

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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IN RE GRAND JURY PROCEEDINGS  
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Misc. No. 98-55 (NHJ)  
(consolidated with Misc.  
No. 98-177 and Misc. No.  
98-228)

AFFIDAVIT OF DAN E. MOLDEA

I, Dan E. Moldea, hereby state as follows:

1. I am over eighteen years of age, and I am competent to give this statement based upon my personal knowledge.

2. I have been an independent crime reporter since 1974. I have written for numerous publications, and I am the author of seven non-fiction books: The Hoffa Wars: Teamsters, Rebels, Politicians, and the Mob (Paddington Press, 1978); The Hunting of Cain: A True Story of Money, Greed, and Fratricide (Atheneum, 1983); Dark Victory: Ronald Reagan, MCA, and the Mob (Viking Press, 1986); Interference: How Organized Crime Influences Professional Football (William Morrow, 1989); The Killing of Robert F. Kennedy: An Investigation of Motive, Means, and Opportunity (W. W. Norton, 1995); Evidence Dismissed: The Inside Story of the Police Investigation of O.J. Simpson, with Tom Lange and Philip Vannatter (Pocket Books, 1997); and A Washington Tragedy: How the Death Of Vincent Foster Ignited a Political Firestorm (Regnery Publishing, 1998)

3. I have never misquoted a source. I have never revealed

a confidential source--without authorization from the source. I have never taken an off-the-record interview and put it on the record. Also, I have never missed a deadline. Even though I am a long-time writers' rights activist, I do not believe that the U.S. Constitution is a mere appendage to the First Amendment.

4. I am a liberal Democrat, a former visiting fellow at the Institute for Policy Studies (1981-1986), and the author of a 1986 book critical of President Ronald Reagan. I supported Bill Clinton in 1992 and 1996, but I have never contributed money to or participated in any of Mr. Clinton's election campaigns.

5. Other than A Washington Tragedy and those activities related to this book, I have never reported on or published anything about President Clinton or the Clinton Administration.

#### Background

6. During the spring of 1997, I was approached by conservative publisher Alfred Regnery of Regnery Publishing, which had previously released several anti-Clinton titles, to write a book about the death of Vincent Foster--a subject for which, I had no previously-stated interest.<sup>1</sup>

7. Regnery offered me a standard author's contract and a \$100,000 advance against future royalties. Half of this sum was paid upon the signing of the contract; the other half was to be

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<sup>1</sup> Before approaching me with the Foster project, Regnery had rejected two earlier book proposals about Foster and the Clinton White House from Linda Tripp and Mark Fuhrman, both of whom were represented by literary agent Lucianne Goldberg.

paid upon acceptance of the completed manuscript. My deadline for this book was December 31, 1997. I met that deadline-- although I continued to make additions and corrections during the editing process until January 29, 1998.

8. In A Washington Tragedy, which was released in mid-April 1998, I concluded, among other things, that right-wing groups and individuals, financed by Richard Scaife, were falsely trying to portray Foster's suicide as a murder in an effort to undermine the authority of the Clinton White House. Although this thesis caused considerable problems between Regnery's staff and me, Alfred Regnery and his executive editor, Harry Crocker, came to my defense, insisting that the book be published exactly as I had written it.

9. During the research for this book, I interviewed numerous law-enforcement sources. As part of this process, I developed contacts within the Office of the Independent Counsel, which is headed by Kenneth Starr, the independent counsel who had replaced Robert Fiske on August 5, 1994.<sup>2</sup>

10. I consider two of these OIC staffers to be confidential

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<sup>2</sup> On February 18, 1994, a three-judge panel of the U.S. Court of Appeals for the D.C. Circuit ruled in my favor in a libel case that my attorney and I had brought against The New York Times. On March 21, then-private attorney Kenneth Starr filed an amicus brief against us, which preceded an unprecedented reversal by the same three-judge panel on May 3, which the U.S. Supreme Court let stand the following October.

Despite this encounter, I have never harbored any grudge against Starr, for whom my attorney and I had great respect. In fact, I believe that any reasonable person would agree that I was extremely fair to Starr in my book, A Washington Tragedy--even though I was critical of the manner in which Fiske was fired and Starr was hired for the job as independent counsel.

sources, because we agreed in advance to keep our conversations off the record. I refer to them in this affidavit as OIC #1 and OIC #2.

### On Taping Conversations

11. I secretly tape recorded my separate telephone calls with Starr's two chief deputies, Hickman Ewing and Jackie Bennett--who did not ask that our conversations be off the record--for the same reasons that I tape any other source with whom I have had no prior working relationship.<sup>3</sup>

12. I have been an independent journalist for the past twenty-four years, during which time I have written seven controversial non-fiction books. During the vetting process for each book, I am always prepared to defend my work for my publishers' attorneys, most of whom are generally more inclined to cut disputed material rather than to keep it in the manuscript. Consequently, I must be able to prove what I write and quote.<sup>4</sup>

13. Even though I routinely give my sources the opportunity to approve--and even amend and expand upon--their quoted words, I

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<sup>3</sup> The calls to Ewing and Bennett were tape recorded from my home in Washington, D.C., a jurisdiction where one-party consent is required; I was the consenting party.

<sup>4</sup> The outside counsel for Regnery Publishing is Bruce Sanford of Baker & Hostetler. Ironically, Sanford had been the lead attorney against me in my libel case, Moldea v. New York Times. Although I always carefully document my work, I went over the top with A Washington Tragedy in anticipation of my vetting session with Sanford, which never did occur.



do, on occasion, legally tape record interviews with key sources, sometimes without their knowledge. Often, when I memorialize conversations, I am doing so in lieu of keeping up with the source during my note-taking process. I occasionally tape secretly, when legal, in order to prevent inhibiting the source from expressing himself freely.

14. On four previous occasions, I have used the tapes during legal proceedings when the accuracy of my reporting has been challenged. In each case, the tapes corroborated what I had written or said.

15. In short, a tape-recorded conversation protects the source, ensuring that he or she is accurately quoted, and protects me, as the reporter, if the source denies the quote.

#### The OIC and the Starr Report

16. The OIC had released its formal report--known as the Starr Report, which confirmed Foster's suicide--on October 10, 1997. I read the report closely and included a lengthy chapter in my book about its findings, which I, for the most part, supported but already knew from my own investigation.

17. In fact, I had reached out to the OIC, because I was interested in the story behind the Starr Report, as well as those facts uncovered regarding Foster's activities, state of mind, and the controversies in the aftermath of his death that were not detailed in this report. These matters included untold facts about Foster's career and personal life, as well as his

involvement in Whitewater-related activities, such as the Castle Grande real-estate scheme and the RTC criminal referrals, which were the subjects of grand jury investigations by the OIC in Washington and Little Rock. I also wanted a high-ranking official from the OIC to read portions of my manuscript to ensure that the material was fair and accurate.

18. In endnote 77 of Part Four on page 444 of A Washington Tragedy, I wrote about the post-Starr Report period, saying:

"Actually, though, Kenneth Starr has not yet closed the book on Vincent Foster, promising a further analysis of the events that took place in Foster's office during the week after his death, as part of his anticipated report on Whitewater-related activities."

19. By contacting the OIC and seeking the cooperation of its prosecutors, I was hoping to avoid being blindsided by the publication of a second Starr report--which would reveal new information, including grand jury material about Vincent Foster--after the completion of my book.

#### OIC #1

20. In pursuit of new information collected by the OIC's sources, which might be contained in a second Starr report, I received an introduction to a former attorney in the OIC--whom I call OIC #1--who had been directly involved in the grand jury probe of Foster's death. He said that he was willing to provide much of the information I was seeking. However, he never mentioned anything to me about revealing actual grand jury material, and I never asked for it.

21. Before telling me anything, OIC #1 explained that he had to receive permission from his one-time supervisor, Hickman Ewing, Starr's chief deputy. Later, OIC #1 called, gave me Ewing's telephone number in Little Rock, and instructed me to call him. OIC #1 said that Ewing, personally, wanted to speak with me.

22. As directed by OIC #1--whom I did not speak to again--I telephoned Ewing on November 25, 1997. He was not in, so I left a message on his voice mail, asking him to return my call.

#### The Conversation with Hickman Ewing

23. On December 10, over two weeks after my call, Ewing finally telephoned me from his office in Little Rock. This was the first and only conversation I had with him.

24. Ewing was never a source of mine during my investigation. He never provided me with any inside information about the OIC's investigations. However, he did give me the process by which source information from the OIC may be obtained.

25. I am in possession of a true and accurate transcript of my December 10, 1997, conversation with Ewing (**Attachment A**)-- although I have removed the names of and discussions about OIC #1 and OIC #2 in order to protect their identities. Also, the initial salutations from both Ewing and me are not on this transcript, because I did not begin taping the conversation until Ewing had identified himself. The tape and transcript are otherwise true and accurate replications of my conversation with

Ewing. Like the transcript, the tape has been modified to protect the identities of OIC #1 and OIC #2.

26. During this discussion, Ewing told me that:

a. a great deal of material discovered during the OIC's investigation had not been revealed in the Starr Report. I made it clear to Ewing that I wanted as much of that information as possible;

b. OIC attorneys, including Ewing, spoke freely with reporters and those doing reviews about two earlier-published books about the Foster case, both of which questioned whether Foster had committed suicide. Ewing explained that the purpose of these communications was to give reviewers the OIC's spin on key issues. Ewing also said that he had spoken to both of the authors--Christopher Ruddy, who wrote The Strange Death of Vincent Foster<sup>5</sup>, and Ambrose Evans-Pritchard, who wrote The

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<sup>5</sup> On page 246 of his book, Ruddy, who published numerous articles in the Pittsburgh Tribune-Review about the Starr grand jury, wrote:

"On the Foster side of Starr's inquiry, his office has fed the press a steady diet of leaks that his investigation was all but closed and a report was due shortly. Those reports began with the Scripps-Howard story of January 1995 that appeared on the front page of the Washington Times. Similar leaks and false news reports continued for more than two years."

On August 3, 1995, Ruddy published an article, "Indictments Against Former Clinton Partners in Offing," in which he detailed the pending grand jury indictments of Jim and Susan McDougal, as well as Jim Guy Tucker, which were handed up on August 17. In this article, Ruddy cited "a source close to the investigation."

However, on page 285 of his book, Ruddy went into further detail about his knowledge of grand jury activity, writing:

"In August 1995 I reported in the Tribune-Review that, based on sources close to the Starr investigation, it was highly unlikely that Starr would be able to indict the Clintons on any wrongdoing related to Whitewater, because [David] Hale was the only credible witness they had to implicate Clinton in the bank

Secret Life of Bill Clinton<sup>6</sup>--in an effort to address their particular criticisms of the OIC's investigations prior to the release of the Starr Report;

c. the conversations which the OIC had with writers were, for the most part, off the record, and that the OIC provided information beyond what was stated in the Starr Report;

d. those writers receiving most-favored status were those who were judged to be in agreement with the OIC's positions. Ewing said he spoke more freely with writers "when we heard where they're coming from."

27. Ewing specifically said that he wanted to speak with me; however, he explained that Kenneth Starr, personally, would have to approve his cooperation. Ewing gave me the impression that Starr had to approve any journalist who sought information from the OIC--even if Starr did not have any direct contact with the reporter--before the OIC would provide any information.

28. Ewing added that Starr was expected to arrive at their Little Rock office in about thirty minutes. Near the conclusion

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fraud, and 'Hale versus the president is not going to fly,' one prosecutor told me, indicating Starr would need much more corroboration to indict the president."

<sup>6</sup> On page 152 of his book, Evans-Pritchard wrote:

"It sometimes appeared the Starr team had spent more time spinning the media than actually investigating the Foster case. While the Washington office was leaking that the suicide report was coming, the Little Rock office was craftily leaking a very different story. Hickman Ewing, the Deputy Independent Counsel for the South--well-advertised as a Baptist, teetotaler, incorruptible prosecutor--was sent out as an ambassador to the 'Foster crazies' to assure them that the matter was still being investigated seriously."

of my conversation with Ewing, he told me that he would call me back later that day--after he had talked to Starr. However, Ewing never called. I considered this a breach of good faith.

29. After not hearing from Ewing for a month, during which time I had submitted my manuscript about Foster's suicide to my publisher, I called Ewing on January 9, 1998, and left a message on his voice mail. He did not return my call. I also called OIC #1, who had initially instructed me to call Ewing. He, too, did not return my call.

#### The Conversation with Jackie Bennett

30. On or about January 9, 1998, during my conversation with Al Regnery about the Foster book, he asked me if I had interviewed Kenneth Starr. After I explained my problems with Ewing, Regnery volunteered to call Starr, his close friend and former colleague from their days in the Reagan Justice Department. Later that day, Regnery called and told me that Starr had suggested that I contact his deputy, Jackie Bennett, at the OIC. Immediately, I called Bennett and left a message at his office.

31. On January 12, 1998, I spoke with Bennett during a telephone conversation, which I tape recorded.

32. I am in possession of a true and accurate transcript of my conversation with Bennett (**Attachment B**), as well as a true and accurate tape recording of my conversation with Bennett.

33. I asked Bennett for a meeting with Kenneth Starr, even

if it was just a twenty-minute courtesy call. Bennett, who said that he had already talked to Starr about me, said that he could arrange the meeting, but that, because of my tight editing deadline and Starr's busy schedule, if I was looking for "substantive information," there were others in the office who were better prepared to provide it. He offered to arrange for me to talk to one of these "substantive information" people before I talked to Starr, which would save time.

34. In fact, when Bennett specifically asked me if I was looking for "substantive information," I replied that I was not. Yet, he offered it to me anyway--as is indicated in the following exchange:

Moldea: I wanted to come and pay my respects to the independent counsel--and spend, maybe, twenty minutes with him, asking him a few questions.

Bennett: Okay. That's really why I was calling. I talked to Judge Starr about this. And the question I had was, sort of, the ground rules: that this is just, you know, coming by as a courtesy. It's . . .

Moldea: It's to pay--It's a respect call.

Bennett: It's not looking for substantive information--

Moldea: No.

Bennett: --Because if you are, then there are other people who really are better to talk to. (1.23-39)

35. Soon after, Bennett offered to make "the substantive person or people" available to me--prior to arranging my meeting with Starr.

36. Like Ewing, Bennett did not provide me with any specific source information--only a process for developing

sources with "substantive information" within the OIC.

**What Is "Substantive Information"?**

37. I understood Bennett's offer of "substantive information" as a reference to non-public information, including material collected from the grand juries in Little Rock and Washington.

38. The term "substantive information" in reference to the OIC was later used by The Washington Post and The New York Times in the following contexts:

a. On February 7, 1998, The Washington Post--reporting allegations of OIC leaks, leveled by David Kendall, President Clinton's personal attorney--stated:

"Kendall follows with 50 excerpts of broadcast and published reports from various media organizations, including The Washington Post, in which **substantive information** is attributed to unnamed prosecutors, investigators and 'sources close to the investigation.'" (Emphasis added)

b. On June 14, 1998, The New York Times, reporting on Steven Brill's allegations that Starr had admitted the leaks to him, wrote:

"Kenneth W. Starr, the independent counsel investigating President Clinton, has acknowledged in a magazine interview that he and his aides have given information on the Monica Lewinsky matter to reporters.

"But he also insisted that these leaks were neither illegal, because they did not involve testimony before a grand jury, nor a violation of Justice Department ethics barring leaks of '**substantive information**' about a prosecution. In the interview with the magazine, Brill's Content, Mr. Starr defended his actions as necessary 'to engender public confidence in the work of this office.'" (Emphasis added)

39. Reading The Times's story, I was disturbed by the fact



that Starr's denial about releasing "substantive information" was in direct contradiction to what Bennett had offered me.

#### OIC #2

40. Bennett arranged for me to speak with a former OIC attorney, whom I refer to herein as OIC #2. We met on January 19, 1998, and, as with my conversations with OIC #1, we agreed to speak off the record. As with OIC #1, I consider OIC #2 to be a confidential source.<sup>7</sup> OIC #2 gave me information I did not have before this meeting--during which I also admitted my support for the President and Hillary Clinton, as well as my previous encounter with Kenneth Starr.

41. On January 20, 1998, after my conversation with OIC #2, I called Bennett's office to ask him to arrange the promised meeting with Starr. Bennett did not return my call; we did not speak to each other again.

#### Kendall Alleges Leaks from the OIC; Starr Replies

42. On January 21, 1998, the day after my follow-up call to Bennett, The Washington Post published allegations that President Clinton had engaged in a sexual relationship with Monica S. Lewinsky, a former White House intern, who had been set up in concert with the OIC by her former friend, Linda Tripp. The Post's article ignited a political firestorm, allegedly fueled by

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<sup>7</sup> I did not tape record my telephone conversations with either OIC #1 or OIC #2.

a series of well-timed leaks from the OIC.

43. In the weeks that followed, I became convinced that these alleged leaks were simply the product of the continuing process of cooperation between the OIC and its stable of selected reporters. Certainly, the OIC's grand jury investigations did not begin with the probe of the charges revolving around Lewinsky--just as the cooperation between the OIC and selected reporters did not stop after the investigation of the Lewinsky matter began.

44. On February 6, 1998, David Kendall, the President's attorney, charged that the OIC had engaged in a "deluge of illegal leaks" to the news media--citing, according to The Washington Post, 50 examples in which "**substantive information**" had allegedly been leaked, and adding:

"The leaking by your office has reached an intolerable point. The covert dissemination of both accurate and inaccurate information by your staff violates Rule 6(e) of the Federal Rules of Criminal Procedure, case law, Department of Justice Guidelines, rules of court and well-established ethical prohibitions. . . .

"The appalling disregard for the legal and ethical requirements of grand jury and investigative confidentiality and the cynical dissemination of information and misinformation from your office leads me to believe that you have lost control. These leaks are deeply unfair and prejudicial. You have a solemn duty to ferret out these leaks and regain command and control of your staff."

45. Later that same day, Starr replied:

"From the beginning, I have made the prohibition of leaks a principal priority of the Office. It is a firing offense, as well as one that leads to criminal prosecution. In the case of each allegation of improper disclosure, we have thoroughly investigated the facts and reminded the staff that leaks are utterly intolerable.

"In light of the unclear press attributions in some examples cited in your letter, I have undertaken an investigation to determine whether, despite my persistent admonitions, someone in this Office may be culpable. I have no factual basis--as you likewise do not have--even to suspect anyone at this juncture. I am undertaking this investigation with deep regret, because I know how demoralizing it is to a staff of highly professional and experienced federal prosecutors."

46. I spoke to my attorney about Kendall and Starr's conflicting statements. Based upon my discussions with Ewing and Bennett, I believed that Kendall's charges were true, and that Starr's response was either disingenuous or just flat-out false.

47. I also believed that Starr and the OIC were using bullying tactics by collecting information via compulsory subpoena and secret testimony and then selectively leaking information damaging to President Clinton. This strategy impressed me as patently unfair to the White House, because these selective leaks appeared to be advancing the OIC's case--regardless of merit and without cross-examination by the President's attorneys. Also, this strategy appeared to be geared towards applying pressure on future witnesses to slant their testimonies, as well as to influence public opinion, which was being shaped by those selected reporters who were the beneficiaries of leaked information from the OIC.

#### The May 19 Speech

48. On May 1, 1998, The Washington Post published an article about journalist Steven Brill's upcoming magazine about the media, Content. In this story, The Post reported that Brill, who was planning to expose specific reporters and their OIC

sources in his August issue, had spoken to Starr about the leaks coming from his office, adding:

"Starr obligingly told [Brill] which reporters he'd spoken with and which he had not. Among Brill's questions was: Have you ever provided original information to a reporter? Starr said no, he hadn't. Did he ever confirm a story? No again. Had he ever leaked information? No again."

49. Upon reading this story, I immediately realized that Brill's article, which would be released in mid-June, might be very important, because it could shed new light on the process of leaking by the OIC, a process that had been explained to me by Starr's top deputies, Ewing and Bennett. And since this matter had become the subject of national concern, I wanted to add my knowledge and experience to the body of evidence.<sup>8</sup>

50. On May 19, I delivered a long-scheduled speech for the Literary Friends of the D.C. Public Library at the Martin Luther King Memorial Library in downtown Washington, D.C.--in which I discussed, among other matters, what I knew about Brill's upcoming article in Content, as well as the process of cooperation between the OIC and the media, citing Hickman Ewing as the person who had explained this process to me.<sup>9</sup>

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<sup>8</sup> On March 6, 1998, upon being asked to cooperate with an article about my experiences with Regnery Publishing, I submitted a chronology to the editor of Capital Style, which included details of my conversations with Ewing and Bennett--without mentioning anything about the secret taping. However, failing to see the significance of this information about the alleged OIC leaks, the editor cut this material out of the final story.

<sup>9</sup> I did not mention my conversation with Jackie Bennett--or the fact that I had tape recorded my conversations with both Ewing and Bennett--during my speech or in any of the media interviews that immediately followed.

51. At the conclusion of my speech, I stated:

"So, to summarize what I have just said: According to Hickman Ewing, Kenneth Starr's chief deputy, the OIC freely provides non-public information on an off-the-record basis to reporters and book reviewers who are personally approved by Kenneth Starr and whose work is in sync with the OIC's positions on key issues.

"This runs contrary to the OIC's public statements about its relationship with the media and is further proof that the OIC's investigation of the Clinton White House, regardless of merit, is political, partisan, and punitive--built upon a series of well-timed leaks which have turned gossip into gasoline and some of these talented approved journalists into lapdogs who are dependent upon their sources' access and goodwill.

"Because this matter has become a legal issue, I have chosen to speak out about it."

52. Also, at my May 19 speech about the OIC leaks, I pledged to cooperate with **any** investigation of the OIC leaks, which would include executing a sworn statement or even taking a polygraph.

53. However, I was never contacted by anyone from the OIC to defend my charges, which indicated to me just how hollow Starr's February 6 pledge had been.

#### Statements and Corroboration

54. Regarding what Ewing had told me, I specifically stated during my speech:

a. Prior to anything being published, the OIC freely talks to reporters and book reviewers and gives them the OIC's positions on controversial issues, along with occasionally providing information that is not on the public record. This information is provided to approved writers on an "off the

record" basis.

b. Ewing told me that: If the OIC understands where a reporter is coming from--in other words, if he is in agreement with the OIC's positions--then the OIC will speak more freely with the reporter seeking inside information.

c. Ewing told me that--even though he wanted to cooperate with me--he could not do so without the permission of Kenneth Starr.

55. The following is a breakdown of each of my statements of fact, followed by the corroborating statements of Hickman Ewing on tape, along with the page and line numbers where these cites can be found in the transcript:

a1. "Prior to anything being published, the OIC freely talks to reporters . . . "

Tape: "I talked to **Ruddy** at length. I talked to **Ambrose** at length back, way back." (2.13-14)

a2. " . . . and book reviewers and gives them the OIC's positions on controversial issues, . . . "

Tape: "We have talked **pretty freely with people doing reviews** of those books. I mean, I've sat down with several people doing reviews. . . . " (1.18-19) "You know, we've told them, 'Look, **from our standpoint--**' For example, there are questions raised in Ambrose's book, you know, and one guy sat down with us. **And we said, 'Look, this is wrong. And here's why it's wrong.'**" (1.19-22)

a3. " . . . along with occasionally providing information that is not on the public record. . . . "

Tape: "We put [OIC #2] with several of these book reviewers and let--Because [OIC #2]--Of course, in those cases, some of them were, 'Why didn't you do this? Why didn't you do that?' [OIC #2] says, 'Here's the answer to that.' . . . **In other words, some of these questions that are raised that maybe it's not even in our report.**" (2.37-46)

a4. " . . . This information is provided to approved

writers . . . "

Tape: "Let me do this: Let me--I will call you back today. . . . I will talk to [Starr], probably, within the hour. And I will call back, and then I'll tell you how we'd like to proceed." (Pages 4.48-5.2)

a5. " . . . on an "off the record" basis. . . . "

Tape: "And some of it's, maybe, on the record. Most of what we're telling them is **off the record**. But we're saying, 'Look, here's the fact on that particular point.'" (Page 1.22-25)

b. "Ewing told me that: If the OIC understands where a reporter is coming from--in other words, if he is in agreement with the OIC's positions--then the OIC will speak more freely with the reporter seeking inside information."

Tape: "There are a number of people who have done reviews. And we talk **very freely** with them. . . . **Especially those who we--when we heard where they're coming from.**" (3.14-20)

c1. "Ewing told me that--even though he wanted to cooperate with me-- . . . "

Tape: "Listen, I will talk to Ken. He's due here in about thirty minutes. But I think what he's going to tell me is to let you have at it with me and [OIC #1], for sure, and maybe [OIC #2]. . . ." (1.29-32) "Let me say this: I know--I mean, I would actually like to talk to you, probably." (3.34-35)

c2. " . . . he could not do so without the permission of Kenneth Starr."

Tape: See c1., in addition to: "I know I would be glad to talk to you. I'm sure [OIC #1], if Ken says it's **okay, will.**" (2.36-37)

#### Did Ewing Offer Grand Jury Information?

56. No one from the OIC ever said to me, "Hey, let me leak you some grand jury material." However, I believe that Ewing specifically held out the possibility that I might receive grand jury information--even though I never asked for it.

57. Ewing, who had been directing the OIC's grand jury

investigation in Little Rock, told me that he had been brought to Washington to run that grand jury probe after prosecutor Miquel Rodriguez had left the OIC. Later, Ewing was replaced by OIC #1, who came to Washington to direct the grand jury investigation. Upon providing me with this sequence of events, Ewing immediately added that both he and OIC #1 would be willing to talk to me--if Ken Starr approved.

58. In other words, Ewing was dangling grand jury information in front of me, and, obviously, I wanted all of the inside information I could get before I completed my manuscript.

59. Ewing said on page 2 of the transcript, lines 30-37:

"But, basically, when Miquel left, I got called to Washington. So I went up there and spent, you know, a couple of months on the ground myself and in the grand jury, etcetera. And then I got [OIC #1] to come up later, because we needed somebody who had been a murder prosecutor to look at it again, just to cross t's and dot i's and be sure everything was right. So, you know, I know would be glad to talk to you. I'm sure [OIC #1], if Ken says it's okay, will."<sup>10</sup>

60. These were my first and only conversations with Ewing and Bennett, both of whom had no idea who I was. What would I have come to expect and received from them had I been a reporter with a daily deadline, who covered the OIC as my regular beat?

61. It is obvious from the tapes of my conversations with both OIC deputies that they would not have done anything without

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<sup>10</sup> From this description, OIC #1 might be identifiable. However, earlier in this affidavit, I wrote:

"[OIC #1] never mentioned anything to me about revealing actual grand jury material, and I never specifically asked for it."

To be clear, I have never alleged any wrongdoing by either OIC #1 or OIC #2.



the approval of their boss, Kenneth Starr.

#### The CNN Report

62. On May 25, 1998, CNN, which had attended the May 19 speech, aired its first report about my charges. The segment also ran throughout the following day, May 26. Broadcasting film of the speech, correspondent Bob Franken reported:

"New allegations are resurrecting the charge that Independent Counsel Ken Starr's office leaks confidential information to the press. . . . Moldea says he is willing to give a sworn statement if necessary. Starr's spokesman suggests it could be a misunderstanding. The President's lawyers may want to find out for themselves."

63. Even though I did catch some flak in the wake of my speech, I still did not give serious consideration to releasing the Ewing tape at that time. I decided to sit back and see how the pending events unfolded, hoping that I would not have to reveal the existence of the Ewing and Bennett tapes.

#### The OIC and White House Reactions to the May 19 Speech

64. After the broadcast, a CNN news producer gave me the more detailed official OIC response to my charges. OIC spokesman Charles Bakaly, who had refused to appear on camera, told CNN by telephone:

"He [Hickman Ewing] did have a phone conversation with Moldea. His recollection is different from Mr. Moldea's account."

65. When CNN asked how it was different, Bakaly replied:

"He [Ewing] said he did not say that there was an approved list or that we favor different reporters. We do provide information that is not related to grand jury or sealed

court proceedings. There has never been an approved list. There has never been a determination [that] we would only respond to certain media as opposed to others. We never discuss on any basis grand jury matters or sealed court proceedings."

66. I believed that the selected reporters who were the direct beneficiaries of leaks from the OIC knew that Bakaly's statement was misleading. But, despite this knowledge and whether justified or not, they remained silent, fearful of losing the goodwill of their sources, as well as their access to the OIC's reservoir of privileged information.

67. Both Starr and Ewing declined comment regarding my allegations.

68. On June 4, 1998, in his column in The Arkansas Democrat Gazette, journalist Gene Lyons wrote:

"It appears that Ewing's normally inerrant judgment about which are the independent counsel's trusted pet reporters may have been thrown off by the fact that Moldea was under contract to Regnery, a publishing house owned by a close friend and political ally of Starr's. . . ."

69. On June 6, 1998, reporter Alexis Simendinger of the National Journal published an article, "Look Who Suspects a Cover-Up." In this story, Simendinger wrote:

"Indeed, [President] Clinton believes that the independent counsel is breaking the law with leaks to reporters-- and The Washington Post and The New York Times are covering it up, [Presidential press secretary Mike] McCurry said in a May 29 interview. 'He asked me the other day . . . why do The Washington Post and The New York Times cover up Dan Moldea and not write about that?' . . ."

"Clinton was referring to recent assertions by Moldea, the author of a new book about the death of Vincent Foster, that Starr helps sympathetic reporters. According to Moldea, Starr's deputy, Hickman Ewing, told him that Starr dispensed 'nonpublic information' to favored reporters. . . ."

"On May 30, presidential counselor Paul Begala found a

way to work Moldea into the conversation while appearing on CNN's Reliable Sources program. He argued that Moldea's 'explosive charge' had been explored by CNN, MSNBC and Reuters, but had been greeted at The Post and The Times with 'a blackout and a cover-up.'"

70. I believed that the stable of selected reporters who were the beneficiaries of the OIC leaks had fallen in love with their sources and had become complicit in what I had already concluded was a partisan investigation of the Clinton White House.

#### The Brill Article

71. On June 14, 1998--twenty-six days after my speech in Washington--The New York Times published a front-page story, "Starr Admits Role In Leaks To Press." In this article, journalist Adam Clymer wrote:

"Kenneth W. Starr, the independent counsel investigating President Clinton, has acknowledged in a magazine interview that he and his aides have given information on the Monica Lewinsky matter to reporters.

"But he also insisted that these leaks were neither illegal, because they did not involve testimony before a grand jury, nor a violation of Justice Department ethics barring leaks of 'substantive information' about a prosecution. In the interview with the magazine, Brill's Content, Mr. Starr defended his actions as necessary 'to engender public confidence in the work of this office.'<sup>11</sup> . . . (Emphasis added)

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<sup>11</sup> Responding to Brill's allegations, Starr issued a statement on June 13, insisting:

"Steven Brill has recklessly and irresponsibly charged the Office of Independent Counsel with improper contacts with the media. The charges are false.

"The Office of the Independent Counsel does not release grand jury material directly or indirectly, on the record or off the record. Nor do we violate Dept. of Justice policy or applicable ethical guidelines. . . . The contacts between the Office of the Independent Counsel and journalists have been

"I have talked with reporters on background on some occasions," Mr. Starr said in the interview. Mr. Starr also identified three reporters . . . as journalists to whom his deputy, Jackie Bennett, had talked 'extensively' about the case. . . . But Mr. Bennett told Mr. Brill he was 'in no way a source.'"

72. Indeed, after I had asked Bennett to arrange my courtesy call on Kenneth Starr, Bennett replied during our January 12, 1998 conversation:

"Okay, here is my thinking: If you make this request to really get access to substantive information contingent on meeting with him first, it'll make it more difficult, because his schedule is more difficult. He travels a lot. What we can do is make the substantive person or people available to you earlier . . ." (2.13-18)

73. Also, other than a misspelled name, I am aware of only one mistake admitted by Brill in his article. According to the June 19, 1998, edition of The Washington Post, Brill had become embroiled in a controversy with The Wall Street Journal over one of its reports about the Lewinsky matter. The Post continued:

"Brill conceded error after learning that Journal reporter Glenn Simpson had [secretly] tape-recorded the interview."<sup>12</sup>

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legal, appropriate and consistent with Dept. of Justice policy."

Also, on June 16, Starr released a formal nineteen-page response to Brill.

But, contrary to Starr's denials in his condemnation of Brill, I believed from my own conversations with Ewing and Bennett that the OIC had been engaging in a pattern of cooperation with selected reporters, which included well-timed leaks from the OIC's grand jury investigations.

<sup>12</sup> To my knowledge, reporter Simpson received no criticism from the media for secretly taping Brill, who had become a favorite target in the media after the release of his article. Apparently, the issue is not whether a reporter tapes secretly-- but whom the reporter secretly tapes.

Contacts with the President's Attorneys

74. On May 20, 1998, the day after my May 19 speech, I received a telephone call from Max Stier, an associate of David Kendall at Williams & Connolly. I referred him to my attorney, adding that I would prefer a subpoena before cooperating fully.

75. Through my attorney, I did give Stier the names of two friends who had attended my speech; my attorney arranged for them to sign declarations about what they had heard me say. My two friends later told me that they had also been asked by an attorney from Williams & Connolly to execute sworn affidavits.<sup>13</sup>

76. On June 23, 1998, my attorney called to tell me that Stier had telephoned and asked us for a meeting about my knowledge of the OIC leaks. When my attorney relayed this request to me, I asked him to make the arrangements. I simply assumed that the President's attorneys did not have the power to serve me with a subpoena and were searching for the means to get it. However, Stier would neither confirm nor deny that theory.

77. At 9:00 a.m. on June 26, 1998, my attorney and I met with Stier and one of his assistants at the law offices of Williams & Connolly and told them about my conversations with Hickman Ewing and Jackie Bennett. We also informed them that I had both conversations on tape. We allowed them to hear the entire Bennett tape and those portions of the Ewing tape that

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<sup>13</sup> The two friends who signed sworn affidavits are Wendy Blair, the president of the Literary Friends of the D.C. Public Library, and E. Ethelbert Miller, the executive director of the African-American Resource Center at Howard University.

didn't reveal the identities of OIC #1 and OIC #2. Also, we allowed them to read and to take notes from the transcripts.

78. We collected everything at the conclusion of the meeting, leaving nothing behind.<sup>14</sup>

79. I would have been willing to have had the same discussion with Starr and the OIC if they had asked for it--just as I had pledged at my May 19 speech--but they never asked.

#### Judge Johnson's Inquiry; Starr's Appeal

80. On July 22, 1998, The Washington Post published an article, stating:

"Independent counsel Kenneth W. Starr yesterday asked a federal appeals panel to overturn a sealed ruling by Chief U.S. Judge Norma Holloway Johnson that would allow President Clinton's lawyers to take part in an inquiry she is conducting into whether Starr's office illegally leaked information to the news media.

"According to Johnson's June 26 ruling, lawyers for Clinton and others involved in Starr's investigation could participate in depositions and be present for testimony in the inquiry, sources said yesterday. Starr had sought to have Johnson conduct the inquiry herself, without the involvement of any defense lawyers."

81. This was the first time I had read or even heard that such an inquiry was underway. I later learned from publicly-released court documents that Judge Johnson's original order came on June 19 when she had declared that the President's attorneys had "established prima facie violations of Rule 6(e) by the OIC and required the OIC to show cause why it should not be held in

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<sup>14</sup> During the meeting, Stier and his assistant refused to give my attorney and me any information about any proposed or pending inquiry of the OIC leaks, insisting that the process was secret.

contempt." The June 26 hearing outlined "the procedures for the evidentiary show cause hearing and permits limited discovery by movants."

82. In her order of June 19--seven days before our meeting with the President's attorneys--Judge Johnson cited the following news reports as helping to establish the prima facie violations against the OIC:

\* An NBC Nightly News report on February 4, 1998, "that directly identifies 'sources in Starr's office' and discloses information regarding a subpoenaed witness's potential testimony before the grand jury, evaluations of such potential testimony, and the strategy and direction of the OIC's investigation."

\* A New York Daily News article published on January 23, 1998, which identified OIC prosecutors as its source for "what a subpoenaed witness has told the OIC during investigative interviews."

\* A New York Times article published on February 2, 1998, which identified OIC prosecutors as its source for "what a subpoenaed witness has told the OIC during investigative interviews."

\* A CBS News report on May 8, 1998, declaring that "investigators have spent months checking out Tripp's story and now claim she is, quote 'completely reliable.'"

\* A Fox News report on May 6, 1998, "regarding Mr. Starr's comment to the press about the Court's [May 4] Opinion on executive privilege," saying that this ruling was "a magnificent ruling."

\* Starr's "admission to journalist Steven Brill that he and Deputy Independent Counsel Jackie Bennett speak to reporters on condition of anonymity and his statement to Mr. Brill that Rule 6(e) does not apply to 'what witnesses tell FBI agents or us [the OIC] before they testify before the grand jury.'"

### The Decision to Reveal the Tapes

83. On Sunday, July 26, 1998, I read in the newspapers that President Clinton had been subpoenaed to appear before the grand jury. I believed this action to be an extension of a seemingly increasingly partisan investigation by Starr and the OIC. Now, however, there was a likelihood that Starr and his deputies--many of whom were under investigation by Judge Johnson for their roles in the process of leaking grand jury material to selected reporters--would be involved in the questioning of the President during his sworn testimony.

84. During the late afternoon of July 27, 1998, I faxed a nine-page statement about the existence of the Ewing and Bennett tapes to Keith Olbermann, the host of MSNBC's The Big Show/White House in Crisis. Olbermann, whom I respect and trust, reported the claims in my written statement on his program that night.

85. On the evening of July 28, 1998, I appeared on Rivera Live on CNBC. During the program, in response to a question about how I was planning to release the tapes, I stated:

"We've been waiting for a subpoena. We are waiting for the Court of Appeals--which Judge Starr appealed to last Tuesday --to make their decision. I'm hoping to get a subpoena--although my attorney and I have decided to keep our options open. But I do believe that before the deposition of the President occurs--before this entire investigation continues--I think that this matter about the OIC leaks should be wrapped up once and for all."<sup>15</sup>

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<sup>15</sup> During the program, host Geraldo Rivera, who wanted to prove that the recordings really did exist, played the thirty-second excerpt of the Bennett tape I had given him and Keith Olbermann earlier that day.

This is the only portion of either tape that I have released publicly.



86. Upon being contacted by representatives of the four major television networks--ABC, CBS, CNN, and NBC--and meeting with them, I tried to work out the best way to release the tapes and make them public property. In the end, I told the network people that if I ever decided to release the tapes, I would give copies to each representative at the same time. However, I still preferred to give the tapes to the court as part of an official legal process.

87. On August 3, 1998, the U.S. Court of Appeals for the D.C. Circuit modified Judge Johnson's June 19 and June 26 orders. The three-judge panel empowered Judge Johnson to conduct her own investigation of the OIC leaks--but refused to allow the President's attorneys to keep their extraordinary discovery powers, including the ability to take the sworn statements of Starr and his deputies.

88. The Washington Post added:

"The appeals panel ruled that Chief U.S. District Judge Norma Holloway Johnson should conduct any leak investigation without the president's lawyers, although they could have access to documents at the end of the probe if Johnson finds any wrongdoing. . . .

"It was unclear yesterday how the judge would proceed at this point. She could ask for affidavits from Starr and members of his staff; question them herself and in person; or appoint a special master to conduct an inquiry."

89. Knowing that a legal process would soon be in place through which I could reveal the extent of my knowledge of the OIC leaks--and since Judge Johnson seemed so determined to get to the bottom of this matter--I decided to put off any thoughts of publicly releasing the tapes of my conversations with Ewing and

Bennett at least until that process was completed.

Did Perjurers Question the President about His Alleged Perjury?

90. On August 15, 1998, while reviewing the public record of this matter, I reread the sworn affidavits signed by OIC staff members on February 20 and 23, 1998, in which they insisted that they had not illegally leaked material to any news organization. On each statement, they attested:

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

91. Knowing that Judge Johnson had already established that a prima facie case against Starr and the OIC existed, I realized that Starr and the OIC not only had a burden of proof to show that they had not leaked illegal information--but that they had not committed perjury in their sworn statements. My concern was that these same OIC attorneys, who were under investigation for perjury, would be interrogating the President before the federal grand jury on August 17 about his alleged perjury.<sup>16</sup>

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<sup>16</sup> I was also wary of the OIC's motive for its sudden offensive against the President since Judge Johnson's orders of June 19 and June 26, 1998. According to court records, after these rulings about the leaks investigation, the President's attorneys subpoenaed the OIC's documents on June 30, giving Starr and his staff a July 11 deadline for production. Also, on June 30, the President's attorneys served subpoenas on Starr and several members of his staff; their depositions were scheduled for July 13-15.

On July 9, attorneys representing the OIC filed an appeal with the U.S. Court of Appeals for the D.C. Circuit and asked the court to stay discovery--a motion Judge Johnson had denied earlier that same day. The appellate court granted the stay on July 10 while it considered the OIC's appeal. The OIC then shifted into high gear.

On July 17, four days prior to oral arguments before the

92. I also noticed on page 3 of the OIC's July 9, 1998, "Emergency Motion To Stay The District Court's June 19, 1998 Order to Show Cause and June 26, 1998 Memorandum Order Pending Appeal," the attorneys representing the OIC had claimed:

"[I]t is not possible to discuss all contacts with the press without risking disclosure of confidential investigative information and material protected by Rule 6(e)."

93. It appears likely that--to secure the goodwill of their sources in the OIC--reporters had been cultivating negative information about the President from their other sources and were then willingly providing it to Starr and the OIC, who then classified these journalists as confidential informants for the OIC.

94. Questioning the fairness of this entire situation, I telephoned Max Stier at Williams & Connolly on August 15 and offered him my sworn affidavit, as well as the transcripts and tapes of my conversations with Ewing and Bennett. My intention was to provide additional ammunition to the President's attorneys in the event that they planned to argue to Judge Johnson that the President's testimony should be postponed until her investigation of the OIC leaks had been completed. However, over that weekend, Stier and I missed each other's calls.

95. Now assuming that the President's attorneys had no

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court of appeals, Starr subpoenaed the President to appear before the grand jury. On July 28, the OIC, which was also facing an ethics investigation by the D.C. Bar Association for the alleged OIC leaks, immunized Lewinsky in return for her testimony against the President; the following day, Lewinsky's attorneys withdrew their participation from Judge Johnson's leaks investigation, which the appellate court then limited in its August 3 decision.

intention of trying to stop his appearance before the grand jury, I again spoke to my attorney, whom I had told of my offer to the President's attorneys after the fact while he was on vacation. Based on my attorney's advice, I decided to return to our original plan and to give all of my material to Judge Johnson.

96. On Monday, August 17, the President testified before the grand jury. According to The Washington Post, he was questioned by Kenneth Starr, Jackie Bennett, and two other OIC attorneys.

#### A Dangerous and Sinister Alliance

97. During his speech to the nation after his testimony, the President, as he had during his grand jury appearance, admitted an inappropriate relationship with Lewinsky while denying any violation of law. Midway through his talk, the President attacked the OIC, adding:

"The independent counsel investigation moved on to my staff and friends. Then into my private life. And now the investigation itself is under investigation. . . . "<sup>17</sup>

98. In the days that followed, in defiance of Judge Johnson's order, the leaks about the President's grand jury testimony appeared to flood out of the OIC. The most brazen

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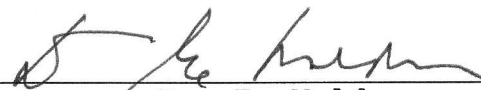
<sup>17</sup> Other than Judge Johnson's leaks investigation, Michael Shaheen, the former head of the Department of Justice's Office of Professional Responsibility, has been conducting a probe of the alleged payoffs from Richard Scaife, via the American Spectator, to Dave Hale, the President's chief accuser in Whitewater. Both the American Spectator and David Hale have been represented by Theodore Olson, a long-time friend and associate of Kenneth Starr.

example of this was an August 18, 1998, NBC News report in which the reporter specifically cited "a source close to the investigation" about the President's sworn statements.

99. On August 24, 1998, I filed this affidavit with the court, sending copies to the OIC and Williams & Connolly. I agree to submit the tapes of my conversations with Ewing and Bennett upon receipt of a subpoena.

100. Regardless of the President's fate, I will always view the symbiotic relationship between the OIC and its stable of selected reporters as one of the most dangerous and sinister alliances in contemporary American history.

I state that the foregoing is true and correct, based upon my personal knowledge under penalty of perjury this 24th day of August, 1998.



---

Dan E. Moldea

Certificate of Service

I hereby certify that a copy of the foregoing Affidavit of Dan E. Moldea was mailed, first-class postage prepaid, this 24th day of August, 1998, to:

Max Stier, Esquire  
Williams & Connolly  
725-12th Street, N.W.  
Washington, D.C. 20005

Kenneth Starr, Esquire  
Office of the Independent Counsel  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004



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Dan E. Moldea

ATTACHMENT A

**\*\*Telephone Conversation with Hickman Ewing  
December 10, 1997**

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Ewing: . . . yesterday, briefly. [Kenneth Starr is] coming in this morning to Little Rock. And I told him, kind of what I knew about it at that point. He was very positive about it, for sure.

Moldea: Good.

Ewing: Let me say this. We have--I think, in the wake of-- When we submitted our report, and then we've seen the Ambrose book, and we've seen the Ruddy book.

Moldea: Oh, those are both garbage, yeah.

Ewing: And we have talked pretty freely with people doing reviews of those books. I mean, I've sat down with several people doing reviews. You know, we've told them, 'Look, from our standpoint--' For example, there are questions raised in Ambrose's book, you know, and one guy sat down with us. And we said, "Look, this is wrong. And here's why it's wrong." And some of it's, maybe, on the record. Most of what we're telling them is off the record. But we're saying, "Look, here's the fact on that particular point."

Moldea: Uh-huh.

Ewing: And, so, I--Listen, I will talk to Ken. He's due here in about thirty minutes. But I think what he's going to tell me is to let you have at it with me and [OIC #1], for sure, and maybe [OIC #2 and his background].

Moldea: Okay, [OIC #2], let me write that down.

Ewing: [OIC #2 background.]

Moldea: Oh, he's a prosecutor? He's a lawyer?

Ewing: Oh, yeah.

Moldea: Oh, Okay.

Ewing: Yeah, yeah, yeah. He's the main guy. Once Miquel left, [OIC #2 background]--

Moldea: Oh, I'm going to rip Miquel up. I mean--

Ewing: Well, I'd like to--You've probably heard lots of things. But there are some perspectives on Miquel.

Moldea: I'd like to hear those perspectives. I'd like to hear his defense.



2 Ewing: You know, I mean, I know how the Fiske FBI people  
felt about him. I--

4 Moldea: Not to mention the Park Police. [laughing]

6 Ewing: Yeah, the Park Police. But there is room for  
disagreement on Miquel. I mean, I will be glad to talk to you  
8 about that.

10 Moldea: Yeah, I'd like to hear that.

12 Ewing: Basically, what happened is--And the Ruddy book gets  
a little--I mean, I talked to Ruddy at length. I talked to  
14 Ambrose at length back, way back. Because we wanted--They were  
rattling the swords. And we basically said, "Okay, tell us what  
16 you think. I mean, we're trying to get to the bottom of this.  
Tell me what your theory is--"

18 Moldea: "And your evidence," yeah.

20 Ewing: "Tell me what your evidence is. I mean, you know, I  
22 don't write you off as nuts, as we're going along. I want to--A  
lot of nuts can have ideas that may fit in." I mean, we get tons  
24 of letters on the Foster thing. We still do, probably less so  
now that our report's come out. But, still, there are many that  
26 say we've covered up; Clinton's paid for us and everything else.

28 Moldea: Right.

30 Ewing: But, basically, when Miquel left, I got called to  
Washington. So I went up there and spent, you know, a couple of  
32 months on the ground myself in the grand jury, etcetera. And  
then I got [OIC #1] to come up later, because we needed somebody  
34 who had been a murder prosecutor to look at it again, just to  
cross t's and dot i's and be sure everything was right. So, you  
36 know, I know I would be glad to talk to you. I'm sure [OIC #1],  
if Ken says it's okay, will. I know [OIC #2]--We put [OIC #2]  
38 with several of these book reviewers and let--Because [OIC #2]--  
Of course, in those cases, some of them were, "Why didn't you do  
40 this? Why didn't you do that?" [OIC #2] says, "Here's the  
answer to that."

42 Moldea: Uh-huh.

44 Ewing: In other words, some of these questions that are  
46 raised that maybe it's not even in our report.

48 Moldea: You've heard about John Corry's review in the  
American Spectator, haven't you?

0 Ewing: I, well--I take it it was positive.  
52

2 Moldea: No, no, no. John Corry ripped Ruddy's book in the  
American Spectator.

4 Ewing: That's what I mean; that's what I mean, yeah.

6 Moldea: And then Richard Scaife--

8 Ewing: Yeah, I saw the article on that.

10 Moldea: --has pulled back his money. I don't think  
American Spectator can survive this. [laughing] But--

12 Ewing: Well, it may. You know, I don't know. But I know  
14 we've--There are a number of people who have done reviews. And  
we talk very freely with them.

16 Moldea: Uh-huh. Well, that's terrific. Like I said--

18 Ewing: Especially those who we--when we heard where they're  
20 coming from.

22 Moldea: Right. Well, again, I'm willing to--What I'd like  
to do is: I was talking to [OIC #1] whom I like very much. And  
24 I said, "Listen, if you or Mr. Ewing or--" I want somebody to  
read this thing; somebody who can say, "Okay, this is--You're on  
26 target on this." And with that understanding--and also that this  
would remain confidential among us--

28 Ewing: Right.

30 Moldea: --I would--That would be terrific. And, so however  
32 you want to proceed with this, sir.

34 Ewing: Let me say this: I know--I mean, I would actually  
like to talk to you, probably.

36 Moldea: That's great! Better!

38 Ewing: I would like to read this. But I would also like  
40 to, you know, there's some--Obviously, everybody's got a  
perspective. I mean, the FBI agent that worked for Fiske has got  
42 a perspective.

44 Moldea: Right, he sure does.

46 Ewing: There's some things that they didn't do that they  
should have done. Okay?

48 Moldea: Right.

0 Ewing: But that's hindsight. I mean, we, obviously,  
52 learned a lot more. We reached the same conclusion as Fiske, but

2 we learned a lot more. And there're things that have not been  
addressed. I mean, Foster's state of mind. I mean, you read the  
part of the report about Dr. Berman and so forth--

4 Moldea: Sure.

6 Ewing: --But we know a lot more about it that's not in the  
8 report--that, probably, we're not going to say anything about  
yet--

10 Moldea: Oh, I'm sure you do. I'm sure you do.

12 Ewing: --because it fits into the overall scheme of things.

14 Moldea: Yeah, I'm sure you do. I, you know--I believe  
16 that, after examining everything that I've examined, I, sort of,  
have a gut feeling that what Foster did probably had more to do  
18 with his personal situation than anything else. And--

20 Ewing: Well, that had a lot to do with it, but he had other  
things on his mind that hasn't come out.

22 Moldea: Well, I'd sure like to hear about that. So you  
24 tell me how you want to proceed, sir. And that's what we'll do.

26 Ewing: Why don't we do this--

28 Moldea: Have you talked to Ken Starr about me already?

30 Ewing: Yeah, I just mentioned--As I said, I just mentioned  
you to him yesterday. But I will talk to him when he gets here.

32 Moldea: I have great respect for Ken Starr. He wiped me  
34 out on a big case I was involved in one time with an amicus brief  
that he had filed. And we were just awed by him. We really were  
36 awed by--

38 Ewing: He's a great guy.

40 Moldea: Yeah, he sure is.

42 Ewing: Straight-up guy.

44 Moldea: In fact, my attorney debated him on Court-TV one  
time. And I've had nothing but respect for him. He's a classy  
46 guy.

48 Ewing: Let me do this: Let me--I will call you back today.

0 Moldea: Yes, sir.

52 Ewing: I will talk to him, probably, within the hour. And

2 I will call back, and then I'll tell you how we'd like to  
proceed.

4 Moldea: That'll be terrific, sir.

6 Ewing: Okay, thank you.

8 Moldea: Thank you very much, Mr. Ewing.

10

End

ATTACHMENT B

**\*\*Telephone Conversation with Jackie Bennett  
January 12, 1998**

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Moldea: . . . This is Dan Moldea.

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Bennett: Hi, this is Jackie Bennett, returning your call.

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Moldea: Thanks for getting back to me. I appreciate it.

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Bennett: Sorry it's taken so long.

10

Moldea: No problem. No problem. I wanted to--I'm doing a book on Vince Foster. And it's called, 'Anatomy of a Suicide,' so that you know where I'm going with this. And, basically, what I'm doing with this is that I'm debunking a lot of the conspiracy theories. I've interviewed everybody at the Park Police. I'm a big supporter of the Park Police, the Fiske Report, the Starr Report--and say so.

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Bennett: Uh-huh.

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Moldea: And I wanted to come and pay my respects to the independent counsel--and spend, maybe, twenty minutes with him, asking him a few questions.

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Bennett: Okay. That's really why I was calling. I talked to Judge Starr about this. And the question I had was, sort of, the ground rules: that this is just, you know, coming by as a courtesy. It's . . .

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Moldea: It's to pay--It's a respect call.

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Bennett: It's not looking for **substantive information**?--

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Moldea: No.

36

Bennett: --Because if you are, then there are other people who really are better to talk to.

38

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Moldea: Well, I'd like--What I'm hoping is that I can come by and see him, pay my respects to him, show him some things, and then, hopefully, he can lay hands on me and then lead me to the people with the more **substantive material**. I figured if I can--if I can win him over, then he would introduce me to the people who could give me the more **substantive information**. Now, I'm back--I'm really facing a deadline right now. . . .

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Bennett: Okay.

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Moldea: And, so, whenever we could do this, that would be terrific. .

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Bennett: What is your deadline if you don't mind?

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2 Moldea: My deadline, my absolute deadline, one-hundred  
percent, I can do nothing more with this--and this is no  
4 exaggeration--is January 26.

6 Bennett: Okay.

8 Moldea: That is my last day . . .

10 Bennett: All right.

12 Moldea: . . . that I can do anything.

14 Bennett: Okay, here is my thinking: If you make this  
request to really get access to **substantive information**  
contingent on meeting with him first, it'll make it more  
16 difficult, because his schedule is more difficult. He travels a  
lot. What we can do is make the **substantive person or people**  
18 available to you earlier, and then . . .

20 Moldea: That would be fine.

22 Bennett: . . . And we--We're not trying to stage manage  
this.

4 Moldea: No, no, no. That's fine. That's fine. Please,  
26 stage manage it. Yeah.

28 Bennett: But we have--The people who are most hands-on on  
this really have better knowledge than Ken does.

30 Moldea: Yeah. Oh, I'm sure that's true. Yeah.

32 Bennett: And, if that's what you're looking for, I think  
34 that's an easier thing to manage. And you can meet with him  
later. And it'll be . . .

36 Moldea: That's fine. That will be fine.

38 Bennett: Okay, let me--Let me make some calls for you . . .  
40

42 End