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## Whitewater Hearings

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# Arrogance of DOJ apparat exposed

by Edward Spannaus

The treachery of the Justice Department's permanent bureaucracy was on full display on Aug. 2, when former Deputy Attorney General Philip Heymann testified before the Senate Whitewater Committee. Heymann first entered the Justice Department in 1961, and has been back twice, as head of the Criminal Division during the Carter administration (where he ran Abscam), and as Deputy Attorney General in the Clinton administration—until he was fired in 1994 by Attorney General Janet Reno. In between, he headed the State Department's CIA-linked Bureau of Security and Consular Affairs, was a member of the Watergate prosecutorial team, and has been a professor at Harvard Law School.

Following Heymann's Whitewater testimony, the news media were full of sound bytes and headlines about Heymann's warnings to the White House in July 1993 that a "major disaster" was brewing, and Heymann's denunciations of the White House's handling of the search of Vincent Foster's office. After Foster's body was discovered on July 21, 1993, Heymann had dispatched what he called two "respected career professionals" to the White House to review Foster's files—which White House Counsel Bernard Nussbaum refused to let them do, contending that he must determine which documents were subject to executive privilege or attorney-client protection.

### The DOJ permanent bureaucracy

The two "senior career long-term prosecutors" sent by Heymann to Foster's office were David Margolis and Roger Adams (who have been at the Justice Department since 1965 and 1972, respectively). Both are deeply enmeshed in the DOJ permanent apparatus; Margolis is a very close associate of John Keeney and Mark Richard (see "John Keeney, Mark Richard, and the DOJ Permanent Bureaucracy," *EIR*, June 30, 1995). Margolis headed the Criminal Division's Organized Crime and Racketeering Section in the 1980s.

Most widely reported in the news media was Heymann's recounting of his "angry and adamant" telephone call to Nussbaum, in which Heymann says he told Nussbaum that he was making a "terrible mistake," plus his subsequent call to David Gergen and other White House officials. "I told them all that they had a major disaster brewing, that I wasn't going to put up with it any more."

But what the press generally failed to report, was that Heymann admitted that the entire dispute around the search of the files in Foster's office was only about "appearances"—and "political appearances" at that. Under questioning by Sen. Paul Sarbanes (D-Md.) and minority counsel Richard Ben-Veniste, Heymann was compelled to admit that Justice Department lawyers had no legal right to go through White House files, that no court would have issued a subpoena or a search warrant for Foster's office, and that even if a subpoena had been issued, Nussbaum would still have been entitled to sort through the papers first, by himself, to determine which were relevant to the Justice Department or FBI.

In fact, despite Heymann's self-serving recounting of his own anger at Nussbaum and the White House, he was forced to admit that his "respected career professionals" had no legal right whatsoever to even be in Foster's office! "I don't think we had any legal power to do what I was demanding," he conceded.

Heymann also admitted that, in July 1993, he had not even heard of Whitewater, and was certainly not interested in Whitewater files—which reveals the fraud of these hearings, convened under the excuse of examining the handling of Whitewater files in Foster's office.

When an investigation involves the White House, the nation's top elected officials must defer to the permanent bureaucracy, Heymann instructed the committee. "It isn't a technical legal question, but an issue as to the necessary conditions for maintaining the credibility of federal law enforcement and of the Presidency," he declared. "I thought that, as a practical matter, no White House could survive deciding by itself without the Justice Department's credibility supporting it."

Saying he had been watching such events since 1955, Heymann stated: "I think each White House staff from each administration is very suspicious of career government employees, including career attorneys. I think the suspicion is never warranted."

As to his own qualifications to lord it over the White House and Congress, Heymann offered his credentials: "Investigations involving high-level White House or congressional people are not new to me. I played a significant role in the special prosecutor's Watergate investigation and in the investigations during my tenure as Assistant Attorney General in charge of the Criminal Division during the Carter administration, of the Carter warehouse, Robert Vesco's charges against the Democratic Party and White House officials, Billy Carter, Bert Lance, Hamilton Jordan, and others. I shared with William Webster, then-director of the FBI, the ultimate responsibility for the Abscam investigations involving a number of members of Congress."

The effects of Heymann's Abscam frameups are still visible today, in the cowardice of the Congress and its failure—demonstrated especially in the Waco hearings—to take on and clean out the DOJ's permanent bureaucracy.