

United States Court of Appeals  
For the District of Columbia Circuit  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Division for the Purpose of **FILED** SEP 29 1997:  
Appointing Independent Counsels

Ethics in Government Act of 1978, As Amended **Special Division**

In re: Madison Guaranty Savings  
& Loan Association

Division No. 94-1

UNDER SEAL

MOTION OF THE INDEPENDENT COUNSEL  
FOR PUBLIC RELEASE OF REPORT  
ON THE DEATH OF VINCENT W. FOSTER, JR.

The Office of Independent Counsel In re: Madison Guaranty Savings & Loan Association (Kenneth W. Starr) respectfully requests that this Court authorize public release of the OIC's report on the death of Vincent W. Foster, Jr., with an appendix that includes comments submitted by Helen Dickey and Kevin Fornshill.

1. Section 594(h)(2) of title 28 states: "The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division of the court considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report."

Pursuant to this subsection, the OIC respectfully requests that the Court authorize public release of the OIC's report regarding the death of Vincent W. Foster, Jr. No party has opposed public release of the report. In addition, previous law

enforcement and congressional reports on Mr. Foster's death have been publicly released (including one prepared by regulatory independent counsel Fiske). Moreover, as the Court is aware, there has been substantial congressional and public interest in the subject matter of the OIC's report on this investigation and in the report's release. In addition, this Court has authorized public release of previous independent counsel reports on investigations known to the public. Finally, the OIC has taken great care in the report to safeguard the privacy and other rights of individuals named in the report. For these reasons, public release of the OIC's report on this matter is "appropriate" and in the public interest.

2. Section 594(h)(2) of title 28 further provides: "The division of the court may make any portion of a final report filed under paragraph (1)(B) available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such final report."

a. The Court made the report available to persons named in the report for comments, and only two persons named in the report, Kevin Fornshill and Helen Dickey, submitted comments. The OIC agrees with them that inclusion of their letters in an appendix would be appropriate under the statute.

b. A third person, Patrick Knowlton, has submitted an 11-page, single-spaced letter together with nine additional pages of exhibits. For the reasons stated in a separate response filed today, the OIC believes that Knowlton's letter and exhibits should not be included in an appendix. ←

2nd Reuest by Starr not to include the evidence.

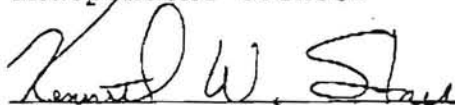
3. The OIC proposes to make the following minor changes to the report before it is publicly released. On page 52, footnote 147, the word "Attorney" would be deleted. On page 66, line 16, "Those" would be changed to "Many." On page 91, line 2, "in Washington" would be added after "briefcase used." None of these proposed clarifications would alter the meaning or substance of the report or be in any way inconsistent with the language or intent of 28 U.S.C. § 594(h).

\* \* \*

If the Court authorizes public release of the report, the OIC will coordinate promptly with the Clerk of the Court and the Government Printing Office regarding publication of the report (and public notice of its availability). See 28 U.S.C. § 594(h) (3).

Respectfully submitted,

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September 29, 1997