

had not done these things," the lawyer says. Neither Mr. Starr nor the Justice Department would comment on whether such memos were sent or what they may have contained.

But Mr. Starr's carefully worded statement tracks his defense against such charges. In the magazine article, he stated that his talks with reporters did not violate grand jury secrecy because the information provided stemmed from interviews with grand jury witnesses before they testified.

If there ever is an investigation, there remains some question of how Justice would probe the OIC without compromising its independence. "Most 6(e) cases tend to be [Freedom of Information Act] cases, media requests to open the court—not dealing with the behavior of the prosecutor," says former Iran-Contra associate independent counsel John Q. Barrett.

Experts say Ms. Reno could use her general powers to appoint a "Regulatory Special Prosecutor," similar to those appointed prior to the independent counsel law. This, they say, is preferable to seeking another independent counsel—which would likely be denied by the Special Division of the U.S. Circuit Court of Appeals for the District of Columbia—or to asking Mr. Starr to expand the mandate of former DOJ official Michael Shaheen, who is probing alleged payoffs of Whitewater witness David Hale by right-wing groups.

THE "DOW JONES" CASE

Both the leaking and lying charges hinge on a May 8 ruling by the D.C. Circuit that dealt with media access to hearings spawned by the Whitewater grand jury. A passage in the ruling, which may be a nonbinding dictum because it doesn't directly involve media access, contradicts Mr. Starr's initial assertions that he did not breach 6(e). In *Re: Motions of Dow Jones & Co., 98-3033*. Circuit Judge A. Raymond Randolph addressed 6(e)(2), which requires secrecy for "matters occurring before the grand jury."

"This phrase . . . includes not only what has occurred and what is occurring, but also what is likely to occur," he wrote. "Encompassed within the rule[is] . . . the substance of testimony [and the] strategy or direction of the investigation."

Some experts who say that using 18 U.S.C. 1001's prohibitions of lying against Mr. Starr would be a stretch also say they doubt the potency of Dow Jones on 6(e). "If I were a special prosecutor assigned to pursue this theory, it wouldn't be a slam-dunk," says Mr. Lynch.

Another facet of Mr. Starr's defense deals with charges that his alleged leaking violates Justice Department policies. Under 28 U.S.C. 594(f)(1) of the independent counsel act, Mr. Starr must obey the "established policies" of the Justice Department, "except to the extent that to do so would be inconsistent" with the act.

One of those policies is Rule 1-7.530 of the U.S. Attorney's Manual. While barring media contact concerning ongoing investigations, the rule makes an exception for "matters that have already received substantial publicity, or about which the community needs to be reassured." Mr. Starr says he was obligated to correct misinformation in the press, and therefore his press comments fell under that exception. (Mr. Lynch says that this argument is "a little lame.")

However, the independent counsel law may relieve Mr. Starr of having to follow 1-7.530 at all, if he feels that doing so would be "inconsistent" with the act.

But Mr. Lynch says this provision of the law isn't a free ride. Mr. Starr "is not a total free agent; he's a substitute for a regular prosecutor," he says. "You're not supposed to make up your own rules along the way."

INTRODUCTION OF THE VIRGINIA FLOOD CONTROL BILL

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce a bill that is designed to alleviate a serious problem for flood victims. In 1996, much of the southeastern region of our country took the brunt of the punches hurricane Fran could muster. Soon thereafter, Congress reacted by sending emergency aid to help rebuild the lives of those caught by this natural disaster. Many of my constituents were recipients of that aid and were grateful for it. However, the bureaucracy that accompanied some of Congress' best intentions was not as welcomed.

The people of the 6th district of Virginia are good, hard working, self-reliant people. Their first reaction was not to look for government intervention when calamity struck. Instead, they turned to their families and neighbors and told each other that it was time to go to work.

The flooding caused by Hurricane Fran in Allegheny, Augusta, Rockbridge, and Rockingham Counties dumped tons of rock and other debris in fields, pastures, living rooms and basements. My constituents, the farmers and landowners, wanted simply to start their tractors, put their gloves on and begin moving rocks. However, federal bureaucrats told them they needed to apply for a permit to put their lives back together.

If the farmers and landowners came crying to the government for help to move the debris, one might understand the federal cries for delay. But these folks were simply doing what they were always taught; if you want to get a job done right, do it yourself. Imagine their frustration when someone, probably from Washington, DC, came by and threatened to fine them if they continued to move the rocks without a permit.

Homer Allman, a landowner in Rockingham County, told me the so-called "repairs" the government so readily provided left nothing to be spoken for. "The work they did is already eroding," he said. "they provided me with six people who took three or four days to work on a plot of 1500 square feet of land that needed attention. In result, they made no banking and bore out a 50-foot channel. I could have done that in one afternoon with my bulldozer, and saved the taxpayer money."

Another landowner and constituent of mine, Page Will, observed that once the Army Corps of Engineers relaxed some permitting requirements, regular folks dug in and the work was completed. This is the impetus and spirit of my bill. Once we get the federal bureaucrats and their political way of prioritizing emergency projects out of the way, stream beds were cleared, banks were stabilized, and debris removed from pastures."

My bill prohibits the Secretary of Agriculture, or other executive branch officials, from preventing a State or local government to remove any rocks or other debris from land or water when the primary purpose of the removal operation is to reduce the risk and severity of subsequent flooding. I fail to see the need for federal intervention in what is seemingly their right to fix as landowners.

It's as simple as that. Why does the federal government have to get involved if it isn't

being asked to supply the equipment or human resources to get the removal projects underway? My constituents and I strongly believe that they should not be.

I urge my colleagues to support this legislation.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

Mr. SERRANO. Mr. Chairman, I would like to express my support for the Energy and Water Development Appropriations bill that we are voting on today on the House floor. With limited resources, this bill funds a diverse array of programs, everything from flood control projects to renewable energy technologies, in a truly bipartisan way.

I would also like to take this opportunity to recognize the outstanding contributions of two statesmen, Chairman MCDADE and the Ranking Member VIC FAZIO. Both of these Members have served this institution with distinction and have managed to once again carefully balance the diverse needs of our nation in a carefully crafted bill. VIC FAZIO and JOE MCDADE have been my friends, as well as colleagues, and their sense of fairness and ability to listen will be missed.

The people in the South Bronx are particularly grateful that funding was provided in this bill for the Corps of Engineers to initiate and complete a reconnaissance report for flood control, environmental restoration and other related purposes of the Bronx River. The restoration of the Bronx River is very important to the community that I represent, and this reconnaissance study will give the community the valuable information that it needs as it proceeds with its numerous efforts on behalf of the Bronx River.

Secondly, the Bronx community is deeply appreciative of the funding that was provided for the Corps of Engineers to continue design and construction activities at Orchard Beach in New York. More than two million people, many low-income and minority, visit Orchard Beach every year. Unfortunately, the beach is suffering from severe erosion and the sand needs to be replenished. In their March 1992 report, the Corps of Engineers New York District referred to this project as "environmentally acceptable with the potential to serve as a demonstration for tidal wetland restoration, provide direct environmental benefits and indirect educational value to the local population."

In conclusion, I would like to reaffirm my strong support for this legislation and for the way in which it both carefully balances the needs of our nation and takes into account the very specific needs of the residents of the South Bronx. Also, I would like to again express my deep appreciation for the fine work and many contributions of VIC FAZIO and JOE