORIES

The Washington Times

February 7, 1993, Sunday, Final Edition

SECTION: Part A; NATION; INSIDE POLITICS; Pg. A4

LENGTH: 1425 words

BODY:

EVANGELICALS GIRD

Troubled by the end of the abortion "gag rule" and the thought of homosexuals in the military, conservative religious leaders have concluded the new administration is hopelessly wayward.

Richard Cizik, a policy analyst for the National Association of Evangelicals, for instance, told the Los Angeles Times it was time to shift attention from Washington to state and local elections:

"The whole conservative evangelical movement has become localized. It's a tactical change. . . . Mao was right: For the capital to fall, you have to control the countryside. We lost sight of that fact."

The Rev. Louis Sheldon of the Traditional Values Coalition added: "Our wake-up call has come. We've had a swift kick in the pants. We've been laying back on our laurels for 12 years, and it's going to be a rude awakening."

THE POLITICS OF WEIRD

Speaker Willie Brown of the California Assembly has suggested a constitutional amendment to force legislators to serve out their terms. He wants them to stop leaving for big-bucks jobs or higher office - because the state is too cash-strapped to finance the current run of special elections.

Democrat Joel Hyatt, the legal services entrepreneur - you have his word for it - has "already raised $562,000" toward a 1994 Senate race for the seat currently held by his father-in-law, Sen. Howard Metzenbaum, Ohio Democrat, who has not said publicly whether he will run again.

There is also the politics of the kitchen. Look out, White House chef. Scripps Howard News Service says a beef industry newsletter reports that President Clinton's favorite food is "beef tenders marinated in bottled Italian dressing."

WEEK'S QUOTES

Senate Minority Leader Bob Dole: "I think he [Mr. Clinton] failed to recognize, not having military service, what a furor this [lifting the military ban on homosexuals] would set off."

Lloyd Bentsen, 71, talking to his staff in Treasury's famed "Cash Room": "Considering the importance of the job of secretary of Treasury, I know you

would have expected someone with a little more maturity."

Sen. Jesse Helms, North Carolina Republican, told the Boston Globe, "What is under way here is the government stamp of approval on homosexuals."

THUNDER ON THE LEFT

Irwin Knoll of the Progressive magazine remarked on PBS about the new president's first weeks: "He's displayed political timidity and moral cowardice. . . . It's deplorable."

Sen. Patrick Daniel Moynihan on the report that Mr. Clinton regards Social Security as "on the table": "It's a death wish, and let's get it out of the way and forget it right now."

Sen. Patrick J. Leahy, Vermont Democrat and Agriculture Committee chairman, told the Los Angeles Times, "I had a lot of consultation on [nominating an] agriculture secretary, but only after I complained that I wasn't being consulted."

WONDER ON THE RIGHT

Republican William Bennett told the Fox channel: "There's a perception growing in Washington, on the Hill, that this guy [Mr. Clinton] can be pushed a little bit, even pushed a lot."

On PBS Pat Buchanan observed that Mr. Clinton's "going to pull a razor across his throat if he takes and tries to introduce the cultural war [homosexuals] into the U.S. Marine Corps, into West Point and into a military culture and ethos, which doesn't believe in that."

GOP pollster Glen Bolger told the Richmond Times Dispatch that Hillary Rodman Clinton's health care assignment is a "lose-lose situation": "Either she does a good job and outshines him, or she does a bad job and it's going to be mighty hard for him to fire her."

A WIDOW EMERGES

In a Senate campaign that sank one woman, another emerged. As Democrat Lynn Yeakel went down to defeat last year by Sen. Arlen Specter, Teresa Heinz, widow of the late GOP Sen. John Heinz, became a political force.

Mrs. Heinz's endorsement of Mr. Specter was considered critical to his victory, and by the end of the campaign there seemed to be considerable evidence that she had turned into a popular political figure in her own right.

Recently, she said she would run for her husband's old seat against Sen. Harris Wofford in 1994 if the state is "unserved . . . or wrongly served," the Pittsburgh Post-Gazette reported.

TAKING CULTURE BACK

Pat Buchanan, who is back on CNN's "Crossfire" every other week and has a book coming out in the spring, told PBS he didn't have any plans for a presidential bid in 1996, "but I haven't ruled it out."

On the GOP: "I think we all can be Republicans. . . . We cannot give up traditional values and our traditional social beliefs and I put right to life and family values right there.

"I think it's a good thing that Rich Bond is going up to Harvard to go to graduate school . . .

"Ours ought to be a right-to-life party. . . . If we walk away and say, 'Well, we're no longer right-to-life,' there'll be a third party in America. And I think the tent is surely big enough to embrace what I think is one of the best movements in the country."

WOO HEADS FIELD

A front-runner emerged last week from the gaggle of 52 candidates vying to be mayor of America's second-largest city.

A poll published by the Los Angeles Times showed that Los Angeles Councilman Michael Woo is well ahead of the field and the remainder were still trying to fight their way out of political obscurity.

Mr. Woo, 41, son of Chinese immigrants, is establishing broad support in multi-ethnic Los Angeles, garnering more support from blacks than Councilman Nate Holden, the best known black candidate, according to the poll.

The winner of the April 20 primary will face the second-place candidate in a June runoff for the office held by retiring Mayor Tom Bradley for the last 20 years.

FRESH COUNSEL

Sen. Dave Durenberger has hired well-known Washington criminal lawyer Thomas Green to handle his defense against possible criminal charges by federal prosecutors.

The Minnesota Republican is reported to be the subject of a federal grand jury investigation concerning government reimbursement for his Minneapolis condo.

Mr. Green replaces James Hamilton, who has a conflict as a result of being under consideration for a Justice Department post. This will probably further delay the two-year-old investigation, said the Minneapolis Star Tribune.

The three-term Republican, who was "denounced" by the Senate in 1990 for ethical violations, also faces civil allegations that he raped a Minnesota woman 29 years ago and fathered her child.

PACKWOOD PUNTS AGAIN

Sen. Bob Packwood, the Oregon Republican who has apologized for sexual harassment of 10 employees or associates, expressed regret once again - this time for suggesting a colleague's offense was greater than his own.

Under attack for not revealing the sexual harassment charges before his re-election in the 1992 election, Mr. Packwood has indicated his case was

similar to that of Sen. Mark Hatfield, another Oregon Republican.

Mr. Hatfield was probed by the Senate ethics committee for failing to report gifts he had received. Mr. Packwood asked why the press didn't get on Mr. Hatfield's case for not revealing the charges prior to the 1990 election.

Turns out the Hatfield case developed after his re-election. So Mr. Packwood told Mr. Hatfield he "will not again use this example." A Hatfield aide said the apology was accepted.

Meantime, the Senate Ethics Committee expanded it's investigation of Mr. Packwood "to include allegations he and some of his staff members attempted to intimidate women who have accused him of sexual misconduct."

The panel also adopted a rule that would prevent Mr. Packwood from using information about the sexual histories of his accusers to discredit them before the Ethics Committee.

PUNDIT LENO

NBC's Jay Leno on the White House phones not working: "Sure, if you just told 50 million people they're not going to get their tax cut or their Social Security, you'd take your phone off the hook too."

****BOX

YOUR TAX DOLLARS AT WORK?

Congressional appropriations in 1992 included $3.4 million for an Army National Guard armory at Fort Harrison, Mont., according to Citizens Against Government Waste. The funding was not requested by the president, the group said.

GRAPHIC: Photo, Pat Buchanan on the GOP: "Ours ought to be a right-to-life party." ; Box, YOUR TAX DOLLARS AT WORK? ; Chart, TODAY'S TALKING HEADS

LANGUAGE: ENGLISH

LEVEL 2 - 13 OF 47 STORIES

The Washington Post

January 18, 1993, Monday, Final Edition

SECTION: FIRST SECTION; PAGE A27; THE FEDERAL PAGE ; TRANSITION

LENGTH: 638 words

HEADLINE: Bush Angers Organized Labor by Naming Meat Company Official to Job-Safety Panel

SERIES: Occasional

BYLINE: Al Kamen; Frank Swoboda

BODY:

With the final hours ticking down on his administration, President Bush has managed to anger organized labor one more time.

The president last week reconstituted the 12-member National Advisory Committee on Occupational Safety and Health -- an advisory group on workplace health and safety issues that hasn't met in four years. Its last meeting was June 29, 1988. The new appointments for one- and two-year terms are effective Jan. 11.

But that isn't the real problem as far as labor is concerned.

What got to labor was the appointment to the committee of Pamalyn Kay Norton, chief legal officer of the ConAgra Red Meat Cos., which is involved in litigation with the Labor Department over Occupational Safety and Health Administration charges.

"Ms. Norton's appointment to the NACOSH . . . makes a mockery of the ethical guidelines established by the incoming Clinton administration," according to a statement from the Food and Allied Service Trades (FAST) Department of the AFL-CIO, which often speaks for union employees in the meatpacking industry. FAST called Norton's appointment a "clear conflict of interest."

For her part, Norton seems quite excited about the appointment. In a statement released by ConAgra, she said her mission will be to help OSHA "enhance the safety of workers in the workplace without creating a non-productive bureaucratic burden for employers."

An OSHA spokesman said yesterday that he had no idea whether the possibility of a conflict of interest was considered in Norton's appointment. "It's not necessarily bad that someone is appointed who has had enforcement experience with OSHA," he said.

Organized labor may have the last laugh, however. Frank Mirer, the health and safety director of the United Auto Workers union, is considered a leading candidate to be the assistant secretary of labor in charge of OSHA in the Clinton administration.

Contenders for Energy, Justice Jobs

Is there an important job in the Energy Department for Bill Burton, the Austin, Tex., lawyer who was the Clinton-Gore campaign spokesman on energy issues? Maybe, according to one well-placed source, but Burton reportedly has an unlikely rival for a policy-making position: Daniel Yergin, the historian and author, whose book about the oil industry, "The Prize," was made into the mini-series broadcast last week by PBS.

Over at the Justice Department, D.C. Corporation Counsel John Payton is emerging as a strong contender for the No. 2 spot, along with transition counsel and Washington lawyer James Hamilton.

Hitting the Ground Crawling at EPA?

Carol M. Browner, Clinton's choice for administrator of the Environmental Protection Agency, must know everything there is to know about EPA. Other than a lunch with outgoing Administrator William K. Reilly, she still hasn't come around for any briefings, according to sources. Also, questions continue about how much independence she will enjoy. At least one person sounded out for a top-level staff job was contacted not by Browner, but by the office of Vice President-elect Gore.

Once a Congressman, Always a . . . ?

It's not unusual for members of Congress to recommend friends, allies and staff for jobs in the new administration. The congressional relations office of the transition has received scores of such pleas. But among the pile, a recent query by former representative Carl C. Perkins (D-Ky.) stood out. Perkins, who did not seek reelection, gave "his highest recommendation" to an aide from a House Education and Labor subcommittee. The Jan. 7 letter, written on official stationery of the subcommittee on employment opportunities, was signed "Carl C. Perkins, Chairman." Perkins's letter prompted this comment from an transition aide, "What a goofball. This guy was out of office on 1/4/93. I guess he forgot."

GRAPHIC: PHOTO, CAROL M. BROWNER

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 14 OF 47 STORIES

The Washington Post

January 6, 1993, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A15; THE FEDERAL PAGE; TRANSITION

LENGTH: 847 words

HEADLINE: The Pursuit of a Daunting Energy Job

SERIES: Occasional

BYLINE: Al Kamen, Thomas W. Lippman, Steven Mufson, David S. Broder

BODY:
Now is the time for all good Democrats to come to the aid of their increasingly desperate, job-seeking friends.

Sen. John Glenn (D-Ohio), for example, has called and written transition personnel boss Richard Riley on behalf of ex-representative Thomas A. Luken (D-Ohio), who is circulating his re'sume' in a bid to succeed Leo Duffy in one of the most daunting posts in Washington: assistant energy secretary for environmental restoration and waste management.

The job involves a multibillion-dollar challenge: cleaning up the radioactive and toxic waste at the Energy Department's nuclear weapons plants. Energy has projected that it will take 30 years and cost more than $ 100 billion to complete the task. Luken became interested in the subject because the uranium processing plant at Fernald, Ohio, is in his former district and the department agreed to pay more than $ 70 million in damages to nearby residents.

Various watchdog groups are concerned about Luken because he has no technical or scientific expertise.

Still, Glenn spoke with and then wrote Riley on Dec. 22, calling Luken highly qualified, and asked Riley to "give him every consideration."

On the other hand, Rep. Norman D. Dicks (D-Wash.) is backing another candidate, transition team member Dan Silver. Silver was chief adviser to former Washington governor Booth Gardner (D) on issues related to the Energy Department's mammoth plutonium processing plant at Hanford, Wash. Watchdog groups also oppose Silver because of positions he took on environmental issues while he had the Hanford assignment.

Brain Trust for an Appointee

Washington lawyer Jamie S. Gorelick, a longtime FOZ (Friend of Zoe's), has put together a legal brain trust to assist Attorney General-designate Zoe E. Baird at her confirmation hearings before the Senate Judiciary Committee, chaired by Joseph R. Biden Jr. (D-Del.).

The group includes two former Biden chief counsels, Mark Gitenstein and Ron Klain, former staff director Jeff Peck, and Duke Law School Prof. Walter Dellinger, veterans of bitter fights over judicial nominations in the late 1980s who now find themselves working for, not against, committee confirmation.

That group should be able to figure out what Biden and company are likely to ask Baird. If not, Justice transition team leader and Georgetown Law School Prof. Peter Edelman will be on hand, along with Washington lawyer Carol Lee, transition aide Nancy McFadden, former Carter Justice Department officials Terry Adamson and Michael Cardozo and Los Angeles lawyer Kim Wardlaw.

Meanwhile, at Justice . . .

Transition sources say leading contenders for the deputy and associate jobs -- the No. 2 and 3 jobs -- are Edelman, Gorelick, transition counsel James Hamilton and New York lawyer Bernard Nussbaum, who is working with Edelman on the transition team. Richard Stearns, a Clinton friend from Oxford days, former federal prosecutor and now Massachusetts judge, is a contender for the associate job, along with Denver District Attorney Norm Early. Sources see Stearns and Early as bringing the prosecutorial experience that Baird does not have.

An Emphasis on Looks in Key Jobs?

Democratic press secretaries on the Hill have been besieged with requests by transition officials for suggestions on candidates to fill key jobs as spokesmen for government agencies. Some of those contacted are upset by the transition's quest for anyone but white males. They feel President-elect Clinton's pledge to have a government that "looks like America" may be placing too much emphasis on "looks."

Wright Says She'll Stay in Arkansas

Betsey Wright, longtime Clinton confidant, former chief of staff and head of "public outreach" during the transition, says she is not coming to Washington to work in the administration. Another transition official, Washington lawyer Tom Donilon, is a good bet to end up at the State Department as law firm colleague Warren M. Christopher's right-hand man, transition officials say, except for one problem: Donilon, a venerable 37, worked in the Carter White House and knows Washington well -- assets that Clinton may feel are more needed in the White House.

Padding Out the PAD Slots

Office of Management and Budget Director-designate Leon E. Panetta may be bringing some people from his House Budget Committee to OMB, including four who have been helping him prepare for his confirmation hearings: chief of staff John Angell, budget priorities office deputy director Richard Kogan, chief

economist Joseph Minarik -- perhaps to fill the long vacant job of associate director for economics -- and chief counsel Martha Foley.

Sources say Robert Greenstein, head of the Center for Budget and Policy Priorities, may get the powerful program associate director (PAD) job for health and human services issues, while Ray Scheppach, a deputy to OMB deputy director-designate Alice M. Rivlin when she headed the Congressional Budget Office and now executive director of the National Governors Association, is another possibility for a PAD slot.

GRAPHIC: PHOTO, THOMAS A. LUKEN.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 15 OF 47 STORIES

The Washington Post

January 5, 1993, Tuesday, Final Edition

SECTION: FIRST SECTION; PAGE A7

LENGTH: 1099 words

HEADLINE: Background Checks Spur FBI Complaint;
Time Inadequate, Transition Team Told

SERIES: Occasional

BYLINE: Bob Woodward, Washington Post Staff Writer

BODY:
The FBI has complained to the Clinton transition team it has not been given enough time to conduct complete background investigations on some of President-elect Clinton's Cabinet selections.

The transition team wants the investigations accelerated to get the administration running as soon as possible after the Jan. 20 inauguration.

Although FBI written policy states that the agency should have 30 calendar days for the investigation of presidential appointees requiring Senate confirmation, investigations have been shortened to 15 days for the transition. But sources said the Clinton transition has shortened the period further, giving the FBI only six to 12 days on some key investigations.

For example, on Dec. 23, the FBI sent out a request to its field offices and special inquiry unit for an expedited "level one background investigation" on Ronald H. Brown, the Democratic Party chairman selected by Clinton to be commerce secretary. The deadline for completion was set for yesterday.

Because of weekends and the Christmas and New Year's holidays, the FBI had five working days for the Brown investigation. A "level one" investigation for a Cabinet appointee requires examination of the candidate's entire adult life and usually means agents will conduct interviews with at least 25 to 35 persons familiar with a nominee's past.

Sources said that James A. Bourke, FBI chief of the special inquiry unit that handles White House and other high-level investigations, complained about the short deadline to James Hamilton, the Clinton transition counsel for nominations and confirmations.

One source said that the numerous questions raised by Brown's past lobbying and business ventures would keep a dozen FBI agents busy for a month if all the questions were to be answered fully. But sources said Hamilton said the deadline was inflexible because the Senate Commerce Committee planned to begin confirmation hearings Wednesday. Hamilton yesterday declined to comment. An FBI spokesman said the bureau's objection "was not a pound-the-table complaint, but we just expressed some concerns."

A source close to Brown said that he is cooperating fully with the FBI inquiry and has answered all questions about his background posed by agents during two sessions that totaled five hours. The sessions included detailed questions based on a highly critical report on political party chairmen by the Center for Public Integrity, the source said.

In perhaps the most rushed case, the FBI was given six days that included the three-day New Year's weekend to investigate House Armed Services Committee Chairman Les Aspin (D-Wis.), Clinton's pick for defense secretary.

An aide to Aspin said that the FBI interview with Aspin took less than 90 minutes and was conducted New Year's Eve in the back seat of a car driven by an Aspin aide speeding to National Airport. The aide said the procedure seemed rushed, but he noted that Aspin, who has served in Congress since 1971, is a known quantity.

According to a Clinton source: "Les Aspin had every clearance possible back when he worked in the Pentagon [in the 1960s] and his career and life have been an open book since then. This is not a hard investigation." Though as committee chairman Aspin has had access to some of the military's most highly classified material, legislators are not normally given FBI background investigations. Two officials said this would be his first formal FBI check since 1966 to 1968, when he served in the Pentagon as an Army captain.

Howard Paster, who is heading the confirmations for the transition team and is reportedly slated to head the White House congressional liaison operation, said yesterday that he understood that "the FBI was upset because they would have to put extra manpower [on the investigations] and that some people would have to work over the weekends. I was told there was no problem that could not be solved with the extra manpower and hours. We have not asked for anything less than complete and thorough investigations, and there is no attempt to short-circuit the process."

Tron Brekke, the head of the FBI civil rights and special inquiries section, yesterday disputed Paster's assertion. "We were not upset," Brekke said.

Brekke said that there has been "total cooperation" between the FBI and the Clinton transition team on the background investigations, and in "one or two cases" the Clinton transition team has extended deadlines at the FBI's request.

He said that the FBI has the highest standard for these investigations. "Every issue brought to our attention has to be addressed" before any investigation is considered complete, Brekke said.

No one contacted on the Clinton transition team yesterday was willing to explain the often long delays between the announcement of an appointee and the transition's request for an investigation.

For example, Clinton announced his intention to nominate Brown as secretary of commerce on Dec. 12, which was 11 days before the transition team requested the investigation.

The FBI's Brekke said: "You're asking the wrong person. . . . It's a fair question. We don't have standing to ask it. The bottom line is we take what we're given. We don't question why things were done that we can't have any

impact on."

One Clinton transition official attributed delays in part to the holidays and in part to the time it took to get the designees to be fingerprinted and to fill out a required questionnaire.

The FBI is sensitive about the quality and thoroughness of these investigations because of criticism it received after former labor secretary Raymond Donovan was indicted on charges relating to activities that the FBI might have known about before Donovan took office in 1981. Donovan was acquitted.

The FBI policy says background interviews should be conducted in person, although it allows telephone interviews "under exceptional circumstances." FBI policy also states that White House nominees "require the most comprehensive investigation to assure that if derogatory information exists, it is developed fully and resolved whenever possible."

A dozen areas of inquiry are specified in FBI policy, including "personal and business credit issues. . . any details of applicant's personal life that could be used to coerce the applicant. . . details of any psychological counseling. . . Prescription drug, alcohol abuse, or illegal drug use [and] 'Lifestyle' issues that could compromise the nominee's ability to fulfill his/her responsibilities."

Researcher David Greenberg contributed to this report.

GRAPHIC: ILLUSTRATION, EXCERPT FROM FBI MEMO (DATA FROM THIS GRAPHIC WAS NOT AVAILABLE.), TWP

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 16 OF 47 STORIES

The Washington Post

January 4, 1993, Monday, Final Edition

SECTION: FIRST SECTION; PAGE A19

LENGTH: 877 words

HEADLINE: Jockeying for Sub-Cabinet Posts Intensifies

SERIES: Occasional

BYLINE: Al Kamen, Ann Devroy

BODY:

Now that President-elect Clinton has chosen his Cabinet, jockeying for the "real" jobs -- at the assistant secretary and deputy levels -- is reaching new heights, or lows, depending on one's point of view.

A Senate aide, who is not among the job-seekers, recently observed: "It's cannibalism out there," as thousands of long aging Democrats vie for the senior policy positions throughout the government.

Meanwhile, the choice for the coveted job of solicitor general -- the government's advocate at the Supreme Court -- is likely to be made fairly soon, transition sources say, given the new administration's interest in putting its stamp quickly on cases already before the high court.

The list of candidates seems to have expanded of late, Washington sources say, with the inclusion of veteran New York litigator and First Amendment expert Floyd Abrams and another prominent New York lawyer, Conrad K. Harper, who recently ran the New York City bar association. American Bar Association president Talbot D'Alemberte of Florida also is a contender. Harvard Law School Prof. Laurence H. Tribe, Duke Law School Prof. Walter Dellinger, Washington attorney Joel Klein and D.C. federal appeals Judge Ruth Bader Ginsburg also are being eyed for the job.

Then there are all those White House jobs, hundreds of them, with a dozen or so generally thought to be very plum. One lawyer working on the transition and believed to have an inside track on the White House counsel's job is Washington attorney James Hamilton, a legal counsel to the transition who has been in charge of vetting of potential nominees.

But another source, asked about Hamilton, said, "One thing I can tell you is that the White House counsel is going to wear a dress to work every day."

The senior White House jobs -- including chief of staff and national security adviser -- have gone to white men, and most likely communications director and congressional liaison will too.

That will increase pressure on Clinton to search for minorities and women in many of the remaining key jobs to make his White House, like his Cabinet, look "more like America," the phrase often employed by Clinton to describe the makeup of his administration.

Washington attorney Jamie S. Gorelick, on Hilton Head Island, S.C., last week with the Clintons and a close friend of attorney general-designate Zoe E. Baird, is being mentioned as a candidate for a number of senior jobs, including White House counsel, general counsel at the Department of Defense, or a deputy or associate attorney general.

Just Another Day at the Beach Does this guy ever take a break?

At the Renaissance Weekend on Hilton Head Island, Clinton shook hands with the thousand or so invitees going into the Hyatt Hotel ballroom for dinner on Wednesday evening.

After dinner, he attended a reception for the oldest and newest members of the 12-year-old gathering at a little bar called Hemingway's, in an open area off the corridor from the ballroom.

The president-elect was spotted there holding forth for several hours on serious policy issues, shaking every hand and talking with small groups of people. A few hundred people were there for the opening, but the numbers dwindled to about 15 or 20 by the end. "Everybody else got tired and went to bed," one participant said. Clinton was there well past 1 a.m.

But by 7 a.m. Thursday, Clinton was jogging on the beach.

Wirth May Be Offered Post at State

Outgoing Sen. Timothy E. Wirth (D-Colo.), having lost what once appeared a sure bet to be secretary of energy, may not be out of the Clinton administration picture. There is talk in Washington that Wirth may be offered another job, perhaps at the State Department as assistant secretary for oceans and international environmental and scientific affairs -- not a traditionally high-profile job but something that, in the Clinton administration, could be an important post. But such a job may not be inducement enough to keep Wirth from going to the private sector.

Looking Out for Chicago's Daley

Transition sources say Clinton also will be looking hard to find a senior job for a Democratic heavy hitter, Chicago bank president William Daley, who was rejected for the job of secretary of transportation. There are still a substantial number of important banking-related and other jobs to be passed out. For someone who patterns himself after John F. Kennedy, stiffing a Chicagoan named Daley -- William is the brother of Mayor Richard M. Daley and son of the late Kennedy stalwart Mayor Richard J. Daley -- does not bode well for 1996.

Transiting Out

Meanwhile, former White House aide David Carney, who left there to be the political field director of President Bush's reelection campaign, will become chief political operative of the National Republican Senatorial Committee headed by Sen. Phil Gramm (R-Tex.).

David Bates, who traveled the byways of Iowa and New Hampshire with Bush in 1979 on Bush's first run for the presidency and again in 1988 and 1992, is returning to his home state of Texas. Bates, who was an assistant commerce secretary and Cabinet secretary at the White House, is moving to San Antonio, where he will be vice president and general counsel to a biomedical company.

GRAPHIC: PHOTO, ZOE E. BAIRD.

LANGUAGE: ENGLISH

LOAD-DATE: October 14, 1993

LEVEL 2 - 17 OF 47 STORIES

The Washington Post

December 28, 1992, Monday, Final Edition

SECTION: STYLE; PAGE D1

LENGTH: 1980 words

HEADLINE: A Weekend With Bill & Friends;
Hilton Head's New Year's Tradition: Name Tags, Networking and Talk, Talk, Talk

SERIES: Occasional

BYLINE: David Maraniss, Washington Post Staff Writer

BODY:
Perhaps the best way to describe the gathering known as Renaissance Weekend that will be held on the South Carolina resort island of Hilton Head this week is to say that it is a Bill Clinton kind of thing. An extended weekend devoted entirely to schmoozing, to being serious here and sentimental there; to choosing up sides and topics and talking your heart out in a marathon gabfest of panel discussions, and listening, ever so earnestly; nodding and smiling, relaxed in bluejeans, wearing a big ol' name tag with your first name in GIANT letters dwarfing your probably famous surname, all equals here; a dawn-to-midnight exercise in empathy and enlightenment with hundreds of close friends, some old, some new; holding hands at the end and praying and singing together, and then keeping that new age extended family network going over the months apart with midnight faxes and telephone calls... .

Bill Clinton, who's expected to arrive in Hilton Head today, was born for this even more than he was born to run for president of the United States. His whole life, in essence, has been one nonstop Renaissance Weekend. Was there any doubt that the president-elect and his wife, Hillary, and 12-year-old daughter, Chelsea, would head down to Hilton Head even with all the important decisions looming over name tag BILL between now and the 20th of January? "Are you coming this year?" one Renaissance Weekend regular inquired of the busiest man in the nation a few weeks ago. "That's a given," said Clinton.

The only surprising thing is that Clinton didn't invent this gig, because if it didn't exist, he would have had to.

The creator and founding father of Renaissance Weekend is a fellow named Phil Lader, a South Carolina businessman and academician who now serves as president of Bond University, the only private university in Australia. As Lader tells the story, it all began 12 years ago when "some dear friends, the Trasks," hosted a dinner party for Lader and his wife, Linda, right after they were married. Lader was then president of the Sea Pines resort on Hilton Head and always eager to employ his major-league networking talents. "After all the guests had left," Lader recalled, "we settled by the fire and reflected on how important friendships are to our lives and how all of us meet many interesting people, but in social settings or through business, and wouldn't it be great if we could have a very informal gathering of innovative people that we'd met but didn't get a chance to truly know."

" 'What are you doing for New Year's this year?' " Lader recalled his friend John Trask asking him. "And I lamented that New Year's was such a lost holiday, that it should be more a time of reflection and renewal. So then it came to us: Why not have a party this year as we just described? A gathering of some people we knew well and others we would like to meet."

It had to be a full family affair, they decided, and it would be important not only to have children there but older guests as well, wise and experienced members of the generation before theirs who could season them with life's lessons. Their invitation list would be set by three criteria, Lader said: "One, people who have demonstrated leadership on a regional or national scale; two, that they have a renaissance spirit with broad-ranging intellectual interests; and three, that they would enjoy a highly personal, informal tradition."

And so in 1981, Renaissance Weekend was born. Lader did all the inviting, at first drawing on old college and school friends and people he had come to know in his line of work, but then playing the network game year by year to develop the gathering into what he called "a group of highly gifted and accomplished people from different walks of life who learn from each other in the interest of personal and national renewal."

From a somewhat regional affair involving 60 families at its creation, it has blossomed into a peculiar national cultural phenomenon: Like a restaurant or nightclub that suddenly becomes hot, Renaissance Weekend is now the place to be, with several hundred coming this week and hundreds more clamoring to break through the waiting list. To handle the gabbing throng this year, Lader had to move the events from his old resort at Sea Pines to the Hilton Head Hyatt. The informal agenda has grown into something resembling the annual meeting of a far-flung trade group: There will be 200 panel discussions running eight at a time from morning to night for four days, offering a range of choices that one participant, the humorist Art Buchwald, complained created "Panel Envy."

For those of you couch potatoes vaguely curious about how networking works, listen for a moment to Lader describing the evolution of a guest list:

"David Gergen came the first year when he was director of communications in the Reagan White House. Now he's at U.S. News. He and I were on the board of Duke University, that's why I invited him. Also Diane Sawyer came, she was a close family friend of my wife. And Stan Smith comes every year: He was a touring tennis pro based on Hilton Head. Lamar Alexander came a half-dozen times. He had a vacation house next door to mine on Hilton Head. Larry Pressler, the senator -- he and I were classmates in law school. I was Wendell Wilkie's dorm counselor at Harvard, that's how he got on the list.

"Jack Marin, the basketball player, was a classmate of mine at Duke. Michael Porter, the competition guru at Harvard, he's a close friend of many longtime participants. Justice [Harry] Blackmun comes -- his daughter's husband was a law clerk for the same federal appeals judge I clerked for. We got to be friends and I met her father through them. Now the whole family comes. Jim Hamilton, the deputy Watergate prosecutor working on the Clinton transition, he comes every year. He and John Trask were at Davidson College together. Art Buchwald was recommended by Jim Hamilton; they got to know each other in a men's exercise class at the YMCA. Sam Ervin, the son of the famous Sam, he's chief judge of the 4th Circuit, part of that same Davidson-Duke circle of friends. Andy Tobias, the writer, is a close personal friend, we were at Harvard together."

And so it goes, circles intersecting circles. Lader was at Oxford the year before Clinton arrived. He was a close friend of the South Carolina governor's, Richard Riley, who was a close friend of Clinton's (and is now a key transition official and slated to be Clinton's secretary of education). Clinton got the invite and started attending Renaissance Weekend in 1984. He's been a devotee ever since, one of six governors and ex-governors who regularly attend.

The whole weekend is billed as nonpartisan, off the record and noncommercial -- which it is to one degree or another. One year a guest was caught trying to interest fellow weekenders in his investment firm, and he was politely and quietly disinvited. But in politics, where making friends is the coin of the realm, Renaissance Weekend is a cash bonanza for the Clintons of the world.

"You build your Rolodex. You network," said Sam Tenenbaum, an industrialist and Democratic activist from Columbia, S.C. "You talk, you listen, you laugh. But intellectual curiosity is the common denominator. And there is an intensity there on the personal level that is unmatched other than in your very personal life. These are not dry policy discussions, you are sharing intimate experiences with people you might not yet know very well."

Lader not only invites the guests, he thinks up the discussion topics and assigns the panelists. Phyllis George, a former Miss America, once expounded on "Something That's Been Bugging Me Lately" on a panel that also included Justice Blackmun and Gov. Clinton. From Richard Celeste, the former Ohio governor, came confessions of "What I Wish My Parents Had Told Me," while Hamilton Jordan reflected on "The Toughest Decision I've Ever Made," evangelist Leighton Ford talked about "Building an Inner Life," polling consultant Harrison Hickman bantered with Susan Porter Rose, chief of staff to Barbara Bush, on "A Thousand Points of Light?" and Hillary Clinton held forth with a panel whose theme was "If These Were My Last Remarks... ."

For anyone curious about what bugged Clinton -- or Phyllis George for that matter -- alas, this account must disappoint. Renaissance Weekend guests, though certainly no more leakproof than most folks, seem to come away from the event with a haze of memories and emotions: There is so much talk that it all runs together after a while like a humongous four-day conference call. Many guests, reflecting on Clinton's presence, remember images more than words: how he would roam from discussion to discussion and take a spot at the side of the room, leaning casually against the wall; how he would seem to know everyone, not just from their name tags, but remember what they did and what they were interested in. "He hugs you," said Max Heller, the former mayor of Greenville. "He hugs you not only physically, but with a whole attitude."

At the weekend after the 1988 election, Clinton talked about the mistakes Democratic candidate Michael Dukakis made and what could be done to avoid them next time. And last year he talked about charting an uncertain future, which was his presidential campaign. From his post down under, Lader has found great pleasure crafting a theme for Clinton this year. It is highly unlikely that guests will forget the details of whatever the president-elect chooses to utter, though they fear he will be less forthcoming than usual. "I'll be honest with you, I'm not sure this will be the best one because of all the hoopla about Clinton," said Tenenbaum. "The way it's been in the past you can be open and unguarded, but I'm not sure a president-elect can be unguarded."

Only the most emotional or awe-inspiring moments tend to linger, such as when South Carolinian Lee Atwater described how he learned he had a brain tumor by hearing it on television, or when Adm. Elmo Zumwalt, former chief of naval operations, wiped away tears as he described the fatal effects of the defoliant Agent Orange on his own son, or when a Fortune 500 chief executive spilled his tormented story of expelling his son from the house after he refused to kick a drug habit. During a panel on Roe v. Wade, the most incredible scene was in the audience: There sat Justice Blackmun, engrossed by the discussion, furiously scribbling notes. (By the way, they make up two name tags for Blackmun, one that says JUSTICE and the other HARRY. Invariably he wears HARRY).

Although they congregate in Hilton Head only four days each year, the regulars at Renaissance Weekend have become more than same-time-next-year friends. Many groups hold smaller Renaissance gatherings in their home cities. And they are constantly reconnecting with the group through Lader, who even in Australia serves as an extraordinary nexus. Every day he hears from at least four members of the group, either by letter, telephone or fax. One day last week, Bill Nelson, the congressman and astronaut, was faxing in his vacation plans while Millard Fuller, president of Habitat for Humanity, was calling on the other line. Renaissance Weekend is not a conference or a convention or a think tank, Lader said. It is an extended family. Just how extended becomes obvious when Lader tells a story about his daughter.

"A few years ago, my elderly aunt, who was living with us, was dying of cancer," Lader said. "I took my eldest daughter aside and tried to tell her that Aunt Eleanor was going to die. 'Daddy, I know that,' she said. 'But Daddy, everybody is going to die someday. Daddy, you're going to die someday. But will you do me one thing before you die?' And I said, 'What's that, honey?' And she said, 'Teach me how to run Renaissance.' "

GRAPHIC: PHOTO, TIM DOMINICK

LANGUAGE: ENGLISH

LEVEL 2 - 19 OF 47 STORIES

The Washington Post

December 17, 1992, Thursday, Final Edition

SECTION: FIRST SECTION; PAGE A21; THE FEDERAL PAGE

LENGTH: 815 words

HEADLINE: Talking to Those Who Have Been There

SERIES: Occasional

BYLINE: Al Kamen, Ann Devroy, David S. Broder

BODY:

Even before President-elect Clinton announced his choice of chief of staff, his transition aides were sorting out how to structure the new White House. Part of the process was going to the source -- six sources actually -- Republicans who have served successfully and less successfully as chiefs of staff for presidents Ford, Reagan and Bush.

Transition honcho Vernon E. Jordan Jr. arranged meetings last week between a group of transition aides, some of whom are likely to have senior posts in the new White House, and most of the men who have run the White House operation the last 12 years. One group included four considered successful, Howard H. Baker Jr. and Kenneth M. Duberstein -- brought in by President Ronald Reagan in his second term after the ill-fated tenure of Donald T. Regan -- and Donald Rumsfeld and current Defense Secretary Richard B. Cheney, who served President Gerald R. Ford.

All had Washington experience and virtual public invisibility while they held the chief of staff post.

Separately, Jordan's group met with John H. Sununu, who Bush retired after three years and who is considered by many to be the least successful, and Samuel K. Skinner, the second Bush chief whose brief tenure was filled with chaos, clashes with the Bush campaign apparatus and a half-year of indecision at the White House until he was replaced by James A. Baker III.

One source said the sessions consisted of extensive nitty-gritty talks about both the big picture and a lot of details. Questions included: Who should chair the new economic council when Clinton cannot? (The Treasury secretary.) Which adviser will head the council? (The vice president.) How should the congressional operation, the communications operation and the policy advice operations be structured? All that blended with what one aide called "a lot of do's and don'ts."

Jordan would not say when Clinton will actually name White House aides or how Thomas F. "Mack" McLarty, the new chief, will fit into the process and assess the advice himself. "Just be cool," was his only comment on the who's and when's.

But Jordan did say that McLarty, the new chief, should not be compared to any prior chiefs. Irked that some have compared McLarty, a close Clinton friend

and business executive with no Washington experience, to Hamilton Jordan, President Jimmy Carter's chief of staff, Jordan said, "There is no, no, no comparison. It's like comparing an apple and an orange. You do him a disservice."

Some of those attending the meeting were Washington transition deputy directors Mark Gearan and Alexis Herman, along with Washington attorney and White House transition adviser Harrison Wellford and Roy Neel, chief of staff to Vice President-elect Gore.

The consensus afterwards was that Clinton needed someone who was "an honest broker, not a deputy president with his finger in every policy pie, not someone appearing on all the talk shows," said one participant. The model chief? Cheney. Clinton's chief should be "all the things that Dick Cheney was when he was there," the source said. "He was the perfect model."

Vetting Prospective Officials

If you're Doonesbury's Joanie Caucus, waiting anxiously for word on a job in the Clinton administration, here's who you want on the other end of the line when the phone rings: Washington lawyer James Hamilton. Hamilton is running the Clinton transition vetting operation -- an internal equivalent of an FBI check. A former assistant counsel on the Senate Watergate Committee, Hamilton has a staff of "probably more than 20 people," one source said, and is the "penultimate stage before it goes to Bill and Hillary."

Ways and Means Changes

Moves on the Hill . . . Rob Leonard, chief counsel and staff director of the House Ways and Means Committee for the last six years, is leaving to go into private law practice. Succeeding him will be Janice A. Mays, now chief tax counsel on the committee. Staff member Don Longano will move up to take Mays's place.

Whither Conservatism?

William Kristol, Vice President Quayle's brainy chief of staff, is taking on an assignment that may challenge even his mental powers: figuring out the future of conservatism.

The Lynde and Harry Bradley Foundation of Milwaukee, which funds many conservative projects, announced that Kristol will direct the "Bradley Project on the '90s," aimed at evaluating the "intellectual and institutional assets available" to those "interested in economic growth, political freedom and traditional values."

In plainer language, said a Kristol associate, his job for the next six to nine months is to "study the future of the conservative movement" after its 12-year lease on the White House has expired. Kristol will be joined in a

small office adjacent to the American Enterprise Institute by Jay Lefkowitz, now President Bush's director of Cabinet affairs.

GRAPHIC: PHOTO, THOMAS S. MCLARTY.

LANGUAGE: ENGLISH

LEVEL 2 - 23 OF 47 STORIES

The New York Times

November 25, 1992, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 3; National Desk

LENGTH: 1672 words

HEADLINE: Lobbyists on Clinton's Team: Potential for Conflict Endures

BYLINE: By JASON DePARLE with STEPHEN LABATON, Special to The New York Times

DATELINE: WASHINGTON, Nov. 24

BODY:

The top officials of Bill Clinton's Presidential transition team are lawyers and lobbyists whose collective client lists and board memberships include virtually every American industry and many foreign companies and governments.

The clients of these officials' firms sell things as diverse as Kermit the Frog and the uranium used in nuclear power plants. The clients drill oil, build cars and run banks. They sell cigarettes, fighter jets, spy satellites and wine. Many of these clients have important matters pending before Federal agencies and Congress, which is precisely why they turned to Washington lawyers.

For a President-elect who came to Washington pledging to "limit the influence of lobbyists," these business connections have created tension. On the one hand, Mr. Clinton has introduced new ethics rules, which he says will, in the most forceful way ever, prevent transition staff members from influencing areas of government that could affect their private financial interests or those of their clients.

On the other hand, the staff has interpreted those rules in a way that has resulted in the disqualification of only one transition aide from a single discussion among the hundreds now taking place about appointments to the new Government. Transition officials say there are no other financial conflicts involved as a handful of prominent business lawyers helps staff the Government that will then regulate their clients. But that contention has been challenged by some legal scholars and public interest groups.

The transition team has also refused to make public the financial-disclosure forms it announced with some fanfare two weeks ago. To do so, aides said, would unfairly violate the privacy of transition officials, who are mostly unpaid and serving in a temporary capacity. In withholding the information, team members said they are only following past practice.

An examination of the top officials' business connections, drawn from filings with the Securities and Exchange Commission and other public documents, offers new details on their extensive business connections and those of their law firms.

Vernon E. Jordan, the transition chairman, earns at least $442,000 a year in fees on the boards of 11 corporate giants, including Union Carbide, American Express, Xerox and RJR Nabisco. Mr. Jordan also holds about $911,000 worth of

stock in these companies, not counting stock options, and will qualify, upon retirement, for pensions from them worth more than $200,000. His law firm, Akin Gump Hauer & Feld, represents at least seven of the corporations, and as a senior partner he shares the firm's profits.

The transition director, Warren M. Christopher, is the senior partner in one of the nation's largest law firms, O'Melveny & Myers, and he has led it during a decade in which it added an array of leading Asian industries to its client base. These include Mitsui, Sumitomo Trust and Banking, Japan Airlines, and Hyundai. During the campaign, Mr. Clinton made a point of criticizing American lobbyists who work for foreign interests.

In addition, Mr. Christopher earned at least $73,000 last year from sitting on the boards of the Lockheed Corporation and the Southern California Edison Company, and his firm represents both corporations.

On Leave From Firms

Both officials, like others involved in the transition, have said they are on leave from their firms and boards and will not be consulting clients while helping staff the Government. But spokesmen for the transition and the officials would not say whether they will relinquish their board fees during the transition, and both are expected to resume their business relationships after the inauguration. Transition rules bar members for six months from lobbying Government agencies they helped staff.

The practice of high-powered lawyers' alternating between lobbying and service in government has been going on in Republican and Democratic administrations for years. But during the campaign, Mr. Clinton promised to be different and break with the Washington revolving-door tradition.

Mr. Clinton and his aides have said his new ethics rules fulfill the pledge. Among them is a provision that disqualifies officials from "involvement in any transition matter" that conflicts or even "appears to conflict" with their business interests or those of clients.

But the transition team says the rules do not bar Mr. Christopher from participating in discussions about the military, even though he sits on the board of the Lockheed Corporation, a major military contractor. They do not stop him from weighing in about Asian trade policy, despite his firm's Asian practice. Similarly, they do not prevent Mr. Jordan from discussing health policy, even though he sits on the board of RJR Nabisco, which manufactures cigarettes. The same for Mickey Kantor, another board member, whose firm has done work for Philip Morris and other tobacco interests.

In several interviews, George Stephanopoulos, Mr. Clinton's spokesman, said the connection in these cases between the officials' advice and ability to profit was too diffuse to pose a conflict. He stressed that the officials were on leave from their firms and boards, so there was no "concurrent representation" of business and government. And he repeated Mr. Clinton's insistence that the President-elect, not his advisers, will make the final staffing decisions.

"There's got to be a certain amount of trust in the process," he said.

But Mr. Stephanopoulos also highlighted the tension that arises when a President-elect wants strict ethics rules but also wants prominent lawyer-lobbyists for advisers. Under more stringent interpretation, he said, "It would be almost impossible to be a successful lawyer in a prominent firm and to participate in any way."

He added, "We just don't think that's a reasonable interpretation."

The rules, which do not have the force of law, can be enforced only by the transition team itself. Mr. Stephanopoulos said the financial-disclosure forms, and the potential for conflicts, are to be reviewed by James Hamilton, who was appointed the transition's general counsel today. Mr. Hamilton is a partner in the Washington law firm of Swidler & Berlin, which has lobbied on behalf of clients including the Pharmaceutical Manufacturers Association and the American Gas Association.

Some leading public interest groups, like Common Cause, have praised the Clinton team for its ethical concerns. Some transition experts argue that without the presence of experienced figures like Mr. Jordan and Mr. Christopher with established Washington connections, the Clinton team would have trouble getting things done. And the Clinton team has stressed its desire for diversity, noting that the transition staff includes professors, businessmen, government officials, women and members of racial minorities.

But some critics, including Ralph Nader, have argued that the selection of lobbyists and lawyers to head the effort indicates a narrow view of potential talent. "Cesar Chavez isn't getting any calls," he said, referring to the leader of the farm workers' movement.

Mr. Stephanopoulos said the rules only disqualify officials when the decisions they help make could have a direct impact on their finances or those of their clients. By clients, he said he means personal ones, not those of the firms more generally.

The one official to disqualify himself is Thomas McLarty, a member of the transition board and an old friend of Mr. Clinton. Mr. McLarty has said he will not discuss savings-and-loans issues because he has an interest in one that is now in a dispute with regulators. But the rules do not prohibit Mr. McLarty from participating in discussions of energy policy and appointments, even though he is chairman of Arkla Inc., a company that produces natural gas.

But these interpretations are bringing rumblings of discontent. Charles Lewis, director of the Center for Public Integrity, a Washington research group, said it was "ludicrous" to contend there were no conflicts, for instance, between the officials' work for tobacco companies and their ability to advise on health appointments.

"If that's not a conflict, I don't know what is," he said.

Mr. Kantor is a partner in Manatt Phelps Phillips & Kantor, which has done work for the governments of Cyprus and Jamaica and a wide array of health care, real estate and transportation corporations.

Mr. Kantor's dual roles as a campaign worker and a lobbyist drew fire a few weeks before the election when it was disclosed that he had conducted a policy

briefing for a number of clients and potential clients, including General Electric, Bell Atlantic and U S West. In addition to announcing Mr. Clinton's views, critics said, Mr. Kantor was attempting to market his access.

When asked about this criticism, he responded that the briefing was routine, not unlike the kind he has given to public interest groups, and that it included discussions of general tax increases on the wealthy, "hardly something very comfortable for these folks."

Samuel R. Berger, the transition's foreign policy director, has for many years presided over an international trade practice at Hogan & Hartson, a law firm whose clients have included the governments of Poland, Czechoslovakia, the Bahamas, Ontario, Japan and the trading arm of China.

It has also worked for a foreign corporation, Toshiba, which turned to the Washington lawyers to head off possible sanctions and penalties after revelations that it had illegally sold restricted military technology to the Soviet Union. The lobbying ultimately worked, although Mr. Berger said he did not participate in it.

He said he did not see a conflict between his private work as a lawyer and his role as an adviser to the Government in formation. "I certainly would not work on anything that I had personally been involved in," he said, adding that during the campaign, he walked out of any meeting having to do with trade issues.

GRAPHIC: Table: "A Well-Connected Team"

Corporate board memberships for Vernon E. Jordan and Warren M. Christopher, who are heading President-elect Bill Clinton's transition team. Figures are from 1992 corporate reports and do not include stock options or other compensation. Directors' fees are estimated annual minimums.

*Companies represented by Mr. Jordan's law firm, Adin, Gump, Hauer & Feld.

**Companies represented by Mr. Christopher's law firm, O'Melveny & Myers.

VERNON JORDAN, Transition Chairman:

		Date elected	Director's fees	Stock holdings	Pension
	AMERICAN EXPRESS	1977	$48,000	$38,404	$30,000
*	BANKERS TRUST NEW YORK	1972	$53,381	$281,424	$20,000
*	CORNING	1983	$25,600	$252,778	None
*	DOW J0NES & COMPANY	1982	$31,800	$5,672	$11,500
	JC PENNEY	1973	$48,000	$18,258	$24,000
	REVLON GROUP Private company; does not report information				
*	RJR NABISCO HOLDINGS	1989	$50,000	$53,561	$50,000
*	RYDER SYSTEM	1989	$40,600	$12,625	$21,500
	SARA LEE	1989	$52,500	$79,149	None

*	UNION CARBIDE	1987	$41,000	$18,879	$26,000
*	XEROX	1974	$51,000	$149,663	$25,500
	TOTALS		$441,881	$910,413	$208,500

WARREN CHRISTOPHER, Transition Director:

		Date elected	Director's fees	Stock holdings	Pension
**	LOCKHEED	1987	$34,000	$76,800	$20,000
**	SOUTHERN CALIFORNIA EDISON COMPANY	1981+	$39,000	$63,175	$30,000
	TOTALS	$73,000	$139,975	50,000	

+Mr. Christopher also served on the board from 1971 to 1977

LANGUAGE: ENGLISH

LOAD-DATE: November 25, 1992

LEVEL 2 - 24 OF 47 STORIES

The Washington Post

November 25, 1992, Wednesday, Final Edition

SECTION: FIRST SECTION; PAGE A15; THE FEDERAL PAGE

LENGTH: 912 words

HEADLINE: Making Contact at the Team Level

SERIES: Occasional

BYLINE: Al Kamen, Barton Gellman

BODY:
Sounding like Ronald Reagan in negotiations with the Kremlin, the mood yesterday was "trust, but verify," said one Clinton transition official, as the Democratic team made its first substantive contacts with the outgoing administration."If Bush's commitment to facilitate the transition is true, let's see what we get," the Clintonian added.

National security transition director Samuel R. "Sandy" Berger, the only formally announced cluster head, got off to a fast start. Berger has divided his cluster into seven agency teams, one each for the State and Defense departments, National Security Council, U.S. Information Agency, Agency for International Development, Central Intelligence Agency, and Arms Control and Disarmament Agency.

Six of the seven scheduled their initial contacts with Bush agency counterparts yesterday or today. No meeting has been set at the National Security Council, because Clinton had not signed off on Berger's recommendation that Georgetown University professor Madeleine Albright head the NSC transition team. But Berger has been in contact with national security adviser Brent Scowcroft for weeks.

"They're really going to go into each of these agencies and excavate for pie-in-your-face issues . . . that need to be addressed by the president-elect and the [departmental] secretary within the first 90 days," said one transition official.

Each team is expected to produce, before Christmas, a single 40- to 60-page memo divided into eight chapters: an overview; description of "major programs, FY '93 budget authority and FTE [full time equivalent] employment level"; "ongoing and imminent policy, regulatory and program issues requiring high-level attention within . . . 90 days"; highest-priority positions to fill; budget and procurement issues; legislation due to expire and current legislative initiatives; observations and areas of concern; and background materials.

Clinton has not yet announced his national security transition cluster lineup, but names continue to leak.

John G. "Jack" Keliher, staff director of the House intelligence committee, and George J. Tenet, his Senate counterpart, are said to be heading up the intelligence transition team.

Alice C. Maroni (that's MAH-roe-nee, not Ma-ROE-nee), a budget expert on the House Armed Services Committee, joins Jeffrey H. Smith's Pentagon team, and Brian Atwood's team at State will include former ambassadors George Moose and James R. Cheek.

Jennone Walker, guest scholar at the Woodrow Wilson International Center for Scholars, is also believed headed for State's transition team. Walker directed the theater military policy office at State during the Reagan administration, and was on the policy planning staff under President Carter.

Howard Law School professor Goler T. Butcher is a likely pick for the team reviewing the much-troubled Agency for International Development.

Rose Gottemoeller, a strategic analyst for the Rand Corp., is expected to head the Arms Control and Disarmament Agency team.

Heading Up the Clusters

The Clinton transition operation also is expected to announce today the heads of nine "cluster groups" of people who will review government agencies for the new administration.

The original plan called for 10 broad cluster groups in Washington, sources said, including one focused on the White House operation. The latter now will be handled as an informal cluster out of Little Rock.

Cluster leaders will include Federal National Mortgage Association vice chairman Franklin Delano Raines for the economic cluster. He is a former partner at Lazard Freres, the investment bank, and former associate director of the Office of Management and Budget.

Gus Speth, head of President Jimmy Carter's Council on Environmental Quality and outgoing head of the World Resources Institute, will head for the natural resources and environmental cluster.

Astronaut Sally Ride, the first U.S. woman in space, will head a technology group and Washington attorney Thomas S. Williamson Jr. will co-chair a justice cluster with Georgetown law professor Peter Edelman.

Counsel of Four

The Clinton team in Little Rock also announced yesterday that four lawyers have been appointed to serve as the transition's legal counsel. They are James Hamilton, John M. "Jack" Quinn and Mary Anne Sullivan of Washington and James M. Lyons of Denver.

Cautionary Note to Futures Agency

The Washington Post, November 25, 1992

Senate Agriculture Committee Chairman Patrick J. Leahy (D-Vt.) is warning Wendy Gramm, outgoing chairman of the Commodity Futures Trading Commission, not to fill several new senior staff positions before Clinton takes office.

Leahy, whose committee overseas the CFTC, told Gramm in a recent letter that it "would be a mistake" to fill the positions, which were created by a recent staff reorganization.

Outgoing Democratic commissioner Fowler C. West, who will head the North American Securities Administrators Association, wrote Gramm on Monday, urging her to hold off as a way of "adhering to the spirit of a 'smooth transition,' as the president pledged after the election."

CFTC spokesman Joseph Duggan said the year-long reorganization is "not something dreamed up after the election." Gramm has not filled the new jobs, he said, but there is no effort to politicize the agency.

A proposed new senior policy post that is of particular concern to the Democrats "is not going to go to someone who is now a Republican appointee," he said.

GRAPHIC: ILLUSTRATION, MADELEINE ALBRIGHT.; PHOTO

LANGUAGE: ENGLISH

LEVEL 2 - 25 OF 47 STORIES

The Washington Times

November 25, 1992, Wednesday, Final Edition

SECTION: Part A; Pg. A1

LENGTH: 1151 words

HEADLINE: Bentsen called to Little Rock ;
Senator may get Treasury post

BYLINE: Frank J. Murray; THE WASHINGTON TIMES

DATELINE: LITTLE ROCK, ARK.

BODY:

LITTLE ROCK, Ark. - Texas Sen. Lloyd Bentsen emerged as front-runner in the Treasury secretary sweepstakes yesterday during an unannounced closed-door session with President-elect Bill Clinton.

Mr. Clinton, who met with two other possible Cabinet contenders in meetings that aides tried to keep secret, also announced a Dec. 14-15 economic summit in Washington to put "meat on the bones" and make good on expectations for budget proposals due to Congress by Feb. 1.

Mr. Bentsen's visit with Mr. Clinton was the first known to involve a Cabinet contender with the president-elect. Last week, Mr. Clinton's top talent scout interviewed Mr. Bentsen, chairman of the the Senate Finance Committee and the Democratic vice presidential nominee in 1988.

"This does not rule him in or out, one way or the other," Clinton press secretary Dee Dee Myers said in confirming reports that the influential senator was at the Arkansas Governor's Mansion, arriving there unseen by reporters who accompanied Mr. Clinton to a ceremony at his daughter's school.

After Mr. Bentsen departed, Mr. Clinton met in similar secrecy with outgoing Sen. Tim Wirth of Colorado, who may be a candidate for energy secretary, and Robert Rubin of the Goldman Sachs investment banking firm.

Miss Myers, who stuck to her practice of confirming private meetings only after reporters learn of them, said they were held "to discuss a broad range of issues relating to the transition and the new administration."

Mr. Wirth, 53, who has shown intense interest in issues involving management of energy, natural resources and land management, is quitting the Senate in January after one term. He is chairman of the Senate subcommittee on energy, conservation and regulation. He also served 12 years in the House.

With the transition pace quickening, former Arizona Gov. Bruce Babbitt, who has been mentioned for jobs ranging from White House chief of staff to secretary of either the Interior or Energy department, checked into a Little Rock hotel and was expected to meet with Mr. Clinton, the Associated Press reported.

The Washington Times, November 25, 1992

As economic news continued to improve, Clinton aides walked a political tightrope, trying to portray next month's summit as vital and relevant to the Clinton economic plan without acknowledging that Mr. Clinton might have lacked the information about the linchpin issue on the presidential campaign trail.

"Not at all, but the economy is fluid - it changes all the time - and we want to get an up-to-the-minute assessment," communications director George Stephanopoulos said when asked if Mr. Clinton confronted new economic realities after Election Day.

"We'll continue these meetings even after the package goes to Congress," said Mickey Kantor, Clinton-Gore campaign chairman, who was named conference coordinator.

When asked if the economy had not been discussed to death, Mr. Kantor said, "We hope to discuss it to life."

"He's not talking about renegotiating his campaign promises," Miss Myers said of the economic meeting being organized by Mahlon Martin, former director of the Arkansas Department of Finance and Administration.

More than 1,000 people have written or called in requests to attend the economic conference, which is expected to be held at the Arkansas State House and limited to slightly more than 100 people with no elected officials.

Asked if Mrs. Clinton will participate in the policy-shaping session, Mr. Stephanopoulos said, "I wouldn't rule it out."

Yesterday, Mrs. Clinton drove her own car and went separately to watch Chelsea, 12, inducted into her school's Beta Club, an honor society recognizing scholastic merit.

Mr. Bentsen's visit was managed under secrecy tight enough that some in the senator's Washington office did not know of it until it was in progress. Once it leaked out, aides conceded that Cabinet jobs would be discussed but would not confirm a specific offer to Mr. Bentsen.

Texas Gov. Ann Richards already called Mr. Clinton "to warn that the GOP may take Bentsen's seat if he resigns, due to a lack of strong [Democratic] candidates," the Political Hotline reported Friday.

A Treasury Department secretary is expected to be the first Cabinet official named by Mr. Clinton, perhaps next week, as a way to underscore action on his campaign promise of economic relief.

Mr. Bentsen confirmed his name came up as a candidate during a meeting in his Senate office with transition director Warren Christopher last week.

"Yes, it did, and I told them I was not seeking any post and that I'm happy where I am," Mr. Bentsen said then in a statement taken by some to rule himself out. Yesterday, an aide to the senator said that was a mistaken interpretation.

"He definitely hasn't ruled it out and he's not seeking it either," said Bentsen spokesman Seth Goldman, who added that the senator's vigor belies his age of 71.

Mr. Bentsen has been in the Senate since 1970, when he defeated then-Rep. George Bush for the job. He served three terms in the House from 1949 to 1955.

Between those two congressional tenures, he owned Lincoln Consolidated, a financial holdings institution in Texas.

Until yesterday, Mr. Clinton and his aides insisted the president-elect did not personally interview any Cabinet candidates. Now they are saying he has not made any Cabinet decisions.

During his vice presidential search, Mr. Clinton said he wanted to keep personal interviews to an absolute minimum so he could avoid making those not selected appear as losers.

On other issues:

* Mr. Stephanopoulos predicted a return to the use of fetal tissue in research programs when Mr. Clinton takes office, noting that Mr. Clinton had been supportive of vetoed legislation to provide fetal tissue.

* The transition appointed as counsel James Hamilton of Swidler & Berlin in Washington to oversee legal aspects of the confirmation process; James M. Lyons, a Denver corporate lawyer, to supervise legal work at the Little Rock office; John M. Quinn of Washington's Arnold & Porter law firm to oversee legal affairs at the Washington office; and Mary Anne Sullivan of Washington's Hogan & Hartson to deal with issues of ethics, conflicts of interest and disclosure forms.

Mr. Clinton planned to name the leaders today of 10 transition "clusters," teams that will define issues and staffing needs at the 14 Cabinet agencies and other agencies with Cabinet rank.

The Arkansas governor will make a "courtesy call" on former President Reagan on Friday, during a weekend trip to California.

The Clintons, who will spend Thanksgiving Day in Little Rock, will take the rest of the holiday weekend relaxing in Santa Barbara.

GRAPHIC: Photo (color), Short list: Sen. Lloyd Bentsen is a front-runner for Treasury secretary., By AP ; Photo, Clinton transition team member Mickey Kantor discusses plans for an economic summit at a news conference., By AP

LANGUAGE: ENGLISH

LEVEL 2 - 26 OF 47 STORIES

The Associated Press

November 24, 1992, Tuesday, AM cycle

SECTION: Domestic News

LENGTH: 363 words

HEADLINE: Clinton Names Four Lawyers To Transition

BYLINE: By TERENCE HUNT, AP White House Correspondent

DATELINE: LITTLE ROCK, Ark.

BODY:
President-elect Clinton appointed four attorneys as counsel for his transition Tuesday and prepared to name "cluster groups" to review operations of government departments and agencies.

The attorneys are James Hamilton, Jack Quinn and Mary Anne Sullivan, all partners in Washington law firms, and James M. Lyons, a partner in a Denver law firm.

On Wednesday, Clinton's office is to announce the "cluster groups" that will go into departments and agencies to audit their operations and personnel procedures and recommend changes to the president-elect.

In the foreign policy area, sources close to the transition, who declined to be identified by name, said that J. Brian Atwood would lead the State Department cluster, Jeff Smith would lead the Pentagon cluster, George Tennant would lead the intelligence cluster, and Madeline Albright would lead the National Security Council cluster.

Atwood, now head of the National Democratic Institute, was assistant secretary of state for legislative affairs in the Carter administration. Smith, a Washington attorney, served as an attorney on the Senate Armed Services Committee.

Tennant is chief of staff of the Senate intelligence committee, and Albright is director of the Center for National Policy, a Democratic foreign-policy think tank.

In addition, Rose Gottmuller, a strategic analyst for the Rand Corp., is to lead the Arms Control and Disarmament Agency cluster, and Goller T. Butcher, a member of the board of directors of the Howard University Law School, is to head the Agency for International Development cluster, said the sources, who spoke on condition of anonymity.

On the transition counsel team, Hamilton will oversee legal aspects of the nomination and confirmation of officials. Hamilton is a former assistant Watergate prosecutor and oversaw a congressional investigation of the theft of

President Carter's debate briefing papers during the 1980 election.

Lyons will work in Little Rock, overseeing legal work there.

Quinn will oversee legal work at the transition's Washington headquarters, and Sullivan will oversee the transition's ethics and conflict-of-interest rule and disclosure forms.

LANGUAGE: ENGLISH

LEVEL 2 - 36 OF 47 STORIES

The Washington Post

January 17, 1991, Thursday, Final Edition

SECTION: FIRST SECTION; PAGE A7

LENGTH: 1270 words

HEADLINE: Exoneration Urged for Senators As 'Keating Five' Hearings End

SERIES: Occasional

BYLINE: Helen Dewar, Washington Post Staff Writer

BODY:
The Senate ethics committee yesterday concluded two months of emotional, contentious hearings on the propriety of five senators' dealings with savings and loan executive Charles H. Keating Jr. as defense attorneys urged full exoneration of the senators, saying they did no wrong.

In a biting response to committee special counsel Robert S. Bennett, lawyers for Sens. Alan Cranston (D-Calif.), Dennis DeConcini (D-Ariz.) and Donald W. Reigle Jr. (D-Mich.) challenged Bennett's assertion Tuesday that there is substantial evidence to conclude that those three senators acted improperly.

To varying degrees, they also accused Bennett of undue prosecutorial zeal and stacking the case against the three senators.

By contrast, attorneys for Sens. John Glenn (D-Ohio) and John McCain (R-Ariz.), whom Bennett did not appear to fault for any ethical violations, pleaded with the panel to consider their cases separately from those of the others.

Bennett stood his ground in an impassioned final plea to the committee to reject the argument made by Cranston, DeConcini and their defenders in the Senate that their conduct was no different than that of most other lawmakers.

"I feel in a ridiculous position," Bennett said. "I'm here saying, hey guys, everyone doesn't do it. . . . If everybody does do what we've done here, then that means this place doesn't have an infection that can be cured. It means you're terminal."

Courts do not accept that argument when it is made by "some of the more unfortunate of our society," Bennett continued. "Why should it be a defense for the most fortunate . . . the most privileged in our society?" he asked.

In response to the senators' arguments that they were only helping a constituent when they came to Keating's aid, Bennett said the "ultimate constituent disservice" would be for the committee to tell the American people that the Senate does not have ethical standards that cover a case such as this.

The committee is expected to begin closed-door deliberations on the fate of the "Keating Five" on Jan. 30, after studying final briefs from the lawyers. Panel members have indicated one or more of the senators probably will be

recommended for discipline by the Senate, which could include expulsion or, more likely, censure of some kind.

At issue is whether any or all of the senators were influenced by $ 1.3 million that Keating raised for their campaigns and causes when they intervened with thrift regulators on behalf of his Lincoln Savings and Loan Association before it was declared insolvent and seized by the government in 1989 at a cost of $ 2 billion to the taxpayers.

Committee Chairman Howell T. Heflin (D-Ala.) and Vice Chairman Warren B. Rudman (R-N.H.) went out of their way yesterday to assert that none of the five could be blamed for the savings and loan scandal. "The common public perception that these five senators, by meeting with the regulators, cost the taxpayers $ 2 billion is simply not accurate," said Rudman. But they gave few other clues to how they will vote in the case.

Most prominently in dispute as the hearings ended was whether the senators should be judged only by their conduct or whether they also could be disciplined for an appearance of wrongdoing that might reflect adversely on the Senate as a whole.

DeConcini, the only senator to plead personally for exoneration, took issue with Bennett's argument that the Senate has such an appearance standard and that the five senators should be judged under it. "You are being asked to approve a new standard and apply it retroactively, which would be grossly unfair," DeConcini argued.

Shaking with anger, DeConcini said he intervened with the regulators to save the jobs of 2,000 Arizonans employed by Lincoln's parent corporation, American Continental, and not to help Keating. "I resent the fact that I have to tell this committee and the American people that I intervened for 2,000 Arizonans and not for Charles Keating," he said.

In his argument Tuesday, Bennett had suggested links between Keating's fund-raising and actions taken by DeConcini on Keating's behalf and said DeConcini ignored several "red flags" about Keating's honesty that gave pause to other senators.

"I did not violate my public trust here. What I did was expected of me. It is expected of me to stand up for Arizonans," DeConcini said. "I know where the line is; I know what you can do and what you can't do, and I acted properly," he added.

To judge senators by appearances alone, if no actual misconduct is found, would be to "reduce ethics to a public relations exercise," said James Hamilton, DeConcini's attorney.

In his final argument, Bennett had ridiculed the notion that senators have not been judged in the past and cannot be judged now for an appearance of wrongdoing.

To deny that the Senate requires an appearance of propriety for its members is to impose a "double standard" under which senators would be exempt from rules applicable to all other government employees. "Gentlemen," he said, "that is unacceptable."

William W. Taylor III, Cranston's attorney, suggested that Cranston was being pursued as a "scapegoat" for the savings and loan scandal as he nears the end of a long career in the Senate and begins a battle against prostate cancer, for which he is currently being treated at a hospital in California.

"Now, in the twilight of his career, Alan Cranston must face the accusation . . . that he became Charles Keating's marionette and single-handedly changed the course of decisions at the Federal Home Loan Bank Board. Members of the committee, that is preposterous," said Taylor.

Taylor argued that the facts indicate Cranston did nothing wrong but added: "When you're looking for scapegoats, facts are the last thing you want to hear about."

Bennett had said there were at least four occasions on which Cranston solicited funds from Keating for voter registration groups he created "knowing full well Charles Keating recently had asked for his assistance" on behalf of Lincoln.

Thomas C. Green, attorney for Riegle, defended Riegle's actions as proper and consistent with Senate ethics rules, arguing that the Michigan senator had less contact with regulators than any of the other senators and never asked anyone to do anything for Keating.

Green also sharply protested Bennett's suggestion that Riegle may not have been telling the truth during his testimony when he repeatedly denied remembering contacts with Keating and others and said he had no role in setting up a key meeting between regulators and the senators in March 1987.

Glenn's attorney, Charles F.C. Ruff, said Glenn was seeking to be judged by the "toughest standards you can devise for yourselves, your colleagues and him" and that Glenn did not believe that "we can use the system as an excuse" for any individual senator's misconduct, a reference to suggestions that the Senate's campaign financing system is to blame for any transgressions.

Glenn, who sat through nearly all of two days of final arguments, told reporters after Ruff's presentation that he expects to be exonerated.

John M. Dowd, McCain's lawyer, said McCain repeatedly refused to go along with what he regarded as improper requests from Keating and others and did nothing else wrong in the case. "He has been judged not by his conduct but by the conduct of others," said Dowd. "He is entitled to a straight, crisp, clear answer . . . without regard to the conduct of others or partisan considerations." McCain, who also has said he expects to be cleared of any wrongdoing, is the only Republican in the group.

GRAPHIC: PHOTO, ROBERT S. BENNETT, COMMITTEE SPECIAL COUNSEL, ARGUES IN THE CASE OF SENATORS ACCUSED OF IMPROPERLY AIDING S&L EXECUTIVE. DAYNA SMITH

LANGUAGE: ENGLISH

LEVEL 2 - 37 OF 47 STORIES

The Associated Press

January 16, 1991, Wednesday, AM cycle

SECTION: Washington Dateline

LENGTH: 911 words

HEADLINE: Defense Lawyers Argue that Senators Are Innocent

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
The Senate Ethics Committee on Wednesday concluded two months of contentious hearings on the Keating Five after listening to declarations of innocence on behalf of each senator.

Two panel members and one defense lawyer have indicated they expect some aspect of the case to reach the full Senate, a development that would occur only if punishment was recommended against at least one senator.

Neither the lawyers nor committee members have predicted the outcome for all five senators. Chairman Howell Heflin, D-Ala., said deliberations would begin Jan. 30.

Lawyers for the five, each of whom assisted political donor Charles H. Keating Jr. and his Lincoln Savings and Loan, said their clients acted properly at all times.

Sen. Dennis DeConcini, D-Ariz., defended himself, the only one of the five senators to do so.

"I know what you can do and what you can't do. And I acted properly," he told the committee in an emotional statement.

In their closing arguments, the defense lawyers said their clients respected Senate rules - avoiding even the appearance of impropriety.

"There will always be skeptics. There will always be cynics" who believe public officials "are in some fashion corrupted," said Charles Ruff, attorney for Sen. John Glenn, D-Ohio.

But Ruff argued that Glenn acted properly and asked the committee to judge him "by the sternest ethical standard you can apply."

Committee member Trent Lott, R-Miss., said earlier this month that he would be amazed if at least one case didn't reach the floor - although he declined to name anyone.

DeConcini lawyer James Hamilton said that while he feels there's no justification for a recommendation against his client, DeConcini was preparing for a floor fight over the conduct of special counsel Robert S. Bennett.

DeConcini, Hamilton said, will contend Bennett has conducted himself as a prosecutor rather than as an independent fact-finder. Bennett denies the allegation.

Committee member Jesse Helms, R-N.C., defended Bennett and told Hamilton, "We'll see you on the floor of the Senate."

The committee could recommend that the Senate expel or censure a member or remove him from any position of leadership.

In addition to DeConcini and Glenn, the senators under investigation are John McCain, R-Ariz.; Donald W. Riegle Jr., D-Mich.; and Alan Cranston, D-Calif.

The five intervened with thrift regulators for Keating's Lincoln Savings and Loan. The hearings began in mid-November to determine whether the assistance was linked to the $$1.3 million Keating and associates raised for the five lawmakers' campaigns and political causes.

Bennett, in a harsh rebuttal to the five senators, said "a couple of senators, to avoid personal accountability, have raised the 'everybody does it' defense," - a reference to intervention for constituents. DeConcini and Cranston have raised such a defense.

"I feel I'm in a ridiculous position," he said. "I'm in here saying everybody doesn't do it. I'm in here kind of defending the United States Senate.

"And if everybody does do what was done here, then that means this place doesn't have an infection that can be cured, it means that you're terminal," Bennett said.

Cranston lawyer William Taylor III said he was amazed that the Californian, who has said he will not run for re-election when his term expires in 1992, would be attacked near the end of his long career.

"Now in the twilight of his career, Alan Cranston must face the accusation, either expressed or implied,that he became Charles Keating's marionette and single-handedly changed the course of decisions of the Federal Home Loan Bank Board," Taylor said. "That ... is preposterous."

McCain's lawyer, John Dowd, reminded the committee that his client refused to negotiate with regulators on behalf of Keating - a rebuff that ended the friendship between the two.

"John McCain's conduct was an act of principle and an act of honesty and what we expect from our public officials," Dowd said.

Ruff, meanwhile, described Glenn's role in meetings with regulators.

"Yes, he was aggressive. Yes, he was blunt. But he was fair, he treated the regulators with respect, he sought to get the answers to his one question: was there any basis for believing Lincoln was being treated unfairly," Ruff said.

Riegle attorney Thomas Green attacked the testimony of James Grogan, Keating's former lobbyist, who testified that Riegle played a major role in arranging a meeting between senators and regulators April 2, 1987. Riegle denied setting up the session.

The meeting arrangements were made at a time Keating was collecting money for a Riegle fund-raiser, for which the S&L owner was host on March 23, 1987.

Green said Grogan, who was compelled to testify under a grant of limited immunity, kept changing his testimony about Riegle's role every time his memory was refreshed by documents.

Riegle also criticized Bennett's Tuesday summation when the counsel called Riegle's credibility into question because the senator frequently could not recall key events in the case.

Bennett, Green said, cited 18 incidents of Riegle's failure to recall, and added: "What he failed to tell you is that most of those incidents had nothing to do with Sen. Riegle."

Hamilton argued it was "perfectly legitimate constituent service" for DeConcini to assist Keating, whose main business operation was in Phoenix.

DeConcini's actions were "no different from the conduct of many senators," Hamilton said.

LANGUAGE: ENGLISH

LEVEL 2 - 38 OF 47 STORIES

The Associated Press

January 16, 1991, Wednesday, PM cycle

SECTION: Washington Dateline

LENGTH: 988 words

HEADLINE: Keating Five Lawyers Plead for Exoneration as Hearings Near End

BYLINE: By WILLIAM M. WELCH, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Arizona Sen. Dennis DeConcini pleaded for exoneration from the Senate Ethics Committee today as lawyers for the Keating Five wound up two months of hearings into the help the lawmakers provided savings and loan owner Charles H. Keating Jr.

"I know where the line is; I know what you can do and what you can't do," DeConcini said. "And I acted properly."

DeConcini, delivering an impassioned plea in his own defense, was the only one of the five senators under investigation to speak during time set aside for closing arguments by defense lawyers.

Lawyers for each of the senators insisted on their clients' innocence as the committee prepared to bring down the curtain on two months of televised testimony and begin private deliberations toward a decision in the case of each and possible punishment.

DeConcini insisted his actions with federal regulators were taken not because Keating was a contributor to his campaign but because Keating's parent company employed 2,000 people in Arizona.

"I did not violate my public trust here," DeConcini said. "What I did was expected of me. It is expected of me to stand up for Arizonans."

DeConcini's lawyer, James Hamilton, accused the panel's special counsel, Robert S. Bennett, of trying to establish a new standard of conduct based on the appearance of a conflict of interest. It would be a standard, he said, stricter than anything the Senate has adopted.

William Taylor III, attorney for California Sen. Alan Cranston, complained that Cranston was being unfairly accused of impropriety as he nears the end of his public career. Cranston, who has said he will not run for re-election in 1992, is in California receiving treatment for prostate cancer.

"Now in the twilight of his career, Alan Cranston must face the accusation ... that he became Charles Keating's marionette and singlehandedly changed the

course of decisions at the Federal Home Loan Bank Board," Taylor said. "Members of the committee, that is preposterous."

Three of the five senators under investigation were in the hearing room for their final arguments: DeConcini, and Sens. John Glenn, D-Ohio, and Donald Riegle, D-Mich.

Today's arguments were the culmination of two months of public, televised hearings and more than a year of committee investigation into allegations the senators improperly intervened with federal regulators on behalf of Keating, a savings and loan owner who was a major financial contributor to their campaigns.

John Dowd, attorney for Arizona Republican Sen. John McCain, defended McCain's actions as proper and principled in his dealings on behalf of Keating and his Lincoln Savings and Loan.

"When Charlie Keating asked him to negotiate for Lincoln Savings and Loan, John McCain said 'No'," Dowd told the ethics panel.

"He is entitled to a straight, crisp, clear answer from all of you," Dowd said. "Senator McCain is entitled to an individual judgment without regard to the conduct of others or partisan considerations."

Charles Ruff, attorney for Glenn, said Glenn had followed the highest ethical standards and that nothing in eight weeks of testimony indicated otherwise.

"Senator Glenn doesn't want to skate by here," Ruff said. "He wants you to test him by the toughest ethical standards you can devise for yourself, your colleagues and him. And he meets that standard."

Tom Green, attorney for Riegle, defended Riegle's actions as proper and noted he was the only one of the five senators who attended just one - and not two - meetings with federal regulators on behalf of Keating.

"Senator Riegle had less contact with the regulators than any other senator in the case," Green said. "Senator Riegle never asked anyone to do anything or not do anything for Lincoln."

Committee special counsel Robert S. Bennett on Tuesday presented the case against three of the five senators.

Bennett said he found no impropriety on the part of Glenn and McCain. Bennett had recommended they be dropped from the case before the hearings began two months ago, but the committee decided to keep them a part of the public inquiry - prompting complaints from McCain and Republicans that there were partisan motives.

Bennett focused his case on the remaining three: - Riegle, who is now chairman of the Senate Banking Committee; Arizona Sen. Dennis DeConcini; and California Sen. Alan Cranston - and said the panel's decision will determine Americans' respect for the Senate.

"You are holding in your collective hands the political heart and soul of this country," Bennett told the three Democrats and three Republicans on the

ethics panel. "Whatever decision you make ... the American people are either going to have more or less respect for this institution."

The five are under investigation for their actions on behalf of Keating, who contributed or raised $$1.3 million for their campaigns and related causes while he was seeking their help with federal regulators for his troubled Lincoln Savings and Loan in Irvine, Calif.

Lincoln's subsequent failure is expected to cost taxpayers about $$2 billion to cover insured deposits.

Bennett repeatedly questioned the credibility of Riegle's testimony to the committee, in which the senator maintained he remembered little or nothing about key meetings.

Bennett said evidence contradicted Riegle's contention that he did not know contributions would be provided when he visited Keating's Arizona headquarters in March 1987, a month before the senators held critical meetings with federal S&L regulators.

Bennett said evidence suggests DeConcini tried to negotiate on behalf of Lincoln in the meeting with regulators. He cited memos by DeConcini's banking aide that stated Keating's proposed negotiating position.

Cranston, he said, solicited or accepted large contributions from Keating at least four times while "knowing full well Mr. Keating recently had requested or received the senators' assistance for Lincoln."

LANGUAGE: ENGLISH

LEVEL 2 - 39 OF 47 STORIES

The New York Times

January 16, 1991, Wednesday, Late Edition - Final

SECTION: Section A; Page 18; Column 4; National Desk

LENGTH: 1376 words

HEADLINE: Panel Is Asked to Punish 3 Senators

BYLINE: By RICHARD L. BERKE, Special to The New York Times

DATELINE: WASHINGTON, Jan. 15

BODY:

Declaring to the Senate Ethics Committee that the "political heart and soul of this country" was at stake, the panel's special counsel made an impassioned case today that three Senators should be punished for their dealings with the savings and loan executive Charles H. Keating Jr.

In his closing arguments at the longest public hearings into the conduct of members of Congress, the counsel, Robert S. Bennett, portrayed Senators Alan Cranston and Dennis DeConcini as crass politicians who had done favors for Mr. Keating's savings and loan association because he was a big contributor to their political efforts.

And several times he bluntly suggested that Senator Donald W. Riegle Jr. had perjured himself before the committee, which he characterized as the lawmaker's most striking impropriety.

Mr. Bennett depicted the two other Senators in the case, John McCain and John Glenn, as admirably breaking off their ties with Mr. Keating when it became clear that his own conduct was in doubt.

The counsel had been instructed by the panel to set out no conclusions about how the members should act. But he left no doubt that he believed Senators Cranston, DeConcini and Riegle should be punished and that Senators McCain and Glenn should be cleared.

Options for the Committee

Besides clearing any of the lawmakers, the panel could vote to send them letters of reprimand criticizing their behavior. Or it could take the more serious step of recommending that the full Senate vote to condemn the Senators' actions. It could also advise the Senate to expel any of the members, but that is considered the least likely outcome.

On the eve of a possible war in the Persian Gulf, Mr. Bennett appealed to the committee not to lose sight of the case's significance. "We're talking about ethics when our nation could be at war, literally, in a matter of hours," he declared late this afternoon.

Reciting the possiblility of war, a recession and other troubles facing the nation, Mr. Bennett looked directly at members of the panel and said: "In

comparison to these crises, some may say that ethics is unimportant. But I say to you: To accept this conclusion would be a terrible mistake, because with an economy in trouble and war hanging over our heads, it is all the more important that the American people have confidence in you and your ability to judge your peers and reach an honorable and definite decision."

Peppering his summation with highlights of 25 days of testimony, Mr. Bennett outlined his case that three Senators violated clear standards of conduct in intervening with Federal regulators on behalf of Mr. Keating. Mr. Bennett rejected earlier arguments from the five Senators that they had violated no specific rules because there were none that addressed such actions as contacting Federal regulators on behalf of Mr. Keating's failing Lincoln Savings and Loan Association of Irvine, Calif.

Keating Facing Charges

The counsel argued, for instance, that Senator McCain, an Arizona Republican, and Senator Glenn, an Ohio Democrat, followed appropriate standards in knowing when to cut off contacts. "Mr. Keating called Mr. McCain a wimp," Mr. Bennett said, because he did not follow "the Keating agenda to get the bank board off his back."

Lincoln was seized by the Federal Government in 1989 at a loss of more than $2 billion to taxpayers. Mr. Keating is facing fraud charges in California. He or his associates had donated a total of $1.3 million to the five Senators or their causes.

Since the hearing's opening on Nov. 15, the five Senators or their lawyers repeatedly argued that they were treating Mr. Keating as they would have any other constituent, and they denied they were rewarding him for his contributions.

Closing arguments for the five Senators are scheduled before the committee on Wednesday. Then the panel of three Republicans and three Democrats will deliberate in closed session, possibly for several days, on the fate of their peers.

Mr. Glenn was the only of the five Senators who sat in the cavernous Senate Hart Office Building's hearing room to hear Mr. Bennett, and he stayed mostly to hear the summation of his involvment.

In a calm, measured voice, Mr. Bennett offered example after example of how the Senators acted behind the scenes to help Mr. Keating. He said the case of Mr. Cranston, a California Democrat, stood out because of the striking relationship between donations from Mr. Keating and efforts by the Senator to help him.

Contributions and Requests

"This pattern of coupling large contributions from Mr. Keating with requests for action was repeated on four occasions," Mr. Bennett said. Even after he learned that the regulators were recommending that the Justice Department investigate Lincoln for criminal misconduct, the counsel asserted, Mr. Cranston personally contacted Federal regulators at least 12 times on behalf of Lincoln.

Mr. Bennett said that Mr. DeConcini, an Arizona Democrat, also pressed regulators to help Lincoln long after he was told of the criminal referral. He described how Mr. DeConcini took a leading role in advocating Lincoln's case in two meetings between the Senators and Federal regulators in April 1987.

The counsel suggested that Mr. DeConcini "ignored all the red flags" in continuing to help Lincoln.

And in his most pointed comments about Mr. Riegle, a Michigan Democrat, Mr. Bennett strongly suggested that the lawmaker perjured himself before the committee more than once. He cited other witnesses who contradicted Mr. Riegle's testimony that he had no role in arranging the first meeting with regulators, and who also disputed his contention that meetings with Mr. Keating during a trip to Phoenix had anything to do with raising money.

"If you were to determine that Senator Riegle was not honest with you, was intentionally not honest with you," he told the committee, "then I think this committee has to act on that." Mr. Bennett made clear that he was as troubled with the Senator's performance before the committee as he was with his dealings with Mr. Keating.

Facing Responsibility

While he told committee members that he knew of the pressures they faced in judging their fellow Senators, he implored them to step up to their responsibility.

"A case like this breaks the rhythm of the Senate," he said. "You're really uncomfortable with this, as you should be."

Still, Mr. Bennett reminded the lawmakers: "You are holding in your collective hands the heart, the political heart and soul of this country. And whatever decision you make, this institution is going to be stronger or weaker."

Urging them to think about the American public, not just their fellow Senators, Mr. Bennett said: "These are your friends, you know each others families, you legislate with each other, you need each other, you raise funds for each other, you help each other in their campaigns." He went on to remind them that after they act, "The American people are going to either have more or less respect for this institution."

Bitter Exchange Between Lawyers

As evidence of what may lie ahead as the committee deliberates, Mr. Bennett earlier today engaged in a bitter, personal exchange with James Hamilton, Mr. DeConcini's lawyer. Mr. Hamilton sought to introduce affidavits from two former United States Attorneys who questioned whether Mr. Bennett was acting too much like a prosecutor.

The committee voted not to accept the documents, saying they were not germane to the case. Once that happened, Mr. Hamilton told the panel, "If this matter goes to the floor, Mr. Bennett's conduct is going to be an issue."

Mr. Bennett angrily shot back that "the not-so-subtle threat to this committee is an outrage." He told committee members: "You should be offended

by it. Senator DeConcini is simply trying to burn the messenger, to discredit me, and it will not work. I will not be intimidated by such obvious tactics."

Senator Jesse Helms, a North Carlina Republican, and one of the panel members defended Mr. Bennett, said to Mr. Hamilton: "Special counsel Bennett will not be a villain in this piece. If you want to take it to the floor and you can, we'll see you on the floor of the United States Senate."

GRAPHIC: Photo: Robert S. Bennett, special counsel to the Senate Ethics Committee, calling yesterday for the punishment of three accused Senators. (Lisa Berg for The New York Times)

LANGUAGE: ENGLISH

LOAD-DATE: January 16, 1991

LEVEL 2 - 40 OF 47 STORIES

The Associated Press

January 15, 1991, Tuesday, AM cycle

SECTION: Washington Dateline

LENGTH: 708 words

HEADLINE: DeConcini's Lawyer Clashes with Ethics Counsel

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Sen. Dennis DeConcini's lawyer and the Senate Ethics Committee's special counsel argued bitterly Tuesday over whether the counsel was acting as a prosecutor in the Keating Five hearings.

The clash between defense lawyer James Hamilton and special counsel Robert S. Bennett erupted as the committee neared completion of its two-month-old hearings on the conduct of DeConcini and four Senate colleagues.

"If this matter goes to the (Senate) floor as to Senator DeConcini, and I must say I think it should not, it's fair to say Mr. Bennett's conduct is going to be an issue," Hamilton said. "It will be vigorously contested. Vigorously."

Bennett told the committee, "Senator DeConcini and his counsel would like me to be a flower girl distributing the flowers at a wedding in equal shares to each senator without regard to the other. I won't do that."

The committee is trying to determine whether the senators intervened with thrift regulators on behalf of S&L owner Charles H. Keating Jr. because he raised $$1.3 million for their campaigns and causes.

Bennett, before the hearings began Nov. 15, proposed to the committee that the investigation be intensified against Sens. DeConcini, D-Ariz., Alan Cranston, D-Calif. and Donald W. Riegle Jr., D-Mich.; and that the case be dropped against Sens. John McCain, R-Ariz. and John Glenn, D-Ohio.

Bennett's conclusions were learned from congressional sources but his pre-hearing report has not been made public. The committee, rather than accept the recommendations, ordered the current fact-finding hearings.

Bennett's role is to advise the committee on the evidence. The panel of three Republicans and three Democrats will then deliberate and decide whether to recommend any punishment to the full Senate.

Cases that go to the Senate floor usually include a recommended censure or, in extreme cases, expulsion. The committee also could issue a milder rebuke by letter or decide to clear any or all the senators of misconduct.

The controversy over Bennett's role goes back to DeConcini's opening statement to the committee in November. The senator accused Bennett of trying to win another trophy for his wall by convincing the committee the senators acted unethically.

Tuesday's argument began when Hamilton tried to introduce affidavits critical of Bennett's conduct from two former U.S. attorneys: William B. Gray, U.S. attorney for Vermont from 1977-81, and James Robinson, who served the eastern district of Michigan from 1977-80.

Hamilton acknowledged that DeConcini's purpose was to make a record for appeal to the full Senate should the committee decide to recommend punishment for his client. Neither affidavit was admitted.

"I think the not-so-subtle threat to this committee is an outrage," Bennett responded.

"I think it's clear that Senator DeConcini is simply trying to burn the messenger, to discredit me. It will not work. I'm not going to be intimidated by such obvious tactics which I think are so inconsistent with the dignity of this body and which are designed to shift attention from his own conduct."

Committee Vice Chairman Warren Rudman, R-N.H., told Hamilton that Bennett's conduct, "however you may view it, is not an issue that is going to affect this committee in the decision that is before us."

Sen. Jesse Helms, R-N.C., then rose to Bennett's defense.

"I think it's time to point out that special counsel Bennett is not the villain in this piece," Helms said. "He has not been charged with anything and in my judgment he has conducted himself well."

Helms said some Americans thought "this committee was somehow going to whitewash all of this, that it was going to be the buddy-buddy system."

Helms said that would not happen, and added that "Bob Bennett will not be without his defenders" if the case goes to the Senate floor.

In testimony Tuesday, the committee was told that Cranston did not profit politically from his fund-raising efforts for voter registration groups.

Cruz Reynoso, a former California Supreme Court justice, testified that Cranston was the man who opened doors for the fund-raising efforts just after his successful 1986 re-election.

Cranston solicited and received $$850,000 from Keating for three voter registration groups.

LANGUAGE: ENGLISH

LEVEL 2 - 41 OF 47 STORIES

The Associated Press

January 15, 1991, Tuesday, AM cycle

SECTION: Washington Dateline

LENGTH: 993 words

HEADLINE: Counsel Sharp Against Three of Keating Five

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
The Senate Ethics Committee's special counsel took a tough stance Tuesday against three of the Keating Five senators in his wind-up summation of the evidence.

The counsel, Robert S. Bennett, said evidence submitted in two months of hearings suggested possible impropriety in the behavior of Sens. Alan Cranston, D-Calif., Dennis DeConcini, D-Ariz., and Donald W. Riegle Jr., D-Mich.

But he said Sens. John Glenn, D-Ohio, and John McCain, R-Ariz. exhibited a willingness to follow the Senate's ethical standards.

Bennett, accused by DeConcini's lawyer of acting like a prosecutor, was under committee orders to avoid stating conclusions in his summation. But he made pointed remarks about all five senators.

Lawyers for the five, who intervened with regulators on behalf of S&L operator Charles Keating Jr. and his now-failed Lincoln Savings & Loan, will sum up on Wednesday.

Bennett:

-Questioned Riegle's credibility, citing his failure to recall many of the key events in the case despite strong evidence showing the senator's involvement in those events.

-Said evidence indicates Glenn and McCain followed commonly recognized Senate standards of conduct.

-Contended that "The evidence is clear Sen. DeConcini was prepared to and did represent Lincoln's position in the April (1987) meetings with regulators. By his own testimony, Sen. DeConcini agreed he would raise" negotiating points for Keating.

-Said actions by Cranston on four occasions were linked to the senator's solicitation of Keating for campaign funds. The solicitations were made with Cranston "knowing full well Mr. Keating recently had requested or received the

senator's assistance for Lincoln."

Keating gave $$1.3 million to the campaigns or causes of the five senators.

"Notwithstanding all of the problems in the world today, this case has somehow captured the American people,," Bennett said. "Whatever decision you make ... the American people are either going to have more or less respect for this institution."

Bennett was critical of Riegle's admittedly faulty memory about his role in assisting Keating while the businessman was conducting a fund-raising drive for the senator in 1987.

Bennett was critical of Riegle's admittedly faulty memory about his role in assisting Keating while the businessman was conducting a fund-raising drive for the senator in 1987.

Unlike the other four senators, Riegle testified he had no recollection of meetings with Keating, his lobbyist, his accountant and other senators about problems of Lincoln.

Yet, Bennett said, the committeee has copies of calendars showing the meetings took place, and the testimony, under a grant of limited immunity, of Keating's lobbyist.

"If you were to determine Sen. Riegle was not honest with you and intentionally was not honest with you, then I think this committee has to act on that," Bennett said.

Bennett said "the evidence is simply overwhelming" that Riegle visited Keating's Phoenix headquarters in March 1987 had a fund-raising purpose - something that Riegle denied.

At the time, Bennett said, Keating "was marshalling tens of thousands of dollars" for Riegle's re-election campaign.

The counsel said the evidence showed McCain had "grave reservation" about attending a meeting with former chief thrift regulator Edwin J. Gray in April 1987.

McCain, Bennett said, was "bothered about going to a meeting with Gray that involved negotiations on Mr. Keating's behalf."

Bennett said that both McCain and Glenn stopped contacting regulators on behalf of Keating's Lincoln Savings and Loan after they learned from regulators that criminal referrals would be made to the Justice Department. That occurred on an April 9, 1987 meeting between four regulators and the five senators under investigation.

"Sen. Glenn testified it is wrong to negotiate special deals for special people," Bennett said. "Standards are being applied."

Earlier, DeConcini's lawyer and Bennett argued bitterly Tuesday over whether the counsel was acting as a prosecutor in the Keating Five hearings.

The Associated Press, January 15, 1991

The clash between defense lawyer James Hamilton and Bennett erupted as the committee neared completion of its two-month-old hearings on the conduct of DeConcini and four Senate colleagues.

"If this matter goes to the (Senate) floor as to Senator DeConcini, and I must say I think it should not, it's fair to say Mr. Bennett's conduct is going to be an issue," Hamilton said. "It will be vigorously contested. Vigorously."

Bennett told the committee, "Senator DeConcini and his counsel would like me to be a flower girl distributing the flowers at a wedding in equal shares to each senator without regard to the other. I won't do that."

The committee is trying to determine whether the senators intervened with thrift regulators on behalf of S&L owner Charles H. Keating Jr. because he raised $$1.3 million for their campaigns and causes.

Bennett, before the hearings began Nov. 15, proposed to the committee that the investigation be intensified against DeConcini, Cranston and Riegle and dropped against McCain and Glenn.

Bennett's conclusions were learned from congressional sources but his pre-hearing report has not been made public. The committee, rather than accept the recommendations, ordered the current fact-finding hearings.

Bennett's role is to advise the committee on the evidence. The panel of three Republicans and three Democrats will then deliberate and decide whether to recommend any punishment to the full Senate.

Cases that go to the Senate floor usually include a recommended censure or, in extreme cases, expulsion. The committee also could issue a milder rebuke by letter or decide to clear any or all the senators of misconduct.

The controversy over Bennett's role goes back to DeConcini's opening statement to the committee in November. The senator accused Bennett of trying to win another trophy for his wall by convincing the committee the senators acted unethically.

LANGUAGE: ENGLISH

LEVEL 2 - 42 OF 47 STORIES

The Associated Press

January 15, 1991, Tuesday, PM cycle

SECTION: Washington Dateline

LENGTH: 668 words

HEADLINE: Defense Attorneys Hope Up to Wrap Up Cases This Week

BYLINE: By WILLIAM M. WELCH, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Sen. Dennis DeConcini's attorney clashed sharply today with the Senate Ethics Committee's special counsel Robert S. Bennett, accusing him of improperly behaving as a prosecutor in the Keating Five case.

Bennett denounced the charge as an "outrage" and an attempt to intimidate him.

"I think it's clear Senator DeConcini is simply trying to burn the messenger, to discredit me," Bennett said. "It will not work. I will do my job honestly. I'm not going to be intimidated."

The argument erupted as the committee concluded testimony from final witnesses on behalf of one of the five senators under investigation in the Keating case, Sen. Alan Cranston, D-Calif., and began reading final affidavits and other documents into the record.

James Hamilton, attorney for DeConcini, D-Ariz., attempted to introduce two affidavits from outside attorneys that he said concerned Bennett's conduct. He said DeConcini, who was not present in the hearing room, feels strongly that Bennett's conduct is an issue and that he exceeded his assigned role and had begun acting as if he were a prosecutor.

"If this matter goes to the floor ... it's fair to say Mr. Bennett's conduct is going to be an issue," Hamilton said. "Senator DeConcini, in effect, is making a record for appeal on what he feels will be a relevant issue on the floor of the Senate."

Sen. Warren Rudman, R-N.H., who was presiding over the committee, ruled the affidavits were irrelevant and would not be admitted. He said Bennett's conduct "is not an issue that's going to affect this committee in the decision that's before us."

Sen. Jesse Helms, R-N.C., rushed to Bennett's defense, saying "he has conducted himself well."

"We'll see you on the floor of the United States Senate," Helms said, adding that Bennett "will not be without his defenders."

Earlier, Rep. Don Edwards, D-Calif., a 28-year veteran of the House, testified today as a character witness for Cranston, a Democrat and one of five senators under investigation for intervening with regulators on behalf of savings-and-loan owner Charles H. Keating Jr.

Also testifying as a witness for Cranston was former California Supreme Court Justice Cruz Reynoso, a professor at the UCLA law school.

The committee was meeting today for what its members hoped would begin the last two days of public hearings, two months after the televised public inquiry began.

Rep. Trent Lott, R-Miss., a committee member, complained last week that the hearings have run on far too long. Another member, Sen. David Pryor, D-Ark., said he was having trouble concentrating on testimony about minor details at a time when all concerns were focused on the potential for war in the Middle East.

Once the hearings end, the three Republicans and three Democrats on the ethics panel will begin deliberating whether the five senators acted improperly in aiding Keating, a major campaign contributor.

The panel also will decide whether to recommend punishment for any of the five. Lott said last week he would be "absolutely amazed" if the case against at least one of the five senators does not reach the Senate floor.

Edwards, chairman of the House subcommittee on civil and constitutional rights, said he had known Cranston for nearly 60 years and called him "a totally honest man."

He said Cranston had been interested in efforts to encourage voter registration since the late 1940s and 1950s and had worked to register California voters. National voter-registration campaigns associated with Cranston received some $$850,000 in contributions from Keating and his associates at a time when Keating was helping the senators' help with federal regulators.

Reynoso said Cranston had a "rather extraordinary" commitment to voter registration. He called that a "fundamental issue" but one that provided little benefit to Cranston politically or personally.

Other senators under investigation are Sen. John McCain of Arizona, the only Republican; and Democrats John Glenn of Ohio and Donald Riegle of Michigan.

LANGUAGE: ENGLISH

LEVEL 2 - 43 OF 47 STORIES

The New York Times

January 11, 1991, Friday, Late Edition - Final

SECTION: Section A; Page 16; Column 1; National Desk

LENGTH: 793 words

HEADLINE: Ex-Aide Says Her Memo to Keating Used 'Bit of Hyperbole' on Regulators

BYLINE: By RICHARD L. BERKE, Special to The New York Times

DATELINE: WASHINGTON, Jan. 10

BODY:
A former lobbyist for Charles H. Keating Jr. testified today that she had used "a bit of hyperbole" to get his attention when she wrote in a memorandum that his efforts to pressure Federal regulators were working.

The former lobbyist, Margery Waxman, told the Senate Ethics Committee that her urgent tone was intended to prove to Mr. Keating that she was "as tough and aggressive" as another one of his lawyers, who later replaced her as a leading counsel to Mr. Keating's troubled Lincoln Savings and Loan Association.

Of the thousands of documents in the case of five Senators under investigation for their links to Mr. Keating, Ms. Waxman's memorandum has stood out for its blunt language about efforts to pressure the bank board.

"You have the board right where you want them," Ms. Waxman wrote Mr. Keating on May 10, 1988, 10 days before Lincoln won a major regulatory dispute. The memorandum raised questions as to whether Mr. Keating's efforts to enlist the help of the Senators were instrumental in influencing Federal regulators on Lincoln's behalf.

Denies Link to Senators

But Ms. Waxman told the ethics panel today that her reference to "pressure" did not mean the five Senators under investigation. "It does not refer to any congressman or senator," she said. "There is no political pressure."

Referring to M. Danny Wall, who headed the Federal Home Loan Bank Board at the time, the memorandum went on to say, "As you know, I have put pressure on Wall to work toward meeting your demands and he has so instructed his staff."

The board took the unusual step 10 days later of transferring regulatory authority over the troubled Lincoln from the San Francisco office to the Washington headquarters. Mr. Keating had complained that the regulators in San Francisco were treating him unfairly.

Ms. Waxman said that pressure was a poor choice of words, and one that lawyers use "for their clients" when they want to appear that they are being aggressive. The letter, she said, "is a lot stronger in tone than I would normally write." She said she sought in the letter to convince Mr. Keating that he should not break off negotiations with the bank board.

The ethics panel completed its questioning today of Senator Dennis DeConcini of Arizona, the last Senator to appear. The other Senators who are facing allegations that they improperly intervened with Federal regulators on behalf of Lincoln because Mr. Keating contributed to their campaigns or causes are Alan Cranston of California, Donald W. Riegle Jr. of Michigan, John Glenn of Ohio and John McCain of Arizona. All but Mr. McCain are Democrats.

Mr. DeConcini's testimony was marked by clashes between the Senator and his lawyer and lawyers for the Ethics Committee and Mr. McCain.

After Mr. DeConcini suggested that Mr. McCain was getting more favorable treatment from the panel, Mr. McCain's lawyer, John Dowd, asserted: "What are you saying, Senator DeConcini? Are you trying to get even with Senator McCain?"

"I'm not trying to get even with him at all," Mr. DeConcini said.

Earlier today, Mr. Dowd complained that Mr. DeConcini had received material from a former aide to Mr. Keating that was potentially damaging to his client, but that Mr. DeConcini had failed to give Mr. McCain the material.

An Appeal to Ethics Panel

At one point, James Hamilton, Mr. DeConcini's lawyer, appealed to the committee to stop the questioning of his client. "We've gone on way too long, Mr. Chairman," he said, "and it's time to stop it. We're scraping the bottom of the barrel."

Mr. DeConcini lashed out at Edwin J. Gray, who preceded Mr. Wall as head of the bank board, for waiting two years to speak out against the five Senators. Mr. DeConcini said Mr. Gray sought to blame the Senators once the seriousness of the savings and loan crisis became clear.

"Now he had to shift the blame," Mr. DeConcini said, "and what does he do? He tries to shift the blame to five distinguished Senators.

"All of a sudden," the Senator said mockingly, Mr. Gray was "incensed about this terrible, naughty conduct of Senators."

Griffin B. Bell, Attorney General under President Carter, testified today on Mr. DeConcini's behalf, saying he was not intimately familiar with the case but that in reviewing a transcript of a meeting where Mr. DeConcini was accused of pressuring regulators, "I didn't see anything untoward."

Mr. Bell also reminded the six-member panel that the Keating case was not a clearcut case of impropriety. "You aren't dealing with an automobile accident," said Mr. Bell, a director of the Ethics Resource Center, a private nonprofit group that studies ethical issues in business and government. "You're dealing with something much more complicated."

GRAPHIC: Photo: Former Attorney General Griffin Bell, who is to be called today as a defense witness before the Senate Ethics Committee. (The New York Times)

LANGUAGE: ENGLISH

LEVEL 2 - 44 OF 47 STORIES

The Associated Press

January 10, 1991, Thursday, PM cycle

SECTION: Washington Dateline

LENGTH: 917 words

HEADLINE: DeConcini Says He Didn't Cross Ethical Line

BYLINE: By WILLIAM M. WELCH, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Arizona Sen. Dennis DeConicini said today his chief accuser in the Keating Five case tried to shift blame for the savings and loan scandals away from himself and onto the so-called Keating Five senators.

DeConcini told the Senate Ethics Committee that Edwin J. Gray, former head of the Federal Home Loan Bank Board, had done an inadequate job of handling S&L failures even before the crisis in the industry.

He said Gray then tried to shift blame to the senators by complaining in public that they had put undue pressure on him, two years after the senators met with Gray and other regulators on behalf of Charles H. Keating Jr.'s Lincoln Savings and Loan.

"Now he has to shift the blame, and what does he do, he tries to shift the blame to five distinquished senators," DeConcini said.

Gray has been the chief accuser of the senators, who are under investigation for allegations they improperly intervened with regulators on behalf of Keating, a major financial contributor. Gray has testified that DeConcini led efforts to negotiate a deal with regulators on behalf of Lincoln.

DeConcini's questioning was interrupted so the committee could question Griffin Bell, former attorney general in the Carter administration, who appeared as a witness for the Arizona Democrat.

Bell, also a former federal appeals judge, said he reviewed notes of the April 9, 1987, meeting the five senators held with federal regulators and found nothin improper in the senators' actions. He said they reacted properly when told the regulators were recommending criminial investigation of Lincoln, and faulted the regulators for not telling them sooner.

"I not only didn't find any impropriety, I thought it was very proper that when the discovered these people had referred this to the Justice Department, they began to end the meeting and get out," Bell said.

The Associated Press, January 10, 1991

DeConcini, testifying for a second day in his own defense in the Keating Five case, acknowledged that he called California authorities to urge they permit sale of Lincoln just days before federal regulators seized the California-based thrift insitution.

But he clashed with committee special counsel Robert S. Bennett, accusing him of relying on hearsay accounts of his contact.

"It's just absurd, Mr. Chairman," DeConcini protested to committee chairman Howell Heflin, D-Ala., who overruled the objections.

DeConcini said he was trying to avoid a government takeover of Keating's Lincoln Savings and Loan and wanted to see if the state regulators planned to try to block a sale of the California-based Lincoln.

DeConcini said he made the calls after the top federal regulator, M. Danny Wall, suggested there were "other players" involved in the decision. He said he recalled Wall mentioning California regulators.

DeConcini made the call in April 1989, before the government seized Lincoln on April 14. Federal regulators had rejected Keating's bid to sell Lincoln, ruling that the proposed buyers were actually Keating-associated insiders.

DeConcini, D-Ariz., faced a second day of questioning before the Senate Ethics Committee today after insisting Wednesday that his conduct was activist but ethical.

Bennett's deliberate questioning of DeConini sparked complaints from members of the ethics panel and defense attorneys that he was moving too slowly and focusing on minor events.

"We've gone on way too long, Mr. Chairman, and it's time to stop it," said James Hamilton, DeConcini's attorney. "We're scraping the bottom of the barrel."

"I know where the line is and I did not cross it," DeConcini maintained. "I'm very satisfied I violated no rule, no spirit of any rule."

DeConcini is the fourth and final member of the so-called Keating Five senators to undergo public examination in the ethics panel's investigation into whether the lawmakers acted improperly on behalf of Keating.

Keating, whose Lincoln Savings and Loan collapsed at a cost to taxpayers of more than $$2 billion, raised or contributed $$1.3 million to the campaigns and related political causes of the five senators.

The fifth senator, California Democrat Alan Cranston, has been excused from public questioning because he is undergoing treatment for prostate cancer.

In his initial testimony, DeConcini denied a key allegation leveled against him: that he sought to negotiate a deal with federal regulators on behalf of Keating, a Phoenix financier.

Gray testified that DeConcini tried to broker such a deal to win a waiver of a rule limiting Lincoln's ability to make risky speculative investments.

But DeConcini said that in a meeting on April 2, 1987, with Gray and three other senators, he never got to that issue because Gray insisted he knew nothing about Lincoln.

"Mr. Gray refused to talk to us about Lincoln," DeConcini said. "We didn't get around to anything of substance."

DeConcini contended Gray knew more than he acknowledged about Lincoln and that it "makes my blood boil" that Gray withheld information.

He denied a contention by his Arizona colleague, Republican Sen. John McCain, that the two had an agreement to limit the agenda of the meeting with Gray.

DeConcini also disputed suggestions by Gray and others that he or someone in his office spread the word that no staff aides were allowed in the meeting.

He said he thought he had McCain's authorization to use his name in issuing a written invitation to Sen. Donald Riegle, D-Mich., to attend a second meeting with regulators. McCain said he did not authorize his name to be used.

GRAPHIC: LaserPhoto WX8

LANGUAGE: ENGLISH

LEVEL 2 - 45 OF 47 STORIES

The New York Times

January 10, 1991, Thursday, Late Edition - Final

SECTION: Section D; Page 22; Column 5; National Desk

LENGTH: 817 words

HEADLINE: DeConcini Is Adamant On His Help for Keating

BYLINE: By RICHARD L. BERKE, Special to The New York Times

DATELINE: WASHINGTON, Jan. 9

BODY:

Senator Dennis DeConcini told the Senate Ethics Committee today that his intervention with Federal regulators on behalf of Charles H. Keating Jr. was "not only a right but an obligation."

The Arizona Democrat said he and four other Senators should not be judged by how their conduct might be publicly perceived.

Mr. DeConcini sharply took issue with the "appearance standard," which the committee's special counsel, Robert S. Bennett, said the panel should apply in deciding whether the five Senators did favors for Mr. Keating's Lincoln Savings and Loan Association in return for political donations. Under that standard, Mr. Bennett said, lawmakers should be judged as to whether their conduct would appear to be improper to a reasonable, well-informed person.

"You cannot afford to be terrorized by an appearance standard that would prohibit somebody from intervening for some special interest," Mr. DeConcini said. "You have to have the courage to stand up to the Government when they're wrong, and you have to have the courage to tell the constituent if you think the Government is right."

Denies Bid to Set Up a Deal

Mr. DeConcini acknowledged that he was particularly vocal during two meetings in his office in April 1987 with the Senators now under investigation and Federal regulators. But he disputed regulators' testimony that he sought to negotiate a deal in which they would withdraw a Federal regulation that would limit Lincoln's ability to make speculative investments.

"I know where the line is," Mr. DeConcini said, "and I did not cross it. This was not negotiating, and I think it's very clear."

Mr. DeConcini was the last of the five Senators to appear before the Ethics Committee over allegations that they improperly intervened with regulators on behalf of the troubled Lincoln because Mr. Keating was a major contributor to their campaigns or causes. Lincoln was seized by the Federal Government in 1989.

The other Senators under investigation are Alan Cranston of California, Donald W. Riegle Jr. of Michigan, John Glenn of Ohio and John McCain of Arizona. Mr. McCain is the only Republican.

Senator Howell Heflin, an Alabama Democrat who is chairman of the panel, announced that he expected the proceedings to end next Wednesday with closing arguments from Mr. Bennett and the Senators' lawyers. After that, the committee will deliberate over whether any of the five Senators violated Senate rules and whether they should be punished.

Throughout a day of answering questions from his lawyer, James Hamilton, and Mr. Bennett, Mr. DeConcini was far less combative than when he appeared before the committee in November to deliver an opening statement.

Rankled at Being Pressed

But at times he was clearly rankled by Mr. Bennett's repeatedly asking whether he traded favors for contributions, to the point of complaining that "questions are being asked as a prosecutor."

Mr. DeConcini, a former county prosecutor, insisted he had helped Lincoln because Mr. Keating's corporate headquarters was in Phoenix and the businessman complained that regulators were treating the savings and loan harshly. Even though Mr. Keating was on the DeConcini campaign's finance board, the Senator said contributions had nothing to do with his efforts.

"I am an activist and I do intervene," he said.

Appealing to the five Southerners on the six-member ethics panel, Mr. DeConcini likened his efforts on behalf of Mr. Keating and other constituents to Southerners who took a leading role in the civil rights struggle by intervening in segregation cases.

Citing another example of his dedication to Arizonans, Mr. DeConcini said he had performed constituent service for a onetime opponent, former Representative Sam Steiger, a Republican who he said was "mean and hateful" to him in during the campaign of 1976, when Mr. DeConcini was first elected to the Senate.

In the Lincoln case, Mr. DeConcini said he called Edwin J. Gray, then head of the Federal Home Loan Bank Board, to ask him to meet with the Senators at the first of two pivotal meetings in April 1987. The Senator said Mr. Keating had asked him to arrange the meeting.

Mr. DeConcini said he called Mr. Gray only after Mr. Riegle told him it would be a "good idea." Mr. Riegle, who is now chairman of the Senate Banking Committee, told the ethics panel this week that he had no recollection of the conversation but did not dispute that it took place. Mr. DeConcini also denied testimony that he suggested that the other Senators not bring their aides to the meetings.

Reflecting a growing impatience among some of his colleagues on the ethics panel about the length of the hearings, which began Nov. 15, Senator David Pryor, Democrat of Arkansas, complained near the close of today's session: "I'll be honest with you. I can't concentrate any longer. My mind is somewhere else at this point."

LANGUAGE: ENGLISH

LEVEL 2 - 46 OF 47 STORIES

The Washington Post

January 10, 1991, Thursday, Final Edition

SECTION: FIRST SECTION; PAGE A5

LENGTH: 884 words

HEADLINE: DeConcini: Appearance of Impropriety Should Not Bar Constituent Aid

SERIES: Occasional

BYLINE: Helen Dewar, Washington Post Staff Writer

BODY:
Sen. Dennis DeConcini (D-Ariz.) told the Senate ethics committee yesterday that lawmakers should not have to worry about an appearance of impropriety if it keeps them from helping home-state "special interests" that have been wronged by government.

"You can't afford to be terrorized by an appearance standard that would prohibit somebody from intervening for some special interest in their state, [such as] some agricultural interest in their state, that is not getting a fair shake," DeConcini said in response to questions about his ethical standards.

A key question before the ethics panel is whether to consider appearances as well as actual conduct in weighing the cases of five senators who intervened with federal regulators on behalf of savings and loan executive Charles H. Keating Jr. Keating raised more than $ 1.3 million for their campaigns and causes during the period in which he was seeking their help.

Keating's Lincoln Savings and Loan was located in California, but Keating lived in Arizona, where Lincoln's now-bankrupt parent corporation, American Continental, was headquartered. Keating raised $ 31,000 for DeConcini's 1982 campaign and $ 48,000 for his 1988 reelection campaign. The S&L executive also served on DeConcini's campaign finance committee in 1988.

In addition to DeConcini, the senators under investigation by the committee are Alan Cranston (D-Calif.), John Glenn (D-Ohio), John McCain (R-Ariz.) and Donald W. Riegle Jr. (D-Mich.). The committee is hearing final testimony by the senators and is expected to wind up two months of hearings in the case next week.

Robert S. Bennett, the committee's special counsel in the case, has argued that an appearance of wrongdoing undermines public confidence in the Senate's integrity and may constitute a violation of its ethical standards. Apparently relying on both conduct and appearance standards, Bennett recommended last year that the committee proceed with probes of Cranston, DeConcini and Riegle but take no further action against McCain and Glenn.

But the committee has not indicated how broadly it interprets the standards, and some of the five senators, including Riegle in testimony earlier this week, have said lawmakers should not be disciplined for improper appearances if their conduct was proper.

In testimony that is expected to continue today, DeConcini repeatedly denied any improper conduct, including his intervention on Keating's behalf.

"I know where the line is, and I don't cross it," he said, saying the line is drawn at such things as taking gifts in exchange for legislative favors or threatening or taking retaliatory action.

"But I am an activist and I do intervene. . . . I believe the government is wrong sometimes, and we [Congress] are the last resort" for constituents who have a grievance against their government, he said. A lawmaker must "have the courage to stand up to government when it is wrong and to tell a constituent when you think it is right," he added.

One of the key points at issue in DeConcini's case is whether he attempted to negotiate a deal on Lincoln's behalf at two meetings that the senators held with thrift regulators in his office in April 1987. Some of the regulators said he had proposed a deal in which the regulators would ease up on investment restrictions in exchange for Lincoln's agreement to make more home mortgage loans and described the atmosphere of the meeting as intimidating.

DeConcini denied attempting to negotiate a deal for Lincoln, saying the senators were in no position to do so because they did not even know what the regulators' position was.

Even if he had chosen to negotiate on Lincoln's behalf, it would not have been improper, DeConcini asserted. "I know of no rules that you can't negotiate on behalf of a constituent . . . but this was no negotiation," he said.

When his attorney, James Hamilton, asked whether anything occurred that would have been intimidating to the regulators, DeConcini replied, "Of course not." Several of the regulators, including Edwin J. Gray, former chairman of the Federal Home Loan Bank Board, described the atmosphere of the meetings as intimidating.

In sometimes testy responses to questions from Bennett, DeConcini referred to him as the "special prosecutor," as he did when he presented his opening statement to the panel in November.

Disagreeing with his colleagues on some key points, DeConcini suggested that Riegle played more of a role in laying the groundwork for the first meeting with regulators than he portrayed in testimony Monday. After Keating suggested that he contact Gray about setting up a meeting with senators, DeConcini said he asked Riegle for his view and quoted Riegle as saying he thought it was a "good idea." Riegle has denied any role in setting up the first meeting, which he did not attend. He attended the second meeting a week later.

Although McCain indicated he had reservations about the meeting, DeConcini said he got just the opposite impression. In opening questions about his social relations with Keating in Arizona, Hamilton also asked DeConcini if he had ever taken trips with Keating, a reference to trips taken by McCain and his family on Keating's corporate airplanes. No, DeConcini responded, he had taken no such trips.

LANGUAGE: ENGLISH

LEVEL 2 - 47 OF 47 STORIES

The Associated Press

January 9, 1991, Wednesday, AM cycle

SECTION: Washington Dateline

LENGTH: 780 words

HEADLINE: DeConcini Denies Negotiating On Keating's Behalf

BYLINE: By LARRY MARGASAK, Associated Press Writer

DATELINE: WASHINGTON

BODY:
Sen. Dennis DeConcini said Wednesday he did not negotiate with thrift regulators on behalf of Charles H. Keating Jr. when the political donor's S&L was in serious trouble.

"I know where the line is and I did not cross it," the Arizona Democrat told Senate Ethics Committee hearings investigating his conduct and that of four Senate colleagues.

Contradicting testimony of several regulators, DeConcini said he never attempted to strike a deal for Keating's thrift that would have withdrawn a rule limiting speculative investments.

Keating's Lincoln Savings and Loan, which specialized in such investments was seized by the government at a potential bailout cost of more than $$2 billion.

"I'm very satisfied I violated no rule, no spirit of any rule," the Democratic senator said under questioning from his attorney, James Hamilton.

DeConcini was the last senator to testify in his own defense in the committee investigation of the five senators, who received $$1.3 million from Keating and associates for their campaigns and causes.

The panel wants to know whether there was a connection between the money and the intervention - a link all the senators vigorously denied.

In addition to DeConcini, D-Ariz., who received $$48,000 from Keating and associates, the other senators under investigation are: John McCain, R-Ariz.; John Glenn, D-Ohio; Alan Cranston, D-Calif. and Donald W. Riegle Jr., D-Mich.

The hearings, which began Nov. 15, are scheduled to end next Wednesday with closing arguments, committee Chairman Howell Heflin, D-Ala., announced.

DeConcini on Wednesday not only defended his own conduct, but renewed an accusation that committee special counsel Robert S. Bennett was acting as a prosecutor.

Continuing an attack that he leveled at the beginning of the hearings, DeConcini said "questions are being asked as a prosecutor. I've been in that seat before," said the senator, who was once a county prosecutor in Arizona.

DeConcini said he only intervened for Keating to ensure fair treatment for a constituent, since the businessman's corporate headquarters was in Phoenix. Keating complained that regulators were prejudiced against Lincoln.

The senator said he has repeated similar service for many constituents, contributors and non-contributors alike, because "I'm an activist" and "I think the government does make a lot of mistakes. We are the place to go to, the members of Congress."

"You cannot afford to be terrorized by an appearance standard that would prohibit somebody from intervening for some special interest in their state," DeConcini said, referring to instances where intervention may appear wrong in other parts of the country.

DeConcini said he called the top thrift regular, Edwin J. Gray, to meet with senators about Lincoln on April 2, 1987.

The senator said Keating had called him to request such a meeting.

But DeConcini said he told Keating: "I was not really the guy to put together a meeting. He said he had other senators (to arrange the meeting) and would get back to me," DeConcini said.

DeConcini said he called Gray only after conferring with Riegle, who said a meeting would be a "good idea." Riegle was then a member and is now chairman of the Senate Banking Committee.

A former Keating lobbyist said it was Riegle who conceived of the session, but the senator has denied it. Riegle said he does not recall talking to DeConcini about the meeting but accepts DeConcini's version of the conversation.

Gray testified that at the April 2 meeting, DeConcini tried to negotiate a deal for Lincoln that included withdrawal of the risky investment rule. All the senators except Riegle attended the meeting.

A week later, all five senators met with four regulators and learned that criminal referrals would be made against Lincoln.

"We were not in position to offer a settlement agreement," DeConcini said. "We were not in position to negotiate. We didn't know what their (the regulators) position was."

Bennett asked DeConcini why he didn't confront Keating with the serious allegations against Lincoln made by the regulators.

"I was under some very strong directions," DeConcini responded. "I felt that the information that the bank board regulators had given us, not only as to criminality, was somewhat sensitive and maybe confidential."

Asked by Hamilton if it would have been proper to negotiate for a constituent, DeConcini said, "I know of no rule that you can't negotiate on

behalf of a constituent.

There are some limits of what you can do. You can't retaliate (against an agency), you can't threaten and you can't accept gifts."

But he added, "This was not negotiating and I think it's very clear."

LANGUAGE: ENGLISH