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Weekly Press Briefing With Attorney General and Robert B. Fiske Jr., Former U.S. Attorney General in New York and Independent Prosecutor – Designate Department of Justice January 20, 1994

SHOW: NEWS 9:33 am ET

JANET RENO, Attorney General (LIVE): This morning I am announcing that I have asked Robert Fiske Jr. to serve as independent counsel in the Madison Bank matter. He has accepted.

A week ago I said I was looking for someone who would be fair and impartial, who has a reputation for integrity and skill, someone who would be ruggedly independent, and I think Mr. Fiske fits that description to a "T". He is an excellent prosecutor, having served with distinction as an assistant United States attorney in the Criminal Division and as head of the Special Prosecutions Unit on Organized Crime in the Southern District of New York. He was appointed United States attorney by a Republican president, and his principle, his integrity, and his ability caused the subsequent president to continue him in office. He exemplifies public service at its best, and I am enormously grateful that he has heeded this call one more time. I have talked with Mr. Fiske and told him that I want him to do everything he thinks proper and appropriate to make sure that he is truly independent.

Mr. Fiske.

ROBERT FISKE: Thank you.

I'm very grateful to the attorney general for the trust and confidence that she has placed in me to carry out this important assignment. I am totally satisfied that I will have the independence and complete authority to do this job right. Starting Monday I am going to take a leave of absence from my law firm so that I can work full time to conduct and complete as expeditiously as possible a complete, thorough, and impartial investigation.

STAFF: We'll take your questions.

Q What will be the scope of this investigation, and will it include Mr. Foster's suicide?

Mr. FISKE: The scope of the investigation has been reflected in a regulation which is now in the process of being adopted. It will be 603.1, entitled "Jurisdiction of the Independent Counsel". This resolution has been deliberately drafted broadly. It was drafted by me to give me the total authority to look into all appropriate matters relating to the events that bring us all here today.

The specific language authorizes me to investigate whether any individuals or entities have committed a violation of any federal criminal law relating in any way to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, or Capital Management Services.

In addition to that specific general language, there is further language which gives me the jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal law by any person or entity developed during the independent counsel's investigation referred to above and connected with or arising out of that investigation.

To answer your-- : (Off mike.)

Mr. FISKE: I am about to - I will answer the Question specifically. I know you asked about the Foster suicide. Questions have been raised whether that is related to President Clinton or Mrs. Clinton's relationships with Madison Guaranty and Whitewater, and that will be one of the things we will be trying to find out.

REPORTER: So would you characterize this mandate as - well, I don't want to use a word, but would you say it's narrow, would you say it's broad?

Mr. FISKE: I would say it's very broad relating to the matters as described in the resolution.

REPORTER: What kind of time frame do you think you're operating under?

Mr. FISKE: My time frame is to finish this as quickly as I can consistent with doing the job right. It's very difficult not knowing the facts, other than what I've read in the newspapers, to try to put any time frame on it. My experience in these matters has always been every time you try to put a time limit on something you're always wrong, it always takes longer. So I'm reluctant to do that, but other than to tell you that I'm going to just start Monday and just go flat out till we're through.

REPORTER: But do you have any general estimate whether it's months?

Mr. FISKE: I think it's more than a month.

REPORTER: Do you anticipate that your role in this is going to be as the courtroom trial lawyer model of prosecutor, or are you going to be more like the Walsh model, a person who brings in investigators and prosecutors who - and you're more of the orchestrator of the -

Mr. FISKE: Well, I think when I was United States attorney I was a hands-on prosecutor myself. I prosecuted several major cases personally. But I would also certainly bring into this investigation a number of people who I will find, I think without much difficulty, who will be very

REPORTER: Will you continue to use the Justice Department - any of the Justice Department officials here, I mean attorneys who have been working on this case?

Mr. FISKE: I've thought about that, and I've come to the conclusion that without in any way reflecting in any slightest way against their ability and competence, that in order to conduct a truly independent investigation, I should have people working for me who are not also reporting to the attorney general. Therefore, I will recruit

a totally new staff of lawyers to work with me on this, which I would assume will consist primarily of experienced, former prosecutors from around the country. I certainly, though, intend to work with the lawyers in the Justice Department who have been working on these matters to date so that we will get the full benefit of everything that they have done so that we hit the ground running as fast as we can.

REPORTER: How about the FBI, will you be using the FBI?

Mr. FISKE: I have talked to Director Freeh this morning. He has assured me that the FBI will be at our complete disposal, and I am meeting with him later today to start working out the specifics of that.

REPORTER: How many lawyers do you expect to be hiring? Ten? More than 10?

Mr. FISKE: It really is hard to say. I think one of the first things I'm going to do, again, starting later today, is meet for the first time with some of the people in the Justice Department who have been conducting these investigations so that I can get first-hand from them an idea of what the scope and dimensions of this are going to be. And I really wouldn't be able to tell you right now how many lawyers I would have to bring in until I have a little better sense of exactly what is involved here. I can tell you, though, it will be a significant number.

REPORTER: Will you operate out of Washington or Little Rock?

Mr. FISKE: I would expect to open an office in Little Rock. I think that's where the center of gravity of this investigation is. There is already a grand jury sitting there and that is where the base of operations of this investigation will be.

REPORTER: Have you seen the files yet in Little Rock?

Mr. FISKE: I haven't seen - I have not seen anything. I was appointed yesterday afternoon and I have not even talked to the lawyers in the Justice Department yet who are responsible for conducting the investigation.

REPORTER: Would you like to become an independent counsel if that law is passed by the Congress?

Mr. FISKE: I'm perfectly happy with the position I have right now.

REPORTER: Mr. Fiske, do you expect to talk to the president and the first lady? And if so, do you expect to do it under oath?

Mr. FISKE: I would certainly expect that before this investigation is over that I would question both the president and the first lady and that it would be under oath.

REPORTER: Mr. Fiske, when Attorney General Thornburgh invited you to be the deputy, some Republicans were critical of your nomination. Have you contacted any Republicans? What is your sense of how they would react to your appointment?

Mr. FISKE: I think we'd - you would just have to wait and see. I would hope that there would not be any significant opposition to this. The question that came up before had to do with an issue that I think has nothing to do with what I'm doing here.

REPORTER: Just on a personal note, why did you accept the job? What prompted you to - what were some of the considerations or reasons why you decided -

Mr. FISKE: Well, I think first and foremost I consider this an extremely important assignment. I think it's very important that someone that meets the attorney general's qualifications do this job. It's important for the country to get this done and get it done as quickly and as thoroughly and as fairly as possible. And when someone asked me to do that, I felt an obligation to respond.

REPORTER: Have you ever worked an investigation where - (inaudible) -

Mr. FISKE: Could you give me that
REPORTER: Yeah. The White House's argument has always been that there was no credible evidence of wrongdoing so you wouldn't even name a prosecutor. My question to you, sir, - (inaudible) - investigation - (inaudible) - evidence of wrongdoing?

Mr. FISKE: I think we're past that. I mean, I have been asked to do this job and I'm going to do it.

REPORTER: Do you expect to produce a report at the end of this? I notice the scope of your investigation is strictly criminal, but certainly a report would be much more wide-ranging, as in the Walsh report, which talked about the - (inaudible) - and so forth.

Mr. FISKE: Yes. Again, without even beginning to suggest what kind of form that report might take, since I would emphasize once again I haven't even started to learn what the facts are, it would be my intention, to the fullest extent possible, to make a report when I'm through. I think people want to know what I found out. And if cases were brought, they're brought, and if they weren't brought, I think people will want to know why not.

REPORTER: You said you drafted the jurisdiction here. In the letter that Counsel Nussbaum sent to the attorney general last week he only asked that the investigation involve the Whitewater matter. You revolve it around Madison-Guaranty Savings and Loan. Can you explain why you did that?

Mr. FISKE: I never saw that letter. All I know is what I felt the scope of this investigation should be. I thought it should include matters relating to Madison-Guaranty, as well as Capital Management, which, of course, is the case which involved Judge Hale.

REPORTER: What can you do on statute of limitations questions to make sure that - (inaudible) - your investigation?

Mr. FISKE: Well, before I accepted this assignment, I did - while I didn't do any investigation into the facts, the law is available for everyone to read, and I did read it and satisfied myself that there is a 10-year criminal statute of limitations applicable to bank fraud which would go back as far as August 9th, 1984, and I'm perfectly comfortable accepting the assignment in that time frame.

REPORTER: Do you think that a congressional hearing of any kind at this point might hamper your investigation?

Mr. FISKE: I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a congressional investigation is going on. The decision whether to have such an investigation obviously is not mine, but I think just looking back at the past, we can all see that that is not an easy relationship.

REPORTER: Mr. Fiske, your former law partner, Lawrence Walsh, said the other day in releasing his report that he thought the congressional hearings were an impediment to what he did. Have you talked to him at all about the independent counsel business, and did he have any advice?

Mr. FISKE: I have not talked to him since I was first approached to do this job. I did consult with him in the very beginning when he was putting his staff together to conduct his investigation, but I have not discussed this assignment that I'm accepting today with him.

REPORTER: Who is going to set your budget?

Mr. FISKE: Well, I guess - put it this way, I don't have any sense that there is any limitation being put by the Justice Department on my budget. I think I have free rein to do what I think I have to do.

We're obviously going to try to do that, consistent with the minimum expense. But I frankly think in a matter like this that it would be a mistake to try to put any arbitrary fiscal limits on it.

REPORTER: General Reno, are you -

REPORTER: Do you plan on impanelling a new grand jury in Arkansas - (off mike) ?

Mr. FISKE: I can't answer that question until I've talked to the people that have been doing the work up until now.

REPORTER: General Reno, are you comfortable with the broad scope of this investigation and with the fact that Justice Department investigators will not be involved and phased out immediately?

ATTY Gen. RENO: What I told Mr. Fiske was that I wanted him to feel like he -

REPORTER: Would you move closer to the mike, please?

ATTY Gen. RENO: I told Mr. Fiske when we met yesterday that I wanted him to be as independent as possible, I wanted him to define the scope, I wanted him to define what he needed in terms of staffing and funding so that he could be assured that he would be independent, and I feel very comfortable with it.

REPORTER: Ms. Reno, do you think that this will quash any calls for a separate congressional investigation, your appointment of somebody who was first appointed by a Republican?

ATTY Gen. RENO: I don't know.

REPORTER: Ms. Reno, what is your sense of whether you will exercise any supervision here or monitoring, or do you expect the independent counsel to report to you in any way?

ATTY Gen. RENO: I don't expect him to report to me, I expect him to report to the American people, and I do not expect to monitor him.

REPORTER: He will report to Congress, though, on occasion. That's by the regulation - (off mike).

ATTY Gen. RENO: I don't expect him to report to me, and I don't know what he will do in terms of his reporting to Congress. That will be up to him.

REPORTER: Ms. Reno, you've called before - before all this happened for Congress to pass the independent counsel law. Do you still think that's important as a general principle? And two, if they do, what would your intention be? Would you try to make Mr. Fiske the independent counsel under that law?

ATTY Gen. RENO: I think it is very important that we pass the independent counsel statute for all the reasons that I've stated previously so that you all wouldn't be asking me the questions that you're asking now and so that we could ensure full independence in form as well as in substance. And I would do everything I could to see that Mr. Fiske continued under - if the statute is passed as independent counsel.

(Cross talk.)

REPORTER: (Independent ?) as a statutory -

ATTY Gen. RENO: That's correct.

REPORTER: Ms. Reno, how will the special counsel's investigation affect at all the on-going federal investigation?

ATTY Gen. RENO: That will depend on Mr. Fiske.

REPORTER: Well, could it be called off?

ATTY Gen. RENO: Mr. Fiske is conducting the federal investigation, and that will depend on him as to the direction of the federal investigation.

REPORTER: But he will - I'm sorry. He'll - so it's different. The current one is now being done by the Justice Department. He will supersede that if you decide to call that one off (to get ?) - (off mike) - going anyway?

ATTY Gen. RENO: I don't think I'm understanding your
REPORTER: I acknowledge that you - (off mike) - might be more cumbersome than it should. I just was interested what happens now with the on-going federal investigation headed by Mr. Mackay?

ATTY Gen. RENO: Mr. Fiske has explained to you that he will be talking to Mr. Mackay and to the other lawyers involved to be fully briefed, and that he will then develop his own staff and open an office in Little Rock and proceed to conduct this investigation independent of the Justice Department.

REPORTER: (Off mike.)

ATTY Gen. RENO: That will be up to Mr. Fiske, but Mr. Fiske - and I would let him explain again.

Mr. FISKE: Just so there's no question about this, as I said before I feel that in order to conduct an investigation that will be regarded by all of you and the American people as truly independent I should not have people working for me who at the same time are reporting to the attorney general. For that reason and for that reason alone and without in any way reflecting anything adverse about the ability of the people that have been doing this up until now, I have decided

that I should bring in an entirely new group of experienced prosecutors from around the country to help me with this investigation.

In that process, we will start - and I'm starting in about an hour - to meet with the Justice Department lawyers who have been doing the investigation up till now, so we will get the full benefit of everything they've done. I expect to see their memoranda, I expect to see their analyses of the documents, to the extent they've been made to date, and basically have them turn over to me, as they have promised they will, everything that they have done up till now so that we can start and hit the ground running as fast as we can.

REPORTER: Mr. Fiske, but that will end their investigation?

Mr. FISKE: Yes.

REPORTER: General, did you talk with the president about this? Did you inform him of your choice, and when did you inform him?

ATTY Gen. RENO: I have not talked to the president.

REPORTER: Have you informed White House officials of your choice, and when did you - if you did, when did you inform them of who you chose?

ATTY Gen. RENO: I have not informed the White House.

REPORTER: Mr. Fiske, was questioning the Clintons one of your conditions for accepting the job?

Mr. FISKE: Nobody put any limitations on what I wanted to do. That never came up as an issue. I didn't have to make that a condition.

REPORTER: Mr. Fiske -

REPORTER: How much of a delay will there be in the on-going investigation by the necessity of your shutting that down, gearing up yourself, and starting all over again?

Mr. FISKE: There inevitably will be some delay. All I can tell you is that we're going to work just as fast as we can to minimize it.

REPORTER: There's an upcoming trial that's being scheduled for the end of March of David Hale. Are you going to ask that that trial be postponed?

Mr. FISKE: I can't answer that question yet. That is one of the matters that we are going to take over, and I can't tell you now how we're going to handle it until I learn a little bit more about it. But we are assuming responsibility for that case.

REPORTER: Mr. Fiske, you said you didn't speak with your former law partner Judge Walsh, but he did make some comments. Is there anything - are you aware of the comments he made in his last news conference? What I'm saying is, is there anything that he did that you're aware of in terms of what they - what were his limitations, things were - that stood in his way that you would do in order to avoid the obstacles that he encountered?

Mr. FISKE: I think this is a totally different situation. I don't think it's productive to try to compare the two. I will do this the way I think I have to.

REPORTER: Mr. Fiske, there seems to be a real New York connection recently in Justice Department appointments. Were you recommended for this job by Director Freeh, or you personally - have you ever worked with Tom Constantine? Do you have - (off mike) ?

Mr. FISKE: I will leave it to someone else to answer by whom I was recommended. I certainly have known Director Freeh for a long time. We worked together on a major labor racketeering prosecution in the 1970s. I have not worked with Mr. Constantine.

REPORTER: Could you tell us a little bit more about your relationship with some other senior Justice Department officials? Phil Heymann, who I believe you reported to when you were U.S. attorney, and JoAnn Harris, who I believe worked for you when you were U.S. attorney.

Mr. FISKE: Sure. I became U.S. attorney in 1976. JoAnn Harris was one of the valued assistants in the office at that time. I worked with her until, I believe, 1978 or 1979, when Phil Heymann with my support persuaded her to come down to Washington and join him in the Criminal Division. He was then the assistant attorney general in charge of the Criminal Division, the same position that JoAnn Harris has now. And I certainly worked with Mr. Heymann back in those days, 1978-1979.

REPORTER: Do you consider yourself friendly with them? Have you maintained relations with them over the years?

Mr. FISKE: I think I probably did not speak to Mr. Heymann for 12 years between the time I left in 1980 and the time he accepted the position as deputy attorney general. JoAnn Harris I've known, I see in New York. I'm an admirer of hers and consider her a friend.

REPORTER: When were you contacted for this job? And I gather there was some question about whether some potential candidates had difficulty disengaging. Does Davis-Culp (sp) have any clients, or did you before the department, and did you have to (pay ?) any waivers and are there any post employment restrictions that will be put on you?

Mr. FISKE: That's a lot of questions, but the answer to the first one was I was contacted some time last week. I'm quite sure that our law firm does not have any conflicts that would prevent me from doing this. And in terms of what the effects of this on my practice afterwards are concerned, I will follow whatever the ethical constraints are.

REPORTER: In terms of the difference between the independent counsel appointment or a special counsel appointment, as I understand the regulations, one of the distinctions is there is a credible showing of possible criminal wrongdoing in a regulation. What was that showing that would trigger this level of scrutiny versus a special counsel?

Mr. FISKE: I have no idea whether there has been such a showing or not, or whether such a showing is required for an appointment of an independent counsel under the Justice Department regulation, as opposed to under the statute. I am not being appointed under the statute, and as I said a minute ago, I think in any event we're beyond that. I have been appointed and I am going to do the job.

REPORTER: Mr. Fiske, in 600.2, the regulation (that have been handed out ?), it says the independent counsel appointed under this chapter shall send to the Congress statements or reports of the activities - (inaudible). Do you have the schedule - (inaudible)?

Mr. FISKE: I think that's a little difficult, to set a schedule right now when as I said before, I have been in this matter less than 24 hours and haven't had a chance to find out what the facts are.

I certainly will comply with that - I will certainly comply with that regulation, absolutely.

REPORTER: (Inaudible) - about the pending independent counsel bill. During the Senate consideration recently, an amendment by Senator Dole was adopted that ostensibly would prevent independent counsel from making reports of the type that Mr. Walsh had done on persons who were not indicted. Do you support that concept and that amendment?

ATTY Gen. RENO: I haven't had a chance to review that amendment.

REPORTER: Mr. Fiske, regarding the questioning of the president and the first lady, do you imagine that will take place in the White House or will you haul them before the grand jury in Little Rock?

Mr. FISKE: It is really premature to start discussing the form in which that will occur.

REPORTER: Mr. Fiske, since you are now heading the investigation, Jim McDougal was called to testify before the grand jury in Little Rock today - will he still do so, sir, or will you ask him not to - (inaudible)?

Mr. FISKE: My understanding is, and I asked this question before I accepted the assignment, that before I was appointed, the Justice Department itself, on its own, had put that investigation on hold until the independent counsel could pick it up and go forward. So my understanding is Mr. McDougal will not be testifying today.

REPORTER: What about violation of state law? Obviously you have no jurisdiction of those, will that limit your investigation in any way?

Mr. FISKE: No.

REPORTER: At what point was the Justice Department investigation put on hold?

Mr. FISKE: Someone else would have to answer that question, but I am satisfied that it was put on hold some time in the last few days, at least.

REPORTER: Ms. Reno, can you answer that?

ATTY Gen. RENO: I instructed the lawyers to make sure that anything should be done that was necessary to maintain the integrity of the investigation, but otherwise it should cease until the independent counsel could be fully briefed and proceed. But care should be taken to make sure that if there were any emergencies or other circumstances that [unintelligible].

ATTY Gen. RENO: I don't remember the exact date, but probably know it was at the time I announced that I would seek an independent counsel.

REPORTER: But on the next day, Mr. (Stuart ?) said that McDougal was subpoenaed on Friday, two days after you said you were going to name a special counsel, to appear before the grand jury.

ATTY Gen. RENO: I can't comment on the specifics of the pending investigation.

REPORTER: Ms. Reno, could you tell us what it is about Mr. Fiske that you like? (Laughter.) Not that there aren't a lot of things, but what particular did you like?

ATTY Gen. RENO: Well I had not known Mr. Fiske, and until yesterday when Mr. Fiske said, "I am glad to see you again," I had, begging your pardon sir, not recollected meeting you.

What impressed me was that he had been appointed U.S. Attorney by a Republican president, that he had been continued in office by a Democratic president, that as a prosecutor in Miami I had long heard of Robert Fiske as the epitome of what a prosecutor should be, effective, fair, absolutely vigorous, and a person with a reputation for the highest integrity. I could ask no more, nothing better as a person to serve as independent counsel.

REPORTER: General, did you consult with anybody, any member of Congress, did you consult with anyone outside the Justice Department about this choice?

ATTY Gen. RENO: I believe calls had been made by people in the Justice Department as we have sought people and talked to people, but I have not talked to any members of Congress or anybody outside the department.

REPORTER: Did anybody from the Justice Department talk with the White House?

ATTY Gen. RENO: Not to my knowledge.

REPORTER: Did the deputy attorney general specifically recommend Mr. Fiske?

ATTY Gen. RENO: The deputy attorney general gave me a list of people that he thought should be considered. Others gave me a list that they thought should be considered, and Mr. Fiske has been on almost everybody's list.

REPORTER: Mr. Fiske, you mentioned in your charter here, specifically the president and first lady. Will this also include Mr. Hubble?

ATTY Gen. RENO: I can't answer that question until I get - as I say once again, until I meet the people that have been doing the investigation up till now, and find out what the facts are. But certainly Mr. Hubble would be embraced within the scope of this resolution, if the facts lead us in that direction.

REPORTER: Mr. Fiske, you are now going to be embarked on an investigation that involves the personal conduct of a President of the United States, the first lady. What do you - do you anticipate that that very fact will make this different than the kinds of prosecutions you've done in the past? And if so, what would the difference be?

Mr. FISKE: Well, I think it's pretty obvious that this is not your garden variety case. I certainly think this is different when it involves a President of the United States, and I think the differences are probably obvious to everybody in the room.

REPORTER: I mean you anticipate for example, potential constitutional issues that will -

Mr. FISKE: I have no idea. I am not going to try to anticipate what may or may not happen down the road. I think if they arise, we'll deal with them.

REPORTER: Mr. Fiske, going back to the question regarding state law violations, possible violations of state law, do you anticipate fully investigating whether or not there were violations of state law, and if so turning that material over to state authorities?

Mr. FISKE: It is not my charter to investigate specifically whether there were violations of state law. I cannot tell you now what will happen in the event that the investigation concluded that there were. I would have to deal with that at a later date. But that's not what I am supposed to be doing.

REPORTER: And will you be looking into civil matters of any kind?

Mr. FISKE: No. My charter is to determine whether there was a violation of federal criminal law relating to the matters that are described in the resolution.

REPORTER: Mr. Fiske, granted that I believe you said you wrote this charter essentially based on what you have read in the paper, is it possible that you might change the charter once you really get into this?

Mr. FISKE: I think the charter is written so that I can do anything I feel I have to do to do this job right. I have been told time and time again by the top officials of the Justice Department, including the attorney general, that there are no limits on what I can do, if I decide in the course of conducting the investigation I have to do it.

REPORTER: But Congressman Leach has said that - the person who originally called for this investigation, said that he envisions it as a civil matter. Do you exclude civil violations from your jurisdiction then?

Mr. FISKE: I think my charter is to determine whether there was a violation of federal criminal law. In the course of doing that investigation, if the facts demonstrate that there may be appropriate civil remedies, that's something that I think we would consider.

STAFF: Could we take one more
REPORTER: Mr. Fiske, back to the issue of the possible congressional hearings and also the uncertainty about whether an independent counsel statute may be enacted, aren't you likely to be hindered in

developing potential witnesses if they think that they may be able to secure a grant of immunity from Congress, or if they believe that they could get a better deal from someone else who might be appointed?

Mr. FISKE: I am not concerned about that at this point.

REPORTER: General, just one question on the Citadel case. Do you think that state schools should be discriminated on the basis - state supported schools - on the basis of gender?

Mr. FISKE: I don't think anybody should be able to discriminate on the basis of gender.

REPORTER: So do you have a view of that case then?

ATTY Gen. RENO: I don't want to comment on it, it's pending now.

STAFF: Thank you very much.

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