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IMPEACHMENT INQUIRY: WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

PRESENTATIONS BY INVESTIGATIVE COUNSEL

IMPEACHMENT INQUIRY PURSUANT TO H. RES. 581: PRESENTATIONS BY INVESTIGATIVE COUNSEL

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

HENRY J. HYDE, *Chairman*

DECEMBER 10, 1998

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PRESENTATIONS BY INVESTIGATIVE COUNSEL

THURSDAY, DECEMBER 10, 1998

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to call, at 9:00 a.m., in Room 2141, Rayburn House Office Building, Hon. Henry J. Hyde [chairman of the committee] presiding.

Present: Representatives Henry J. Hyde, F. James Sensenbrenner, Jr., Bill McCollum, George W. Gekas, Howard Coble, Lamar S. Smith, Elton Gallegly, Charles T. Canady, Bob Inglis, Bob Goodlatte, Stephen E. Buyer, Ed Bryant, Steve Chabot, Bob Barr, William L. Jenkins, Asa Hutchinson, Edward A. Pease, Christopher B. Cannon, James E. Rogan, Lindsey O. Graham, Mary Bono, John Conyers, Jr., Barney Frank, Charles E. Schumer, Howard L. Berman, Rick Boucher, Jerrold Nadler, Robert C. Scott, Melvin L. Watt, Zoe Lofgren, Sheila Jackson Lee, Maxine Waters, Martin T. Meehan, William D. Delahunt, Robert Wexler, Steven R. Rothman, and Thomas M. Barrett.

Majority Staff Present: Thomas E. Mooney, Sr., general counsel-chief of staff; Jon W. Dudas, deputy general counsel-staff director; Diana L. Schacht, deputy staff director-chief counsel; Daniel M. Freeman, parliamentarian-counsel; Joseph H. Gibson, chief counsel; Rick Filkins, counsel; Sharee M. Freeman, counsel; John F. Mautz, IV, counsel; William Moschella, counsel; Stephen Pinkos, counsel; Judy Wolverton, professional staff; Peter Levinson, counsel; Sheila F. Klein, executive assistant to general counsel-chief of staff; Annelie Weber, executive assistant to deputy general counsel-staff director; Samuel F. Stratman, press secretary; Rebecca S. Ward, officer manager; James B. Farr, financial clerk; Lynn Alcock, calendar clerk; Elizabeth Singleton, legislative correspondent; Sharon L. Hammersla, computer systems coordinator; Michele Manon, administrative assistant; Joseph McDonald, publications clerk; Shawn Friesen, staff assistant/clerk; Robert Jones, staff assistant; Ann Jemison, receptionist; Michael Connolly, communications assistant; Michelle Morgan, press secretary; and Patricia Katyoka, research assistant.

Subcommittee on Commercial and Administrative Law Staff Present: Ray Smietanka, chief counsel; Jim Harper, counsel; Susan Jensen-Conklin, counsel; and Audray Clement, staff assistant.

Subcommittee on the Constitution Staff Present: John H. Ladd, chief counsel; Cathleen A. Cleaver, counsel; and Suana Quiterrez; clerk/research assistant.

Subcommittee on Courts and Intellectual Property Staff Present: Mitch Glazier, chief counsel; Blaine S. Merritt, counsel; Vince Garlock, counsel; Debra K. Laman, counsel; and Eunice Goldring, staff assistant.

Subcommittee on Crime Staff Present: Paul J. McNulty, director of communications-chief counsel; Glenn R. Schmitt, counsel; Daniel J. Bryant, counsel; Nicole R. Nason, counsel; and Veronica Eligan, staff assistant.

Subcommittee on Immigration and Claims Staff Present: George M. Fishman, chief counsel; Laura Ann Baxter, counsel; Jim Y. Wilon, counsel; Cynthia Blackston, clerk; and Judy Knott, staff assistant.

Majority Investigative Staff Present: David P. Schippers, chief investigative counsel; Susan Bogart, investigative counsel; Thomas M. Schippers, investigative counsel; Jeffrey Pavletic, investigative counsel; Charles F. Marino, counsel; John C. Kocoras, counsel; Diana L. Woznicki, investigator; Peter J. Wacks, investigator; Albert F. Tracy, investigator; Berle S. Littmann, investigator; Stephen P. Lynch, professional staff member; Nancy Ruggero-Tracy, office manager/coordinator; and Patrick O'Sullivan, staff assistant.

Minority Staff Present: Julian Epstein, minority chief counsel-staff director; Perry Apelbaum, minority general counsel; Samara T. Ryder counsel; Brian P. Woolfolk, counsel; Henry Moniz, counsel; Robert Raben, minority counsel; Stephanie Peters, counsel; David Lachmann, counsel; Anita Johnson, executive assistant to minority chief counsel-staff director, and Dawn Burton, minority clerk.

Minority Investigative Staff Present: Abbe D. Lowell, minority chief investigative counsel; Lis W. Wiehl, investigative counsel; Deborah L. Rhode, investigative counsel; Kevin M. Simpson, investigative counsel; Stephen F. Reich, investigative counsel; Sampak P. Garg, investigative counsel; and Maria Reddick, minority clerk.

OPENING STATEMENT OF CHAIRMAN HYDE

Chairman HYDE. The committee will come to order. Pursuant to notice, the committee will come to order to consider scheduled business.

Today we will hear presentations from Abbe Lowell and David Schippers, and we will then consider articles of impeachment and Members will make opening statements. So we have a full, long day.

Before I recognize the majority and minority counsels for their presentation, I must make the following unanimous consent request, which will allow both the chief Democratic investigative counsel and the chief Republican investigative counsel to thoroughly brief the committee.

So, without objection, I will make a unanimous consent request that refers to materials held in executive session. So without objection, so ordered. I ask unanimous consent——

Ms. LOFGREN. I object.

Chairman HYDE. Pardon?

Ms. LOFGREN. I object.

Chairman HYDE. Who is speaking? Ms. Lofgren, you object to the unanimous consent request?

Mr. Sensenbrenner.

Mr. SENSENBRENNER. Mr. Chairman, pursuant to clause 2(g)(1) of House Rule XI, I move to go into executive session to consider releasing certain executive session materials deemed necessary by the Democratic and Republican chief investigative counsels for their presentation.

Chairman HYDE. The Clerk will call the roll. You have heard the motion.

The CLERK. Mr. Sensenbrenner.

Mr. SENSENBRENNER. Aye.

The CLERK. Mr. Sensenbrenner votes aye.

Mr. McCollum.

Mr. MCCOLLUM. Aye.

The CLERK. Mr. McCollum votes aye.

Mr. Gekas.

Mr. GEKAS. Aye.

The CLERK. Mr. Gekas votes aye.

Mr. Coble.

Mr. COBLE. Aye.

The CLERK. Mr. Coble votes aye.

Mr. Smith.

Mr. SMITH. Aye.

The CLERK. Mr. Smith votes aye.

Mr. Gallegly.

Mr. GALLEGLY. Aye.

The CLERK. Mr. Gallegly votes aye.

Mr. Canady.

Mr. CANADY. Aye.

The CLERK. Mr. Canady votes aye.

Mr. Inglis.

Mr. INGLIS. Aye.

The CLERK. Mr. Inglis votes aye.

Mr. Goodlatte.

Mr. GOODLATTE. Aye.

The CLERK. Mr. Goodlatte votes aye.

Mr. Buyer.

Mr. BUYER. Aye.

The CLERK. Mr. Buyer votes aye.

Mr. Bryant.

Mr. BRYANT. Aye.

The CLERK. Mr. Bryant votes aye.

Mr. Chabot.

Mr. CHABOT. Aye.

The CLERK. Mr. Chabot votes aye.

Mr. Barr.

Mr. BARR. Aye.

The CLERK. Mr. Barr votes aye.

Mr. Jenkins.

Mr. JENKINS. Aye.

The CLERK. Mr. Jenkins votes aye.

Mr. Hutchinson.

Mr. HUTCHINSON. Aye.

The CLERK. Mr. Hutchinson votes aye.

Mr. Pease.

Mr. PEASE. Aye.
The CLERK. Mr. Pease votes aye.
Mr. Cannon.
[No response.]
The CLERK. Mr. Rogan.
Mr. ROGAN. Aye.
The CLERK. Mr. Rogan votes aye.
Mr. Graham.
Mr. GRAHAM. Aye.
The CLERK. Mr. Graham votes aye.
Mrs. Bono.
Mrs. BONO. Aye.
The CLERK. Mrs. Bono votes aye.
Mr. Conyers.
Mr. CONYERS. No.
Chairman HYDE. No. He voted no.
The CLERK. Mr. Conyers votes no.
Mr. Frank.
[No response.]
The CLERK. Mr. Schumer.
[No response.]
The CLERK. Mr. Berman.
[No response.]
The CLERK. Mr. Boucher.
[No response.]
The CLERK. Mr. Nadler.
Mr. NADLER. No.
The CLERK. Mr. Nadler votes no.
Mr. Scott.
Mr. SCOTT. No.
The CLERK. Mr. Scott votes no.
Mr. Watt.
Mr. WATT. Aye.
The CLERK. Mr. Watt votes aye.
Ms. Lofgren.
Ms. LOFGREN. No.
The CLERK. Ms. Lofgren votes no.
Ms. Jackson Lee.
Ms. JACKSON LEE. No.
The CLERK. Ms. Jackson Lee votes no.
Ms. Waters.
Ms. WATERS. No.
The CLERK. Ms. Waters votes no.
Mr. Meehan.
Mr. MEEHAN. No.
The CLERK. Mr. Meehan votes no.
Mr. Delahunt.
Mr. DELAHUNT. Aye.
The CLERK. Mr. Delahunt votes aye.
Mr. Wexler.
Mr. WEXLER. Aye.
The CLERK. Mr. Wexler votes aye.
Mr. Rothman.
Mr. ROTHMAN. Aye.

The CLERK. Mr. Rothman votes aye.
Mr. Barrett.
Mr. BARRETT. Aye.
The CLERK. Mr. Barrett votes aye.
Mr. Hyde.
Chairman HYDE. Aye.
The CLERK. Mr. Hyde votes aye.
Mr. FRANK. Mr. Chairman.
Chairman HYDE. The gentleman from Massachusetts.
Mr. FRANK. Is this a formal vote?
Aye.
The CLERK. Mr. Frank votes aye.
Mr. Chairman, there are 26 ayes and 7 noes.
Chairman HYDE. The gentleman from Michigan wishes to change his vote to aye.
The CLERK. Mr. Conyers is recorded as an aye.
Chairman HYDE. Mr. Meehan.
Mr. MEEHAN. I will change my vote to aye.
The CLERK. Mr. Meehan is recorded as an aye.
Chairman HYDE. Is there anyone else who wishes to change their vote? Mr. Berman wishes to vote?
Mr. BERMAN. Aye.
Chairman HYDE. Mr. Berman votes aye. The Clerk will report.
The CLERK. Mr. Chairman, there are 29 ayes and 5 noes.
Chairman HYDE. And the motion is agreed to.
Mr. NADLER. Mr. Chairman.
Chairman HYDE. The unauthorized people will have to leave the room. We will have to pull the plugs on the cameras.
Mr. NADLER. Mr. Chairman.
Chairman HYDE. Yes, Mr. Nadler.
Mr. NADLER. I would like to make my usual motion that the text of the motions and the ayes and nays during executive session will be——
Chairman HYDE. The gentleman is not recognized for that purpose.
Mr. NADLER. Excuse me, Mr. Chairman, I think I was recognized.
Chairman HYDE. Well, you are unrecognized. The motion has carried. We now must go into executive session and all unauthorized people will leave the room and we will pull the plugs on the lights and the cameras.
Mr. NADLER. Point of order, Mr. Chairman. Point of order, Mr. Chairman.
[Whereupon, at 9:30 a.m., the committee proceeded in executive session.]
[Whereupon at 10:45 a.m., the committee proceeded in open session.]
Chairman HYDE. The committee will come to order. I wonder if we could get the doors closed.
Now, the Chair would like to announce that what we plan to do today is first hear from Mr. Abbe Lowell, the chief investigative counsel for the minority. His presentation will take about 2 hours, I am informed. There is no time limit. Whatever time he wishes, he may have. If it is 2 hours or so, we will then take a lunch break,

and at 2 Mr. Schippers, David Schippers, the chief investigative counsel for the majority, will make a similar presentation; that is to say, a summing up of where we are and what the evidence is and what positions they believe we should adapt—adopt, rather. That should take 2 hours also; again, without any firm time line.

When that is over, both presentations are made, we will then go into a markup session on articles of impeachment. Now, preliminary to the actual markup, we will have opening statements. Throughout this process, we have been limiting opening statements to Mr. Conyers and myself simply because of the crowded agenda that we have. But now that we are reaching the culmination of this committee's role in this impeachment issue, I think it is appropriate that the members have an opportunity to make an opening statement of some duration. So we have determined that 10 minutes for each member, which could consume as much as 6 hours or more, but it is appropriate that the members be able to make a significant opening statement before we get into the actual markup that is the consideration of amendments, if any, and the vote on the articles of impeachment.

So the schedule will be Mr. Abbe Lowell, lunch, Mr. Schippers, opening statements. If we don't finish those tonight, and I can't imagine we will, we will come back tomorrow morning at 9, and we will conclude the opening statements. Then the articles of impeachment will be open for amendment at any point as in any markup, and we will continue with that.

There is a resolution of censure text that has been circulated, and it is my intention that we will debate and consider that after we have finished with the resolution of impeachment and voted on that up or down, and there may be several votes on that because I believe there are four articles.

So that is a general outline of where we are and where we are headed so people who need to make plans can make them.

Mr. SCOTT. Mr. Chairman.

Chairman HYDE. Who is seeking recognition? Mr. Scott.

Mr. SCOTT. Parliamentary inquiry, Mr. Chairman.

Chairman HYDE. State your inquiry.

Mr. SCOTT. Mr. Chairman, I have had a motion pending for some time. I was wondering if you could inform me when it might be in order?

Chairman HYDE. Well, the gentleman was really never recognized for that motion. It really is out of order now. I would like to proceed with the hearing as we have noticed it up, which is with Mr. Lowell.

Mr. SCOTT. Well, Mr. Chairman——

Chairman HYDE. You and I can maybe over the lunch hour talk some more about it. I would be happy to talk to you.

Mr. SCOTT. The motion has been pending. Are you ruling it out of order, or it is not in order totally, or is it not in order now?

Chairman HYDE. Well, it is not in order now, although if the gentleman wants to be heard—I will yield to Mr. Conyers.

Mr. CONYERS. Could we meet immediately after this presentation with the Chairman, Bob——

Mr. SCOTT. I would be delighted to.

Mr. CONYERS [continuing]. On your motion, which I advocated very strongly yesterday?

Mr. SCOTT. I thought that the last time this came up, that it would definitely come up, and I thought that you and the chairman had agreed.

Mr. CONYERS. Yes, sir, we had.

Mr. SCOTT. I would just like to just note that it is still pending.

Mr. CONYERS. Yes, sir.

Mr. SCOTT. And whenever the chairman is willing to take it up, we can take it up.

Chairman HYDE. All right. What we can do is after luncheon, I will recognize you for making your motion, and we will get a vote on it. All right?

Mr. SCOTT. Very well.

Chairman HYDE. Mr. Nadler, yes, Mr. Nadler, what could you possibly want?

Mr. NADLER. I think it would be appropriate to announce in opening session what the committee decided in closed session, before Mr. Lowell starts, that the motion was approved.

Chairman HYDE. Well, I don't know how interested people are, but we—the motion—my motion was agreed—ultimately agreed to, and the motion to divide was withdrawn. So that was the result.

Mr. FRANK. Mr. Chairman, there is always a great deal of suspense as to whether or not motions you make will be approved by this committee. We didn't want to keep people in that suspense.

Chairman HYDE. I suppose you are right. I haven't given that a lot of thought.

In any event, at long last we are at the point where we will hear from the chief investigative counsel of the Democratic minority, Mr. Abbe Lowell. Mr. Lowell.

STATEMENT OF ABBE LOWELL, MINORITY CHIEF INVESTIGATIVE COUNSEL

Mr. LOWELL. Thank you.

Mr. Chairman, Ranking Member Conyers and members of the committee, on behalf of the minority staff, all of my colleagues who are in this room, who have worked so hard over the last 3 months, I appreciate this chance to present our work.

Two months ago, on October 5th, you allowed us to address you on the issue of opening an impeachment inquiry, and we will be referring to parts of that presentation in order to demonstrate that this committee does not have constitutional grounds to put forward the impeachment of the President of the United States.

This week, Mr. Chairman, you brought the committee's attention to and quoted historian Arthur Schlesinger from his 1980's book, which dealt with the type offenses that were in Watergate. Rather than using his quotes about those very significant excesses of President Nixon, I think it would be better to cite what Professor Schlesinger said on November 9th, right here, about the insignificant offenses of President Clinton. He said, "Lowering the bar for impeachment creates a novel, revolutionary theory of impeachment, which would send us on an adventure with ominous implications for the separation of powers that the Constitution established

as the basis of our political order. It would permanently weaken the Presidency."

With the time I have today, Mr. Chairman, I would like to first set out the framework for an impeachment. In other words, I would like to address the question of what an impeachment is and what it is not.

Second, I will take some time, taking you through what you have designated as the evidence, to demonstrate that there are no clear facts on which to base such an action.

Third, I would briefly compare the facts against the constitutional requirements that an impeachment may proceed only for "high crimes and misdemeanors" and only on the basis of "clear and convincing evidence."

And fourth, I would like to further explain how the process used in this matter should cause this committee to have second thoughts about proceeding with the third impeachment in American history.

There has been a lot of confusing talk about what an impeachment is. The minority staff has now poured over thousands of pages of constitutional history, legal articles and testimony, and we can begin this day, Mr. Chairman, explaining what an impeachment is not. Impeachment is not a means to punish the President. Impeachment is not a means to send a message to our children that the President isn't above the law. There are better ways to do that.

Impeachment is not a vote of confidence for Independent Counsel Starr. Impeachment is not a penalty for the President not answering the 81 questions as some of you would have wished. Impeachment is not a form of rebuke or censure for the President's conduct. In fact, impeachment is not about the President's conduct. It is about Congress' conduct.

Just because the President might disgrace his office by his actions, and just because the Independent Counsel may have shown partiality and zeal in his investigation, this House can do better. The road to dishonor in office can end in this committee, in this room, on this very day. Because what an impeachment is, of course, is the single device to remove from the office the Chief Executive who you decide is constitutionally disqualified to serve, and by doing so overturn two national elections. As many of you have said, it is the political equivalent of the death penalty.

Back in October, Mr. Chairman, I think the committee was listening to one another. Some have said we no longer are. News reports indicate that a majority of the committee's Republicans have already stated publicly that they will support at least one article of impeachment. I hope these reports are not true and that these debates have some purpose. If the reports are true, however, I hope your colleagues on the House floor are still listening.

In what minority and majority staff present to you today, we wish we could ask each of you to change places so that Republicans would hear the arguments as Democrats and Democrats hear them as Republicans.

Others have noted the portraits behind you of the two Chairs of this committee who have had the terrible burden of presiding over impeachment inquiries. Interestingly, the portrait of Chairman

Hyde hangs over the Democrats, and that of Chairman Rodino hangs over the Republicans.

This should be the model for today's events. We should see, if we can see, the issues through the eyes of the other side . . . just this once.

With that in mind, Chairman Rodino recently had the opportunity to reminisce about that day 24 years ago that the gavel was in his hand. I would like you to listen to what he said.

[Videotape played.]

Peter Rodino, Former Chairman of the House Judiciary Committee: We needed Republicans as well. The American people would not have accepted a vote that would have been purely a partisan vote voting to impeachment the president of the United States clearly on partisan grounds.

[The audio transcription follows:]

Mr. LOWELL. Mr. Chairman, you echoed the same thoughts before the heat of the lights and the rhetoric in this room were turned on. In a January interview, you said that you were reluctant to begin hearings because committee Democrats would not be for it, and you also said, " . . . at the end of the day the Democrats have to agree. I would be loath to start something that I didn't think we could finish, and right now I doubt that Democratic support would be present."

We are well served to listen to what you and Chairman Rodino were saying, and we are also well served to listen to the country.

During our November 19th hearing, Congressman Graham accurately stated, "Without public outrage impeachment is a very difficult thing, and I think it is an essential component of impeachment. I think that is something that the Founding Fathers probably envisioned."

The public has been telling us for months and in every way they possibly can that they do not want to see a trial in the Senate where the issues will be about sex, and that they want there to be a censure or other alternatives to impeachment as the means to demonstrate that the President is not above the law. So before this week is out, I hope we listen to the wisdom of the Nation as well.

As we have participated in every hearing and listened to all the statements, it appears that many in the majority seem to be going out of their way to find reasons to impeach, when our history tells us it should be the other way around. To this end, the committee has been too willing to dilute the constitutional standard of what makes up a high crime and misdemeanor by equating a violation of a statute, even a criminal statute, to a violation of Article II, Section 4. It has been too willing to lower the burden of proof to suggest that the House is nothing more than a grand jury, seeking to find probable cause. It has been too willing to reverse the presumption of innocence so that you ask why the President has not called fact witnesses when that is the obligation of the committee. It has been too willing to water down these proceedings to compare an impeachment of our only elected President to those where one of a thousand appointed Federal judges is involved, and as Judge Higginbotham said, it has been too willing to liken the impeachment of a President to a perjury conviction of a basketball coach.

The lowering of the bar, as Professor Schlesinger has described it, must not continue.

One of the constitutional scholars from whom you heard, Professor Jack Rakove, defined it well when he said, "Impeachment is a remedy to be deployed only in unequivocal cases where the insult to the constitutional system is grave." And in the most important part of what he said, he added, "There would have to be a high degree of consensus on both sides of the aisle in Congress and in both Houses to proceed."

Mr. Chairman, some have asked whether the role of the minority staff is the same as the President's counsel. It is not. We are not here to defend the President. He, better than anyone, has said that his conduct was not defensible, and he has apologized for it. We are here, however, to strenuously defend the requirements the Constitution poses on all of us before we would even consider the word impeachment. Our obligation is to leave Article II, Section 4 the way we found it on November 9th.

For the minority staff, to resort to the impeachment process is like resorting to that fire extinguisher behind the glass door with a big sign that reads, "break only in case of emergency." We are asking you not to break the glass unless there is literally no other choice.

From listening to our constitutional scholars, we learned that debates about impeachment are like the wall protecting the fort of the Constitution's separation of powers. The crack you put in the wall today becomes the gash tomorrow, which ultimately leads to the wall crumbling down. It is that serious. It is so serious that the wall was never even approached when President Lincoln suspended the writ of habeas corpus; nor when President Roosevelt misled the public about involvement in the Lend-Lease program; nor when President Reagan misled the country and Congress about involvement with Iran-Contra.

So, members of the committee, before you stop listening to each other, consider that a House vote for impeachment, as Majority Leader Trent Lott said last week, requires the Senate to begin a trial. Unlike your proceedings, all Senators would be involved to have to hear the real testimony of all the real witnesses, not a summary from a prosecutor. This would have to occur no matter how long it took on the floor of the Senate with the Chief Judge presiding.

Are the issues of the President's conduct in the case so grave that you would doom the country to additional months of this ordeal and government paralysis on the slimmest of votes on the House floor and no likely conviction in the Senate?

When Mr. Starr testified 2 weeks ago, I began to review his evidence with him, but I ran out of time. I would like to do that now. The majority would break that glass and vote four articles of impeachment, one based on the President's perjury in the grand jury; the second on perjury in the civil deposition; the third on obstruction of justice; and the fourth called "abuse of power."

Mr. Scott has pointed out time and time again that this process has been something of a moving target; first, with Mr. Starr proposing 11 grounds, then with majority counsel dicing those charges into 15, and now with the majority putting forth articles that basically match the three categories the minority staff summarized for you on October 5th, except that the grand jury and deposition

statements by the President have been divided into two separate articles.

At the end of this process, we are about where we started. If you will turn to tab 1 in your exhibit books, it is a chart of how the articles describe the proposed allegations, allegations on the articles of impeachment that the President lied about an improper sexual relationship; the President obstructed justice by asking others to conceal that improper relationship; that the President abused his office by taking other steps to conceal that same improper private relationship. No matter how they are dressed up, redivided, renamed, reorganized or duplicated, they all have the same central point: The President's improper relationship with Ms. Lewinsky, nothing more.

Well, we are not quite where we are when we started off. It is a little odd for me to make a presentation about why there are no grounds for impeachment before the majority has set out why such articles might exist. Similarly, it is a little odd to have the President's counsel make a defense when the charges were given to him afterwards. Mr. Chairman, I ask you and the committee to note that as we get closer and closer to a day of great constitutional moment, votes on articles of impeachment, we have gotten farther and farther away from one basic constitutional requirement: Notice of the charges.

These draft articles that we all received last evening have article 1 alleging that the President committed perjury or lied at the grand jury; article 2, the same offenses for the civil deposition; article 3, obstruction of justice; and article 4, abuse of power.

If you look, as we did last night, we cannot find in these articles what statements the majority contends were lies. Instead of precision, there is the phrase in article 1 that the President gave misleading testimony concerning, "The nature and details of his relationship." Article II reads no better.

Mr. Chairman, I know you and the staff are trying to be fair, but how is it fair to make these kinds of unspecified charges in these halls in the People's House on something as grave as impeachment? We should be doing better than filing charges that would be thrown out for vagueness in every courtroom in the land.

The decision to make these vague charges and to have me speak first leaves me no choice but to assume, and I hope my assumption is correct, that the phrases in the proposed articles match the original allegations made by Mr. Starr. However, I have to say it would have been better if the articles had just said so.

On October 5th, I described the process by which prosecutors pile on charges to make their cases more serious. With that in mind, Mr. Chairman, I asked how it makes things clearer for the committee and the House for majority staff to have taken various charges and to have repeated them over and over again. For example, majority counsel has adopted the Independent Counsel's allegation that the President tried to influence Ms. Lewinsky to file a false affidavit, and they list it in proposed article 3, clause 1, as an obstruction of justice. Yet, I see that they have also included the exact same event, renaming it as perjury, in article 1, clause 4, by listing it as something the President lied about in his testimony. Surely, the committee can see through this tactic.

For a week or more, the majority has stated that the President or the minority did not call fact witnesses. Mr. Inglis repeated that charge to White House Counsel Ruff yesterday. But in America it should not have been our burden to do so. However, if it is fact witnesses you need, then it will be fact witnesses you get.

Mr. Chairman, on behalf of the minority, I now call to the stand Monica Lewinsky, Betty Currie, Vernon Jordan, Linda Tripp and the President of the United States.

You see, their sworn testimony contained in the same boxes on which majority counsel is relying to put forth articles of impeachment actually proves the President's case, and this is what the witnesses have to say.

With respect to the charge that the President lied about his relationship, even members of the majority such as Mr. Graham have stated that the President's answers to surprise questions in his deposition, consisting of gobbledygook definitions of the phrase "sexual relations," should not be grounds for impeachment. Yet there apparently was a change of mind.

The proposed articles of impeachment include two separate articles for the President's statements. So if you truly want to go forward on impeachment based on what the President has admitted were strained and evasive answers to questions at the civil deposition, I thought you and the public should hear how this all first started.

Even though majority counsels have told us that they want parts of President Clinton's deposition in that case released, I thought you should have the whole picture and hear the amazing exchange between three lawyers and a judge that went into the contorted definition of "sexual relations" at the Paula Jones deposition that has gotten us all here today. Please pay attention to how long all this takes, and listen to how all of them, and especially Judge Webber Wright, accurately predicted that the twisted definition would create havoc and confusion.

But as you watch and listen, remember this: On January 17th, when the deposition was taken, the Paula Jones attorneys in the room already had Linda Tripp and her tapes. They knew they were setting up the President. They knew that they were trying to create havoc and confusion. But the President, his counsel, the lawyer for Trooper Danny Ferguson, and Federal Judge Webber Wright had no idea what they and Linda Tripp were planning. And so when Judge Webber Wright concludes, in the portion you are about to hear, "if you want to know the truth, I am not sure Mr. Clinton knows all of these definitions," she could have not known how correct she was.

[Videotape played.]

[The audio transcription follows:]

(Unknown): I'd like to hand you what has been marked deposition Exhibit 1 so that the record is clear today, and that we know we are communicating. This is a definition of a term that will be used in the course of my questioning. The term is sexual relations. I will inform the court that the wording of this definition is patterned after federal rule of evidence 413. Would you please take whatever time you need to read this definition, because when I use the term "sexual relations," this is what I am meaning today.

Is there a copy for the court?

(Unknown): Could you pass that, please?

Your Honor, as an introductory matter, I think this could really lead to confusion. And I think it's important that the record be clear. For example, it says, the last line, "contact means intentional touching directly or through clothing."

Just, for example, one could have a completely innocent shake of the hand, and I don't want this record to reflect—I think we're here today for counsel for the plaintiff to ask the president what he knows about various things: what he did, what he didn't do. But I—I have a real problem with this definition, which means all things to all people, in this particular context.

(Unknown): Your Honor, I think the wording of that is extremely erroneous. What the (off-mike) should be looking at is exactly what occurred. And he can ask the witness to describe as exactly as possible what occurred.

But to use this as an antecedent to a question, it would put him in a position—and if the president admitted shaking hands with someone, then under this (off-mike) deposition—or definition, he could say or somehow construe that to mean that that involves some sort of sexual relations. And I think it's very unfair. Frankly, I think it's a political trick, and I totally (off-mike) how I feel about the political character of what this lawsuit is about.

(Unknown): Your honor, may I respond?

Judge Susan Webber Wright: You may.

(Unknown): The purpose of this is to avoid everything that they have expressed concern about. It is to allow us to be discreet and to make the record crystal clear. There is absolutely no way that this could ever be construed to include a shaking of the hand.

(Unknown): Well, Mr. Fisher, let me refer to you paragraph two. It says, "contact between any part of the person's body or an object and the genitals or anus of another person." What—if the president patted me and said I had lost 10 pounds off my bottom, you could be arguing that I had sexual relations with him.

Your Honor, if this is going to lead to confusion, why don't they ask the president what he did, what he didn't do? And then we can argue in court later about what it means.

Wright: All right. Let me make a ruling on this. It appears that not the definition of contact under rule 413, because rule 413 deals with nonconsensual contact. This definition would encompass contact that is consensual. And the court has ruled that consenting consensual contact in this case.

So let the record reflect that the court disagrees with counsel that this is—about being the definition under rule 413; it's not. It is more in keeping with, however, the court's previous rule. But I certainly agree with the president's counsel that this—the definition No. 2 is too—is too broad, and so the definition No. 3.

Definition No. 1, it encompass intent. And so that would be—Nos. 2 and 3 are just too broad.

(Unknown): All right, Your Honor.

Wright: And No. 1 is not too broad, however. So I'll let you use that definition as long as we understand that that's not rule 413. It's just a rule that would apply in this case to intentional sexual contact.

(Unknown): Yes, Your Honor. And had I been allowed to develop this further, everyone would have seen that deposition Exhibit 2 is actually the definition of sexual assault or (off-mike) of sexual assault, which is the term in rule 413.

(Unknown): Your Honor, I object to this record being filled with these kinds of things, which is going to—why don't they ask—they have got the president of the United States in this room for several hours. Why don't they ask him questions about what happened or didn't happen?

Wright: I will permit him to refer to definition No. 1, which encompass consensual sexual contact for the purpose of arousing or gratifying sexual desire.

Wright: I'll permit that. Go ahead.

(Unknown): Mr. President, in light of the court's ruling, you may consider subparts two and three of deposition exhibit one to be stricken. And so when in my questions I use the term "sexual relations," sir, I'm talking only about part one in the definition of the body. Do you understand that, sir?

William J. Clinton, President of the United States: I do.

(Unknown): I'm now handing you what has been marked deposition exhibit two. Please take whatever time you need to read deposition exhibit two.

(Unknown): Your Honor, again, what I am very worried about, your honor, is first of all, this—this—this appears to be—I mean what I don't want to do is (off-mike) be asked questions and then we don't—we're all—we're ships passing in the night. They're thinking of one thing. He's thinking another. Are talking criminal assault? Are we—I mean, this is not what a deposition is for, your honor. He can ask the president: What did you do? He can ask him specifically in certain instances what

he did. And isn't that what this deposition is for? It's not to sort of lay a trap for him.

And I'm going to object to the president answering and having to remember what's on this whole sheet of paper; and I just don't think it's fair. It's going to render conclusions.

Wright: Do you agree with Mr. Bennett?

(Unknown): I wanted to point (off-mike), your honor. This is almost like in a typical automobile accident, where the plaintiff's counsel wants to ask the defendant: Were you negligent? That's not factual.

Wright: Mr. Fisher, do you have a response?

Fisher: Yes, Your Honor. What I'm trying to do is avoid having to ask the president a number of very salacious questions and to make this as discreet as possible. This definition, I think the court will find is taken directly from rule 413, which I believe President Clinton signed into law, with the exception that I have narrowed subpart one to a particular section which would be covered by rule 413.

And I have that section here to give the president so that there is no question what his intent is. This will eliminate confusion, not cause it.

(Unknown): Your honor, I have no objection where the appropriate predicates are made for them to ask the president: Did you know X? Yes or no? what happened? What did you do? What didn't you do? We acknowledge that some embarrassing questions will be asked, but then we all will know what we are talking about. But I do not want my client answering questions not understanding exactly what these folks are talking about.

Now your honor, I've told you that the president has a meeting at four o'clock and we've already wasted 20 minutes, and Mr. Fisher has yet to ask his first factual questions.

Wright: I'm prepared to rule, and I will not permit this definition to be understood—quite frankly, there are several reasons. One is that the court heretofore has not proceeded using these definitions. We have used—we've made numerous rulings, or the court has made numerous rulings in this case without specific reference to these definitions.

And so if you want to know the truth, I don't know them very well. I would find it difficult to make a ruling, and Mr. Bennett has made clear that he acknowledges that embarrassing questions will be asked. And if this is in fact an effort on the part of plaintiff's counsel to avoid using sexual terms and avoid going into great detail about what might or might not have occurred, then there is no need to worry about that. You may go into the details.

(Unknown): If the predicates are met, we have no objection to the details.

Wright: It's just going to make it very difficult for me to rule, if you want to know the truth. And I'm not sure Mr. Clinton knows all these definitions, anyway.

Mr. LOWELL. Mr. Chairman, I think it is worth repeating that in this, and I am sorry for the length, 10 or 15 minutes of lawyers and judges trying to come up with the definition that has now brought us to this constitutional moment, does anybody in this room, does anybody in the United States, have a clear conception of what the definition of sexual relations, if those three people and that judge in that context had to spend that much time getting to the point?

Let me end by reminding you what the judge just ended by saying: "It is just going to make it very difficult. If you want to know the truth, I am not sure Mr. Clinton knows all these definitions anyway."

To those who would impeach the President and condemn him for not being more forthcoming in that deposition, put yourself in his position on that day. He was being set up by the Paula Jones attorneys and Linda Tripp, who had met with the Office of Independent Counsel just the day before. He knew that there was some collusion going on to embarrass him not about sexual harassment, but about a consensual affair. So his responses were an attempt to answer the questions evasively.

In the 20/20 hindsight of almost a year, we know he could have, should have, acted better. But are his responses to all those ques-

tions you put to White House Counsel Ruff yesterday so hard to understand that you would impeach him for acting as anyone would in that circumstance?

In his grand jury appearance, the President explained his situation on that very day, and when you listen to what he is saying and put it in the context of what you now know was happening behind the scenes with Paula Jones and Linda Tripp and the attorneys, any fair-minded person would see that these were not impeachable reactions to that setup predicament.

[Videotape played.]

[The audio transcription follows:]

Clinton: No, sir. In the face of their—the Jones lawyers, the people that were questioning me—in the face of their illegal leaks, their constant, unrelenting illegal leaks, in a lawsuit that I knew, and that by the time this deposition and this discovery started, they knew was a bogus suit on the law and a bogus suit on the facts, in the face of that, I knew that in the face of their illegal activity I still had to behave lawfully. But I wanted to be legal without being particularly helpful. I thought that was—that was what I was trying to do.

And this is the—you're the first persons who ever suggested to me that I should have been doing their lawyers' work for them, when they were perfectly free to ask follow-up questions. On one or two occasions, Mr. Bennett invited them to ask follow-up questions.

It now appears to me they didn't because they were afraid I would give them a truthful answer, and that there had been some communication between you and Ms. Tripp and them, and they were trying to set me up and trick me. And now you seem to be complaining that they didn't do a good enough job.

I did my best, sir, at this time. I did not know what I now know about this.

A lot of other things were going on in my life. Did I want this to come out? No. Was I embarrassed about it? Yes. Did I ask her to lie about it? No. Did I believe there could be a truthful affidavit? Absolutely.

Now that's all I know to say about this. I will continue to answer your questions as best I can.

(Unknown): You're not going back on your earlier statement that you understood you were sworn to tell the truth, the whole truth, and nothing but the whole truth to the folks at that deposition, are you, Mr. President?

Clinton: No, sir. But I think we might as well put this out on the table.

Mr. LOWELL. Despite this context, the Majority staff has decided to include the civil deposition as a separate article for impeachment, perhaps to add the appearance of more wrongdoing. But without this committee demeaning the impeachment process by exalting one answer like, "we were not alone," and then try to figure out whether it was all right to mean "alone" in the Oval Office, or "alone" in the pantry, or "alone" in the hallway, the context of the material we have just presented to the committee and to the public should put that attempt to rest and dispose of this article once and for all.

This would leave as the core of the perjury allegations the charge that the President lied under oath at his August 17th grand jury appearance. These are vaguely described in article 1.

Mr. Chairman, how did we get to perjury, which is what article 1 suggests? Independent Counsel Starr's referral goes out of its way not to make a perjury charge, because that offense, as many of you on the committee who have been lawyers in the courtroom know, is one of the hardest to prove.

On October 5th, majority counsel chopped and diced Mr. Starr's grounds into four others, but he, too, did not include one called perjury. While the majority convened a "perjury" hearing a few weeks ago, many of the witnesses were, in fact, talking about other

crimes. And as all the Federal prosecutors who testified here said, this would never be a real case in a real court. So if lawyers can conclude that this would not be charged as a crime, how do you as lawmakers allow it to be charged as a high crime?

On October 5th, minority staff also suggested that the committee did not have to delve into the "he said, she said" salacious facts about this charge. Then, as now, the better approach would be to take the Independent Counsel at its charge. If it was President Clinton's lying about Ms. Lewinsky in the *Paula Jones* case that creates all of these impeachable offenses, then the committee and the House can resolve this issue by deciding the importance or impact of that statement in that specific case.

I see in article 2 the majority has put in the phrase, "deemed relevant," when talking about the President's statements, and I certainly understand why they would want to have that phrase in the article. But they are obviously wrong. When Judge Webber Wright—if you look in your books to tab 2, and I will put up the chart—ruled on January 29th that the evidence about Ms. Lewinsky was, "not essential to the core issues of the case" and "might even be inadmissible," when she made that same ruling on March 9, 1998, and when she ruled on April 1st that no matter what President Clinton did with Ms. Lewinsky, Paula Jones herself had not proven that she had been harmed, she gave this committee the ability to determine that the President's statements, whether truthful or not, were not of the grave constitutional significance to support an impeachment in any courtroom in America. So certainly in the halls of Congress, the President's misstatements about a consensual relationship made during a case alleging nonconsensual harassment was not material then and are not grounds for impeachment now.

But if reviewing the testimony in its proper context is not enough for the committee, and if it wants instead to go ahead with this article of impeachment, let us make sure that the committee, House Members who will be voting on this on the floor, and the American people understand what will be the subject of a Senate trial.

Again, putting aside the majority's attempt to list as perjury, charges that it makes in other places, there were three allegations of grand jury lies that I have to guess fit into the article's phrase about, "the nature and details of the relationship." They are, first, as they were in the Starr referral, the date when the relationship began; second, whether the President really believed that the term "sexual relations" did not include one type of sex; and, third, whether the President touched Monica Lewinsky.

As to the date when the relationship began, the actual charge is that Monica Lewinsky testified that the affair began in November 1995, but the President said it started in February 1996. How can you in good faith ask this Nation to endure a Senate trial to determine the difference between 3 months? How much more trivial could an impeachment charge and a trial, let alone one paralyzing the Senate and the Supreme Court, possibly be?

Mr. Chairman, you said during the perjury hearing that this article, this charge, "did not strike you as a serious count," and yet that is exactly what the Independent Counsel has charged and that

which majority counsel has now hidden in the vagueness of article 1.

The second allegation is that the President lied when he said his belief was that the phrase "sexual relations," as used in the Paula Jones deposition, did not include oral sex. When many in the majority asked how we can condone perjury in our society, this is the lie about which they are talking. How would you have a trial in the Senate to conclude whether the President was right about what he thought the phrase "sexual relations" meant? You heard and saw the gyrations that it took three lawyers and a judge to deal with this silly expression. So who would you call to determine that the President did not believe the interpretation? The answer is that you don't have to call anyone. You have enough information right now to conclude that such a trial is unnecessary.

The video you saw proved that the term "sexual relations" was defined by Paula Jones' attorneys for *Paula Jones'* case. With that in mind, let me read what one of Ms. Jones' attorneys has said about that phrase when he appeared on MSNBC and was asked. Joseph Cammarata said, "it is out of my definition of sexual relationships on a personal basis, and I think you have to understand the definition he was operating on when questioned." If Mr. Cammarata, one of her lawyers, can understand that the phrase "sexual relations" can exclude certain types of sex, how does this committee, in good faith, base an article of impeachment on the President interpreting it in the exact same way?

But there is more. Listen to the witnesses, Monica Lewinsky and Linda Tripp, before the Independent Counsel confronted her, before she went back and forth over an immunity agreement, and before this became so important that the definition of sex will sink us into a constitutional quagmire. Listen to the woman who you would have the United States Senate call as a witness as she defines the term in the exact same way you now accuse the President of lying about.

[Linda Tripp tape 018 played, transcript page 49.]

[The audio transcription follows:]

Ms. Lewinsky: We didn't have sex Linda. Not—we didn't have sex.
Ms. Tripp: Well, what do you call it?
Ms. Lewinsky: We fooled around.
Ms. Tripp: Oh.
Ms. Lewinsky: Not sex.
Ms. Tripp: Oh, I don't know. I think if you go to—if you get a orgasm, that's having sex.
Ms. Lewinsky: No, it's not.
Ms. Tripp: Yes, it is.
Ms. Lewinsky: No, it's not. It's——
Ms. Tripp: It's not having——
Ms. Lewinsky: Having sex is having intercourse.

Mr. LOWELL. Where is the impeachable offense when the President's testimony and Ms. Lewinsky's are the same? Is this what you are going to bring to the floor of the Senate?

So the perjury that some in the majority have said tears at the fabric of our political system comes down to whether the President lied about whether he touched Ms. Lewinsky. I suspect that that must be the nature and details allegation in article 1.

Mr. Chairman, no one, no one, certainly not Congress and certainly not Ms. Lewinsky and her family, wants to cause further

embarrassment or loss of privacy to her. In short, no one wants to have to have her testify. Members of the committee, Members of the House, before you force that terrible result, before you necessitate her testimony in the Senate, before you put the country through that unseemly spectacle of a trial requiring Ms. Lewinsky to describe what part of him touched what part of her, you must accept that such a trial to defend the charge that you are putting forth about something called the nature and details of their relationship necessarily would have to elicit prurient and salacious information. Such a he said, she said drama, if you really want it, would also have to include questions into the inconsistencies in Ms. Lewinsky's testimony that the Independent Counsel seemed to ignore in his referral.

Mr. Goodlatte yesterday asked White House Counsel Ruff about all the corroborating evidence, but I am not sure what he meant. By way of example, do you want the Senate to be required to determine what Ms. Lewinsky meant when she said this about herself?

[Linda Tripp tape 006 played, transcript page 8.]

[The audio transcription follows:]

Ms. Lewinsky: And I'm—and I was brought up with lies all the time, so that—that was how—that was how you got along in life—was by lying.

Ms. Tripp: I don't believe that. Is that true?

Ms. Lewinsky: Yes, that's true. I wanted something from my dad—well, once my parents were divorced, if I wanted money from my dad, I had to make up a story. When my parents were married, my mom was always lying to my dad for everything. Everything. My mom helped me a sneak out of the house. I mean that's just how I was raised.

Mr. LOWELL. As another example, do you want the Senate to have to examine various statements that Ms. Lewinsky made, as you now want to charge it, about the "nature and details of her relationship that are clearly erroneous?"

What do I mean? I mean statements like the one she made to her friend Kathleen Estep that the Secret Service took the President to a rendezvous at her apartment; or statements she made to friends Ashley Raines and Neysa Erbland that she had relations with the President in the Oval Office without any clothes; or statements she made to the White House steward Bayani Nelvis that the President invited her to go to Martha's Vineyard with him when the First Lady was out of the country; or statements she made to New York job interviewers that she had lunched with the First Lady, who then offered to help find her a place to live in New York?

Members of the committee, we know that none of those things happened because not even the Independent Counsel claims that they did, but that type of embellishment would require scrutiny in a Senate trial, if you really want to send that body that event, and if you really want to charge the President lied about the, "nature and details" of Ms. Lewinsky's and his private relationship.

Is that what you want to put the country through? How do we justify an inquiry into these matters, and how do you justify to Ms. Lewinsky and to her family that after all they have gone through, you will subject her to the ordeal to resolve those issues? You can avoid this result by recognizing that the same inconsistencies which a Senate trial would have to explore also mean that the evidence available for you today to have to resolve, this he said, she

said conflict, do not amount to the threshold of evidence required in the House to send charges to its sister body about something called the nature and details of the relationship.

When he was here, look, for example, on page 58 of his testimony, Ken Starr said over and over, when he was asked questions concerning the events at the Ritz-Carlton or about Ms. Lewinsky being asked to wire the President, that sometimes perceptions can be different without someone being called a liar. I think you can use Mr. Starr's admission in foregoing that spectacle that I have just explained would have to occur in a Senate trial.

Finally, as to the article of perjury, some of the majority have now confused the three very precise allegations of lying in the referral with some general criticism of the President for stating that he didn't recall something or that he didn't remember the details of something. In fact, the majority staff has now included in article 4 the charge that the President abused his power by such statements in his answers to the 81 questions that were posed to him.

This allegation, however, was not what the Independent Counsel charged on September 9th. It was not what majority counsel alleged on October 5th, and it is a dangerous precedent. Given statements from President Roosevelt's failure to remember that he promised military support for Panama in its conflict with Colombia over the canal, to President Reagan's failures to remember how funds flowed to the Contras, this committee should not make Presidential lapses of memory into impeachable offenses or the office could go vacant forever.

But now that the majority staff has included this as a charge, let me show you why this tactic and this charge is unfair for impeachment. Remember that despite being prepared for weeks for his appearance before this committee, and having practice sessions with his assistants, and knowing the criticisms about which he was going to be asked, this is how the prosecutor, whose material you have chosen to rely on, answered many of your questions.

[Videotape played.]

[The audio transcription follows:]

Independent Counsel Starr I don't know.

Mr. LOWELL. Before this committee starts making the phrase, "I don't recall," "I don't remember," "I'd have to think about it" something that you would bring to the floor of the Senate, see what an unfair tactic that really is.

As to article 2 alleging obstruction of justice, on October 5, we recognized that the charge, reminiscent to Watergate, was the most egregious of the four grounds alleged in the Starr referral. And in majority counsel's dividing those into eight total charges, as they were presented by the referral—and again I can only assume that that is what the majority means in article 3 of the proposed articles of impeachment—the charges are:

First, the President tried to have Ms. Lewinsky submit a false affidavit;

Second, the President initiated a return of gifts he had sent Ms. Lewinsky so they would not be discovered in the Paula Jones case;

Third, the President sought to keep Ms. Lewinsky quiet with a job; and

Fourth, the President sought to tamper with the testimony of Ms. Currie.

Let me turn to each in order, and rather than relying on conclusions and inferences from the Starr referral, let's listen to the actual witnesses.

If you turn to tab 3 in your exhibits, we will put up the chart. As to the claim the President did not seek to have Monica Lewinsky file a false affidavit with respect to this issue, both Ms. Lewinsky and the President agreed with the very obvious point that she could have filed a completely truthful affidavit denying any sexual harassment and therefore avoided being called as a witness in the *Paula Jones* case. This is how completely the President explained this basic point.

[Videotape played.]

[The audio transcription follows:]

Clinton: I didn't know that Ms. Lewinsky's deposition wasn't going to be sufficient for her to avoid testifying. I didn't—you know, so all these details—excuse me, I'm sorry—her affidavit. Thank you. So I don't necessarily remember all the details of all these questions you're asking me because there were a lot of other things going on, and at the time they were going on, until all this came out, this was not the most important thing in my life. This was just another thing in my life.

(Unknown): But Vernon Jorden met with you, sir, and he reported that he had met with Monica Lewinsky, and the discussion was about the lawsuit. And you didn't inform, under oath, the court of that in you deposition.

Clinton: I gave the best answer I could based on the best memory I had at the time they asked me the question. That's the only answer I can give you, sir.

Mr. LOWELL. What the President said was that Monica Lewinsky could file a completely honest and truthful affidavit in a suit about sexual harassment, saying she was not sexually harassed, and by doing so, hopefully avoid having to be deposed.

Consider that Monica Lewinsky in January 1998 in a conversation, when Linda Tripp was wired, when speaking about her affidavit, Ms. Lewinsky, a sworn witness for this committee to consider said, "No matter how [she] was wronged, It was my," meaning Ms. Lewinsky's choice, "about the affidavit."

Then, members of the committee, read what Ms. Lewinsky said the first time she ever came in to see the Independent Counsel, not after the sessions where they went over and over her testimony. She wrote in what the law calls a "proffer" the following statement, "Neither the President nor Mr. Jordan, nor anyone on their behalf, asked or encouraged me to lie." You can find that in her February 1, 1998, proffer statement that she gave to the Office of Independent Counsel contained in the first appendix the committee issued in this matter.

Add to your consideration Ms. Lewinsky's grand jury testimony about the affidavit when she stated that it could range between just somehow mentioning innocuous things to actually denying "sexual relations" as that term was defined.

If you want or if you need more evidence, you can find it. In her August 6 grand jury appearance when she was the one who admitted that she "would strongly resist," any attempt by President Clinton to make her reveal their relationship.

Do you want more evidence? Then consider that on this all-important issue of the President apparently, supposedly telling Ms. Lewinsky to file a false affidavit, she testified that when she asked

the President if he wanted to see the affidavit, the President "told Ms. Lewinsky not to worry about the affidavit."

And, finally, listen to Ms. Lewinsky on December 22, 1997, give you the most important statement, again before she was confronted by the Office of Independent Counsel, made their witness and given their immunity. As to the President wanting or knowing about her lie, this is what she told Linda Tripp.

[Audiotape played.]

[The audio transcription follows:]

Ms. Tripp: Mmm-hmm. He knows you're gonna lie. You've told him, haven't you?
Ms. Lewinsky: No.

Mr. LOWELL. Linda Tripp asked: "You told him you were going to lie, haven't you?" Ms. Lewinsky said: "No."

By the way, the witness, Ms. Lewinsky, also was uncontradicted in the 17 boxes of information that it was she, not President Clinton, who undertook each and every one of these steps that went beyond merely trying to deny their improper relationship, she invented the code names with Betty Currie, she, and no one else, was responsible for the talking points; she, with the prodding of Linda Tripp, not the President, decided to hide her dress; and it was her idea to delete e-mails and files from her computer.

For these acts, Ms. Lewinsky was given immunity, and the Independent Counsel and majority staff would have you vote that it was the President who obstructed justice. Before you do that, let me have you listen to another witness. I would like to recall Independent Counsel Starr to the stand so you can hear that the proof actually contradicts this article of impeachment.

[Videotape played.]

[The audio transcription follows:]

Lowell: And as to the issue of the which you state was something the president was complicate in, tho the extent that if was a ground for impeachment, your evidence also includes, does it not, Mr. Starr, that Ms. Lewinsky gave you a statement in which she said, quote, neither the President nor Mr. Jordan or anyone on their behalf asked or encouraged her to lie, and you can find that in tab 35.
Starr: Tab?
Lowell: Thirty-five.
Starr: Thirty-five, thank you.
Lowell: You are aware that she has made the statement that way by now I assume, right?
Starr: Yes, yes
Lowell: You also must be aware that she also said that she offered to show her affidavit to the President, but he didn't even want to see it. You are aware that that's the testimony she has given as well, correct?
Starr: Yes.
Lowell: You must also be aware that she explained to you that the President and she had obviously used cover stories from the beginning of their relationship long before she was ever listed as a Paula Jones witness. You are aware of that as well, aren't you?
Starr: Yes.

Mr. LOWELL. He went on to say "yes," and our referral includes that. You have to look in the boxes.

Certainly the majority cannot claim to need a trial in the Senate for the issue of the gifts exchanged between the President and Ms. Lewinsky. If you turn to tab 4, there is a chart of the charge, and what we do in these charts, members of the committee, is that we list all the contradictory evidence which undermines the charge.

As to this one, rather than the President trying to hide or care about gifts, the witness, Ms. Lewinsky, admitted that she raised the issue with the President, not vice versa. She offered sworn testimony describing this conversation on at least 10 occasions. In seven of these, including the very first time she saw the Independent Counsel and the last time she saw the Independent Counsel, she indicated that the President never responded to this issue. In only two of all of her statements does she even state the outrageous lines, leading to this article of impeachment, that all the President ever said on the subject of gifts, when she raised it, about hiding them, giving them back, was, "I don't know, let me think about it." And then Ms. Lewinsky said, "He left that topic."

This is hardly the stuff of obstruction. The Independent Counsel chose to state the President's response without bothering to tell you and the American people about the other nine times they asked Ms. Lewinsky the same question.

Well, let's call Betty Currie to the stand; let her be the witness you want to hear from. She stated repeatedly that Ms. Lewinsky called her and raised picking up the gifts and that the President never asked her to call Ms. Lewinsky. Here is her testimony.

She was asked, and she said, "My recollection, the best I remember, is Monica calling me and asking me if I would hold some of the gifts for her. I said I would." The question was, "And did the President know you were holding these things?" Ms. Currie answered, "I don't know." Independent Counsel asked, "Didn't he say to you that Monica had something for you to hold?" Ms. Currie answered, "I don't remember that. I don't."

That is in her grand jury testimony on May 6.

She was also asked by the Independent Counsel, "Exactly how did that box of gifts come into your possession?" Ms. Currie swore under oath, "I do not recall the President asking me to call about a box of gifts."

Let me recall to the stand the President so that you can recall that it was he, not Linda Tripp, not Lucianne Goldberg, who gave Ms. Lewinsky the proper advice.

[Videotape played.]

[The audio transcription follows:]

Clinton:. . . things that have happened. I'm amazed. There are lots of times when I literally can't remember last week.

The reason I'm not sure it happened on the 28th is that my recollection is that Ms. Lewinsky said something to me like "What if they ask me about the gifts you've given me?"

That's the memory I have. That's why I question whether it happened on the 28th, because she had a subpoena with her—request for production.

And I told her that if they ask her for gifts, she'd have to give them whatever she had; that that's what the law was.

Mr. LOWELL. He said, "If they asked you about the gifts, you'd have to give them up. That's what the law is."

Finally, the evidence is as uncontradicted as evidence could possibly be that on December 28, 1997, the President gave Ms. Lewinsky the most gifts he had ever given her on one day, because of Christmas and Ms. Lewinsky moving to New York. He did this after Ms. Lewinsky had been subpoenaed for gifts. And yet this charge, your article of impeachment, would have you believe that on December 28 he gave Ms. Lewinsky the gifts and a few hours

later hatched some scheme and some conspiracy by asking Ms. Currie to go and retrieve the very gifts he had just given.

The Independent Counsel's charge and that clause in the article of impeachment defies logic so let me ask this: Where does the majority expect to find the clear and convincing evidence that this obstruction concerning gifts occurred if it does not exist in the nine grand jury and other appearances by Betty Currie, the 22 by Monica Lewinsky, and the 20 by Linda Tripp? What will you give a Senate trial to do?

A damning allegation reminiscent of the worst of Watergate is when a President suborns perjury in another witness. That is what majority's proposed article 3 suggests when it alleges that the President sought to influence the testimony of Betty Currie. But the actual evidence is not that the President was talking to Ms. Currie as any potential witness, but that he was talking to his secretary about a media storm that was about to erupt. It is not surprising, improper or impeachable for the President to want to hide his improper relationship and even hope that in conversations he might test what others knew about it. Yet this proposed article of impeachment alleges that which does not exist, and is literally impossible to prove, no matter whether a Senate trial would take a day or a year.

On January 18, 1998, when the President called Ms. Currie for a meeting, there were days left in the schedule for taking any evidence in the Paula Jones case. And again the majority staff couches their charge as the President trying to influence "a potential witness." But the plain, uncontradicted and dispositive fact is simply this: Betty Currie was not listed as either a deposition or a trial witness in that case and the article of impeachment is wrong to state the opposite.

Some of you have asked, did it matter if the President said during his deposition, "You will have to ask Betty Currie." But even after he said that, Ms. Currie was never added to any witness list, never contacted by the Paula Jones attorneys. And although the Independent Counsel interviewed the Paula Jones attorneys, they never asked them a question about Betty Currie becoming a witness.

Do you want to know why? Because the answer that she was never contacted, never deposed and never added to the witness list in any way, even after the President suggested that they talk to Betty Currie, destroys this subornation charge.

Members of the committee, most of you—I think almost all of you—are lawyers. Your colleagues on the floor are going to be looking to you to give them guidance about the law. Certainly for something as grave as an impeachment, do not rewrite 100 years of law. You know as well as I that there cannot be subornation of a witness unless the person involved is a witness. Ms. Currie was not, and this article of impeachment has no legal grounds on which to stand.

Equally important, there is no need to waste the Senate's time with a trial, because President Clinton and Betty Currie, the only people involved in this event, both agree that the conversation on January 18 was not about testimony, was not intended to pressure her and was caused by inquiries from the press, not any litigation.

There has been so much misinformation about what was said between the President and Ms. Currie, including Mr. Graham's attempt to make this short conversation into some wild conspiracy to get Ms. Lewinsky, that perhaps it is best to let their own words speak for themselves. Let's recall the President to the stand first.

[Videotape played.]

[The audio transcription follows:]

(Unknown). How did you making this statement "I was never alone with her, right?" refresh your recollection?

Clinton. Well, first of all, let's remember the context here. I did not, at that time, know of your involvement in this case. I just new that obviously someone had given them a lot of information, some of which struck me as accurate, some of which struck me as dead wrong, but it led them to ask me a whole series of questions about Monica Lewinsky.

Then on Sunday morning, "The Drudge Report" came out, which used Betty's name, and I though that we were going to be deluged by press comments, and I was trying to refresh my memory about what the facts were.

[The information follows:]

Mr. LOWELL. You want corroboration? I will give you corroboration. Let's call Ms. Currie to the stand and see what she would say.

She was asked the following question: "You testified that he wanted you to say 'right' at the end of those four statements, I was never alone" —you know the four statements. This is what Ms. Currie said: "I do not remember that he wanted me to say 'right.' I could have said 'wrong.'"

Independent Counsel didn't like that answer, so asked: "Did you feel any pressure to agree with your boss?" She answered, "None." You can find that in her July 22, 1998, grand jury appearance.

Finally, I would like to call one more witness. When Mr. Starr was here, this is how he resolved the issue completely for you in response to questions Senator-elect Schumer put to him.

[Videotape played.]

[The audio transcription follows:]

Starr. With respect to Betty Currie, I would simply guide the Congress again, the House again, to the substance of the president's testimony and how she was injected into the matter by the president in his testimony. And we think that does have significant——

Schumer: With all due respect, sir, that doesn't answer my question which was not how she was injected or what the substance was.

Please, Mr. Chairman, he didn't answer my question directly.

But how did you come to realize that the president knew that she would be called as a witness when there was no mention of it at that time? Is this just surmise, or do you have any factual evidence that the president knew that she would be called as a witness?

We understand he wanted her not to tell truth, but we don't know to whom. Where is your evidence?

Starr. The evidence is not that she was on a witness list. You're quite right. She was not on a witness list, and we've never said that she was. What we did say is that the transcript of the president—president's January 17th deposition shows that he was injecting Betty currie into the matter and say—May I finish?

(Unknown): Sure.

Starr:. . . and saying specifically, you will have to ask Betty.

Mr. LOWELL. This committee does not have to go any further than the admission of witness Independent Counsel Starr to see that this charge too and this article may not go forward on the record. If there is no proof that the President had the wildest idea, even in spite of the invitation to do so, that Betty Currie would ever be contacted, would ever become a witness, would ever be de-

posed, then you have no choice on the record but to see the obvious conclusion, that it was the Drudge report, the media inquiries and the President knowing that his deposition testimony was about to be leaked that caused all the events that you would impeach him over on a charge that does not exist.

As to the fourth allegation about the job search, how can the majority cause the crisis a Senate trial would incur based on an article of impeachment alleging obstruction of justice by trying to get Ms. Lewinsky a job? Each and every one of you knows that there is no contradiction by any witness—not Linda Tripp, not Monica Lewinsky, not the President, not Betty Currie, not the White House staff, not Ambassador Bill Richardson and his staff, not even the New York interviewers—that the job search began long before Ms. Lewinsky was even a dream to the Paula Jones attorneys and had nothing to do with that case.

How ironic is it that Linda Tripp went to see Ken Starr with a great tale about obstruction of justice, which you have now decided to adopt in your proposed article, and that this obstruction of justice was by Vernon Jordan who, she said, was keeping Monica Lewinsky quiet by offering to help get her a job, when it was Linda Tripp herself and not the President who suggested that they get Vernon Jordan involved. We know now that Ms. Tripp owes Vernon Jordan an apology for that false charge, and she owes him one as well for this.

[Audiotape played.]

[The audio transcription follows:

Ms. Tripp: (Sigh.) No. It'll be—if it goes to the civilian sector, it'll be Vernon being told this has to happen, him picking one of the names that he can—that he has a buddy, and he'll call and say, "She must be hired immediately." That's just how it works. And it's been known to work that way, so—(sigh). It's just that right now, I don't think he's aware of the whole situation.

Ms. Lewinsky: No, he's not.

Mr. LOWELL. "Right now, I don't think he's aware of the whole situation."

"No, he's not."

Boy, Ms. Tripp, I couldn't have said it any better myself.

And finally, while it has been pointed out to the committee many times, it cannot be pointed out too often, because this statement by your witness, Monica Lewinsky, answers this charge about obstruction of justice and leaves this committee and the House with no proof.

Ms. Lewinsky, even though never asked by the Independent Counsel, made sure she did not finish her grand jury testimony before stating, "No one asked me to lie, and I was never promised a job for my silence." And you know where that one is all too well by now.

Members of the committee, in light of the statement where will you find the evidence of obstruction to send to the Senate, let's listen to Independent Counsel Starr, who agrees.

[Videotape played.]

[The audio transcription follows:

Lowell: As to the issue of whether or not she was given a job in some way to keep her happy, you know that the evidence that you sent Congress includes the fact that the job search for her began long before she was listed as a Paula Jones witness, correct?

Starr: Yes, absolutely, We make that clear in the referral.

Lowell: And you are also aware that she told the President in July, months before the Paula Jones——

Starr: In July of?

Lowell: 1997.

Starr: Yes, thank you.

Lowell: Months before the Paula Jones case was an issue that she was going to look for a job in New York.

Starr: Yes, she did.

Lowell: And you are aware as well that it was Ms. Tripp, not the President, Ms. Tripp, who suggested to Ms. Lewinsky that she bring Vernon Jordan into the process. You know the evidence says that, don't you?

Starr: I am aware of the evidence with respect to that, but yes, go right ahead. I am sorry.

Lowell: You are aware as well that the evidence you sent Congress indicates that on that crucial issue, as others have stated and I have doubt will state again, Ms. Lewinsky, unequivocally, even though never asked the question, stated to you that no one ever asked her to lie, no one promised her a job for her silence. You understand that she swore to that as well?

Starr: Yes. Mr. Chairman, may I respond? I am trying to be brief, but Mr. Lowell, as you also know at page 174 of our referral we specifically say, Ms. Lewinsky has stated that the President never explicitly told her to lie.

Mr. LOWELL. Do you find trial material and any contradiction in the evidence on this? Speak to your colleagues in law firms and in law courtrooms all over the world. They won't.

I need to address on this final part of article 3 something that is new. Not content with Independent Counsel Starr's 11 charges, the majority seems to have decided it needed one more and somehow they have added as an obstruction of justice the President allowing his private attorney to make a statement about the definition of sexual relations in the deposition, that they say the President knew to be false.

Well, we have dealt twice with the issue of whether this definition makes enough sense for anyone to understand, and we have dealt with the issue of how it helps this process be fair for the majority to add charges over and over about the same basic issue, the President lying about sex. But there is one new point to make.

When the majority was on one of its frolics to expand this inquiry into new matters, there was a ruckus raised to take the deposition of Robert Bennett, the attorney apparently involved in this article's charge. But just as fast as the majority scheduled that deposition, it canceled it. That was more than a little bit unfair, when it was planning to make a charge never before known, based on testimony it then conveniently engineered never took place.

Mr. Chairman, article 4 raises the specter of abuse of power. We saw this charge back on September 9 in the Independent Counsel's referral, but then we never saw it again until this week. The term "abuse of power" does evoke the memory of President Nixon's offenses in 1974. Yet those who have appeared here as witnesses with Watergate knowledge—former Attorney General Eliot Richardson, Judge Charles Wiggins, Father Robert Drinan, former Member Elizabeth Holtzman, former Member Wayne Owens, Watergate Prosecutor Richard Ben-Veniste, House Judiciary Committee staff member William Weld—all could tell you that the acts you are considering today are not the same.

In Watergate, abuse of power was proved with tapes of President Nixon telling his aides to get the CIA to stop an FBI investigation, to create a slush fund to keep people quiet, with tapes that you can

hear in directing the break-in of people's offices, or to get the IRS involved in going after political enemies. Here, the charge stands on tapes of Monica Lewinsky and Linda Tripp talking about going shopping.

As it is presented to you in 1998 and as originally contained in Mr. Starr's grounds 10 and 11, abuse of power means that the President lied to his staff or to the people around him about the same inappropriate relationship with Ms. Lewinsky, knowing that they might repeat those lies and that the President then violated his oath of office because he and his attorneys tried to protect his constitutional rights by asserting privileges of law.

Members of the committee, I know you have had only one night to review the proposed articles of impeachment. We on the Democratic side did too. But as you did, I hope you saw how the majority proposes to dress up this almost frivolous charge. Look on page 7 of the draft articles. You will see the impeachable offense is that by denying his affair to the Cabinet and to his staff, who then also made public denials, believing that to be the case, the President "was utilizing public resources for the purposes of deceiving the public." If this were not so serious a proceeding, I would have thought that this was included for the humor.

As to the substantive charge that misstatements to the staff might be repeated in the grand jury or even to the public, this article of impeachment merely repeats in another form the same charge, that the President wanted to conceal his private sexual relationship from anyone and everyone he could. As my daughter would say, "Duh."

As the committee takes up this proposal, keep focused that this was not an attempt by a President to organize his staff to spread misinformation about the progress of the war in Vietnam or about a break-in in Democratic headquarters at the Watergate, or even about how funds from arm sales in Iran were diverted to aid the Contras. This was a President repeating to his staff the same denial of an inappropriate and extremely embarrassing relationship, the same denial that he had already made to the public.

Does this article of impeachment envision that the President, having already made public denials, would have then gone inside the White House and told his staff something else? However wrong the relationship or however misleading the denial was, it is not nearly the same as those other examples I have just given you.

I heard Mr. Sensenbrenner say 2 days ago that there was no difference between a President lying about illegal bombing in Southeast Asia and about a private sexual affair. But, members of the committee, let us not lose sight of the fact that unlike the case in 1974, Bill Clinton's alleged crimes are not those of an errant President, but are those of an unfaithful husband.

Mr. Chairman, I hope you can agree with me in 1998 that these statements by the President are not proper grounds for an impeachment. Your words in 1987 explaining the untruths told by government officials in the Iran-Contra matter—something far more important to America than the President's private sex life, I think—answer completely the article of impeachment today. Speaking not about testimony under oath but about statements made in public, you said then,

It seems too simplistic to condemn all lying. In the murkier grayness of the real world, choices often have to be made. All of us at some time confront conflicts between rights and duties, between choices that are evil and less evil. And one hardly exhausts moral imagination by labeling every untruth and every deception an outrage.

Mr. Chairman, the President's trying to hide his totally inappropriate relationship to his aides and to the American public seems to be exactly the "murkier grayness of the real world," about which you were eloquently speaking.

As to the ground for impeachment that the President had the audacity to assert privileges in litigation, White House Counsel Ruff did a complete job of disproving any possible issue the committee could have. Let me only add one note: that it still remains shocking to me, as I hope it does to all the lawyers on this committee, that you would even consider as an article of impeachment an assertion of an evidentiary privilege by the President on the advice of his lawyers and the White House counsel that was found to exist by a judge, that that could ever be grounds for an impeachment.

I have heard the Majority state that a President should not be above the law. And yet this proposed article would place him below the law that gives every American the right to assert legally-accepted privileges without fearing being thrown out of his job.

Members of the committee, in light of the high threshold and the need for clear and convincing evidence, what can you make from the fact that the Minority staff is demonstrating that the evidence is so slight that it does not even exist on many of the charges? After all, you have 18 boxes from the Independent Counsel and 450 pages of a referral. But that is exactly the point. Members, you now know that all you have before you is the material that was sent by the Independent Counsel. The committee has gathered no information on its own. On November 19, this committee heard an entire day from Independent Counsel Starr, who sent you the material. Many Majority members criticized Democrats for asking Mr. Starr and his deputies about their conduct instead of about the facts.

Mr. Chairman, it would have been totally inappropriate to ask Mr. Starr about the so-called facts of the case. He admitted on that day that he was not a fact witness and was not even the person who asked any question in any deposition or in any grand jury appearance. What Mr. Starr admitted he was, however, was the man who made the decisions concerning whether a referral should be sent to Congress, when it should be sent, what it should include, and what it should omit, how it should be written and what it should charge. In fact, this is how Mr. Starr described his responsibility.

[Videotape played.]

[The audio transcription follows:]

Starr: In the end we tried to adhere to the principle Congressman Graham discussed on October 5. Thirty years from now, not 30 days from now, we want to be able to say that we did the right thing. At the end of the day, I and no one else was responsible for our key decisions.

(Unidentified): Did the (off-mike) members of the grand jury sign off on this referral?

Starr: No, we did not ask the grand jury to review the referral.

(Unidentified): Given that they didn't sign off on it, did they—did they vote on or review the allegations, the credibility determinations or the inferences that the referral draws?

Starr: No. We did not ask the grand jury to make specific judgments on specific witnesses. These were our assessments, these are our evaluations.

(Unidentified): Thank you very much.

Mr. LOWELL. It is precisely because there is such a large gap between what Mr. Starr's charges state and what the evidence actually shows that we asked those questions, because as Mr. Starr told you when he sent you his letter on September 25, his conduct and that of his office "bears on the substantiality and the credibility of the evidence." And his letter you may find in tab 5 of your exhibits, and on the chart that we have put before the room.

As this committee has chosen to receive Mr. Starr's referral and its conclusions and the material he decided to send in determining whether there is clear and convincing evidence to support impeachment and, as we claim, indeed I think as the minority staff has proven, that such large gaps exist in the evidence, it was essential on November 19, as it is now, to determine whether his material can be trusted, whether it is accurate, whether it is complete, and whether it is biased.

Let me give you one example. If Mr. Starr concluded, as he did, that President Clinton tried to influence the testimony of Betty Currie but the facts are that there was no testimony to influence because she was not a witness at the time, and if the facts from Betty Currie's own mouth were that she was not being directed or pressured as to what to say, then you have to question how Mr. Starr could make that bald assertion. This is why questions to his conduct were so important.

Members of the committee, the danger of accepting one-sided facts solely from prosecutors was most recently and vividly demonstrated by the acquittal of former Secretary of Agriculture Mike Espy. The Independent Counsel in that case brought 38 felony counts against Mr. Espy over the receipt of $33,000 in gifts. That Independent Counsel stated that the conduct he was charging corrupted the workings of government and were heinous crimes. But the judge dismissed eight counts when the Government rested, and the jury made short order of the rest.

Ordinarily cross-examination of witnesses and motions made to trial judges are the devices to make sure evidence is reliable. However, in our proceedings before this committee, these tried and true methods of getting at the truth have not occurred. Given the results of the Espy case, you can readily see that relying on the charges of one-sided presentations by prosecutors in general and Independent Counsels in specific, can lead to fairly completely erroneous conclusions. So questions asked of Mr. Starr about whether his office and he had a conflict of interest, whether they pushed Monica Lewinsky too hard to become their witness, whether they violated Department of Justice rules—and if you look at tab 7 and the chart we have put up, we list the rules that were involved in their conduct that day and in their investigation—if they violated those rules on their way to Congress, or whether they were leaking material to the press, are not to suggest that Ken Starr is a bad man. They are to suggest that he was operating under a bad law. And if you accept the findings from that bad law without asking

tough questions about how the evidence was gathered, you run the risk of giving the material he sent far more weight than it deserves.

When you now resolve the enormous differences between what the referral concludes and what the evidence we have demonstrated shows, in order to determine whether the material he sent is clear and convincing enough for something as important as an impeachment, please recall that you have every reason to question the strength of that evidence when it is presented with such opinion as Mr. Starr chose to do.

As we often use Watergate as a precedent in this room, I pointed out that day that special prosecutor Leon Jaworski said in his report that, "Facts would have to stand on their own, contain no comments, no interpretations, and not a word or phrase of accusatory nature." You can see that at tab 8 of your exhibit book. I did that so that you could see that Mr. Starr's referral, which was described as having "an attitude," must be viewed more skeptically. Mr. Starr shouting in his testimony phrases like "concocted false alibis," "engaging in a scheme," "premeditated pattern of obstruction," does not make the evidence clear and convincing. And the fact that Mr. Starr's own ethics adviser believed that Mr. Starr crossed the line, "to serve as an aggressive advocate that the President committed impeachable offenses,"—you may find that resignation letter on tab 9—that should serve as a red flag to you not to accept everything written in that report and every decision that Mr. Starr admitted he was responsible for as gospel.

Moreover, and more importantly, this entire referral results from charges made by Linda Tripp, who is responsible for the Office of Independent Counsel—for getting the Office of Independent Counsel in the case just a few days before she gave the fruits of her illegal tapes to the Paula Jones attorneys so they could set up the President and create the events that are now before the committee.

If some of you are not comfortable with the relationship that existed between Linda Tripp, the Paula Jones attorneys, and the Office of Independent Counsel, you are not alone. Compare how Mr. Starr answered questions about whether he had the ability and the motive to have stopped Linda Tripp here when he was testifying to his prime time television statements on the news show 20/20. This is what he said when he was testifying before you.

[Videotape played.]

[The audio transcription follows:]

Starr: * * * the truth of that—so the decision made initially was what we call an act of production immunity.

(Unknown): I'm understanding you, but I'm also understanding that you said that you're not contesting that on that day, she came in, she had the conversation, she showed you tapes or told you about the tapes.

Starr: She did not have——

(Unknown): You had both the authority to give her immunity and the authority to tell her not to talk. You did the first. You didn't do the second, did you?

Starr: Well, I'm not—I would have to double-check to see exactly what we did tell her.

Mr. LOWELL. And this, giving the TV a chance to recover, is what he told Diane Sawyer.

[Videotape played.]

[The audio transcription follows:]

Sawyer: Exactly. So why did Starr's office let Tripp run straight from them to lawyers for Paula Jones?

(Voice-over) Linda Tripp—Linda Tripp, leaving your office and going home and talking to Paula Jones's attorneys that night. I mean, at the very least, is this control of your witness?

Starr: I think we could have been had better control of her.

Sawyer: Should have?

Starr: Yeah.

Mr. LOWELL. He didn't make that admission in here. He did make it a few days later. Yesterday Mr. Canady agreed with White House Counsel Ruff that members needed to go beyond the referral into the actual material sent to Congress. When there is any ambiguity in that material or anyplace where it is not clear, and any leap that it makes, look at this list that you can find on tab 10 of your exhibit book calling into question the objectivity of the Office of Independent Counsel, and you will see that you cannot simply assume or adopt the conclusions that that office has made. And so, Mr. Chairman, I hope this time, I was better able to explain why we asked those questions of Mr. Starr and the significance of those questions to your evaluation of the evidence.

Now that we have shown the very little evidence that actually exists, let me turn to the constitutional law that applies to the facts. When I appeared on October 5, the majority was resisting the minority's request to begin an inquiry with a full and fair hearing to discuss the constitutional threshold for impeachment. We have now heard from a number of witnesses, and I think we all agree that these were important witnesses to hear from, and we learned a lot from those witnesses.

We learned, for example, that over 400 historians all took the time to write the committee, and you can find their letter on tab 11, and here is their letter. And they wrote: "The theory of impeachment" that is now contained, as it turns out, in your proposed articles, "underlying these efforts is unprecedented in our history and are extremely ominous for the future of our political institutions. If carried forward," they warned us, "they will leave the presidency permanently disfigured and diminished, at the mercy, as never before, of the caprices of Congress."

We learned that over 200 constitutional legal scholars wrote the committee and said that even if the offenses that you are considering were true, they did not rise to an impeachable level. We even learned from the majority's witnesses called before the committee, such as joint witness Professor Michael Gerhardt who said that the offenses had to be "great or dangerous, causing some serious injury to the Republic; the framers emphasized that the ultimate purpose of impeachment was not to punish but to protect and to preserve the public trust."

And we learned from Professor William Van Alstyne who eloquently concluded his testimony and said: "If the President did that which the special counsel report has declared are crimes of such a low order that it would unduly flatter the President by submitting him to a trial in the Senate, I would not bother to do it."

With that high standard in mind, members of the committee, the majority must not further dilute the Constitution by arguing phrases like the House is a grand jury that simply votes out an article of impeachment and lets the Senate worry about it, or when

it states that the House does not have to hear evidence or make decisions about who is telling the truth, because that is the Senate's job.

Former Watergate-era Attorney General Elliot Richardson said it best when he warned: "A vote to impeach is a vote to remove. If Members believe that should be the outcome, they should vote to impeach. If they think that it is an excessive sentence, they should not vote to impeach because if they do, the matter is out of your hands."

If you try to rewrite history by contending that the House is merely the body that accuses and the Senate is the body that tries, you forfeit the double protection that the founders intended to exist. Contrary to having the House be a mere rubber stamp for sending allegations of wrongdoing to the Senate, the Constitution actually requires that the House as well as the Senate look to the same evidence with the same standard. One constitutional writer, Professor John Labovitz, examined the history and how it applied to Watergate and concluded with words that seem as if they were written for today's events.

He said:

> There were undesirable consequences if the House voted impeachment on the basis of one-sided or incomplete information or insufficiently persuasive evidence. Subjecting the Senate, the President and the Nation to the uncertainty and potential divisiveness of a presidential impeachment trial is not a step to be lightly undertaken. While the formal consequences of an ill-advised impeachment would merely be acquittal after trial, the political ramifications could be much more severe. Accordingly, the House, and this needs to be noted, the House should not vote impeachments that are unlikely to succeed in the Senate. The standards of proof applied in the House should reflect the standards of proof in the Senate.

Professor Labovitz then meticulously documented that in the Nixon inquiry, everyone agreed, the majority, the minority and the President's lawyer, that the standard of proof for the committee and the House was clear and convincing evidence.

Former member of this committee Elizabeth Holtzman said it shorter and perhaps more simply when she was here on Tuesday and she said: "We voted as if we were the Senate."

Again speaking to 1974, there is one more introductory thought I would like to make on this subject of burden and the requirement that you find proof by clear and convincing evidence. On October 5 when we appeared before you, we suggested, as a frame of reference, that which is even more compelling today. That was the bipartisan vote against an article of impeachment for President Nixon's lying to the IRS about his taxes. Please be clear that the article proposed in 1974 included allegations that President Nixon's tax returns, like all filings with government agencies, had the import of an oath. Please also be clear that allegations included the fact that the lies in that matter were purposeful, included backdated documents and were about something important, the means by which our government is funded. Please also keep in mind, in light of Mr. Canady's questions to Mr. Ruff, that while some Members did justify their no votes because they felt the evidence was insufficient, that others, including the key Democrats which made this a bipartisan rejection of the article of impeachment, did so because they said that it was not an impeachable offense.

With all of that in mind, let us ask what we asked you 3 months ago. If President Nixon's alleged lies to the Internal Revenue Service about his taxes were not grounds for impeachment in 1974, how then are the alleged lies by President Clinton about his private sexual relationship with Ms. Lewinsky grounds in 1998?

Just last week, you heard from someone who could help with the answer to that question, and I know we were listening when Majority witness former Watergate-era committee member and now Federal Judge Charles Wiggins said: "I confess to you that I would recommend that you not vote to impeach the President. I find it troubling that this matter has grown to the consequences that it now occupies on the public screen."

Mr. Chairman and members of the committee, one of the articles that you propose uses the phrase "abuse of power." That phrase does have a Watergate ring, and I am sure it is why it has been resuscitated even without evidence. But in a way, it is a good thing that the Majority has made that attempt. You see, the committee is right to be on the lookout for Watergate similarities, because that sad chapter of American history really does describe that which are truly impeachable offenses. But calling something a Watergate offense does not make it so. The more you look at Watergate, the more you will see just how different these proceedings are. In the end, Watergate was a congressional event which both sides could identify as serious and substantial enough to call for truly bipartisan action, just as both you, Mr. Chairman, and Chairman Rodino understood needed to be the case.

But that is not the situation today. Both Watergate and today's inquiry started with a referral from a special prosecutor sending grand jury material to the Congress. But that is where the similarity ends. The Office of Independent Counsel today certainly hasn't acted like Mr. Jaworski's office did back then, and the two Judiciary Committees have not acted the same either. The Judiciary Committee in Watergate kept the evidence to itself, until it could be sure what was relevant and what was not. It did not dump the material into the public. The Judiciary Committee in Watergate had agreements on what witnesses to call and what evidence to gather. It did not go on unilateral excursions from one matter to the next, like the Paula Jones case to campaign finance reform, in hopes of finding something more. The Judiciary Committee in Watergate heard from actual witnesses whose credibility could be assessed. It did not rely on the conclusions of a prosecutor. The Judiciary Committee in Watergate agreed that the House needed clear and convincing evidence. It did not state that it was a mere rubber stamp to send prosecutor's material to the Senate for a trial. And finally, the Judiciary Committee in Watergate took its actions, including the most important actions of voting articles of impeachment, with bipartisan votes.

I raise all of these comparisons, because the more we all try to dress ourselves up in the clothes of Watergate, the more we see they simply do not fit. But it does not have to be so. This does not have to be the case. In this last moment, in these last sessions when it really finally counts, this committee can reach back in its history to rise as did our Watergate counterparts. It can, in the end, merge the portrait behind you on the right and the one on the

left. It can, in effect, create another chapter of congressional history for which we can be as proud as we are proud about our counterparts 24 years ago.

When you gave us the high honor and privilege of addressing you on October 5, we ended the presentation by reading what we thought was the most important part of the history of how the impeachment clause was ratified in the Constitutional Conventions. If you recall, we described Alexander Hamilton's explanations and his warnings, when he was seeking to assure the fears of the country, that the impeachment clause would not be misused, and what he said then seems so, so germane today. Hamilton stated that prosecutions of impeachment,

> * * * will seldom fail to agitate the passions of the whole community and to divide it into parties more or less friendly or inimical to the accused. In many cases, it will connect itself with the pre-existing factions, and in such cases there will always be the danger that the decision will be regulated more by the comparative strength of the parties than by real demonstrations of innocence and guilt.

And you all have Federalist Paper 65 probably on your desks.

Mr. Chairman, members of the committee, Members of the House, beyond this committee's walls, we truly are at a moment where we can avoid "connecting this important debate to pre-existing factions." We are at a place where if we slip, the decision "can be regulated more by the strength of the parties than by real demonstrations of innocence or guilt."

Even though the Majority has all the votes it needs to do as it pleases, we conclude today the way we began in October, by urging that we all listen to Hamilton's plea, by urging that we listen to each other, and by urging that we especially listen to the American people who are asking you to find a truly bipartisan way to avoid the course on which you are now embarked.

Mr. Chairman, Mr. Ranking Member Conyers, members of the committee, thank you for your attention, and I thank my staff as well.

[The statement of Mr. Lowell follows:]

STATEMENT OF ABBE D. LOWELL
CHIEF MINORITY INVESTIGATIVE COUNSEL

Mr. Chairman, Ranking Member Conyers, and Members of the Committee, on behalf of Minority Staff, I appreciate this chance to present our work. Two months ago, on October 5, you allowed me address you on the issue of opening an impeachment inquiry, and I will be referring to parts of that presentation in order to demonstrate that this Committee does not have constitutional grounds to put forward the impeachment of the President of the United States.

Two days ago, Mr. Chairman, you brought the Committee's attention to and quoted historian Arthur Schlesinger from his book which dealt with the type of offenses that were in Watergate; rather than using his quotes about the very significant excesses of President Nixon, it would be better to cite what Professor Schlesinger said on November 9 right here about the insignificant offenses of President Clinton:

> Lowering the bar for impeachment creates a novel, . . . Revolutionary theory of impeachment, a theory that would send us on an adventure with ominous implications for the separation of powers that the constitution established as the basis of our political order. It would permanently weaken the Presidency

With the time today, I would like to first set out the framework for an impeachment proceeding, in other words address the question of what an impeachment is and what it is not; second, I would like to take you through what you have designated as the evidence to establish that there are no clear facts on which to base an impeachment; third, I would compare the facts against the constitutional requirements that an impeachment may proceed only for "high crimes and misdemeanors" and only on the basis of "clear and convincing evidence"; and fourth, I would like to further explain how the process used in this matter should cause the Committee to have second thoughts about proceeding with the third impeachment in American history.

I. What An Impeachment Is and What It Is Not.

There has been a lot of confusing talk about what an impeachment is; the Minority staff has now poured over thousands of pages of constitutional history, legal articles, and testimony, and we can begin this day by explaining what an impeachment is not:

- impeachment is <u>not</u> a means to punish the President;
- impeachment is <u>not</u> a means to send a message to our children that the President isn't above the law (there are other ways to do that);
- impeachment is <u>not</u> a vote of confidence for Independent Counsel Starr;
- impeachment is <u>not</u> a penalty for the President not answering the 81 questions as some of you would have wanted;
- impeachment is <u>not</u> a form of rebuke or censure for the President's conduct.

In fact, impeachment is <u>not</u> about the President's conduct at all; it is about Congress' conduct; just because the President might disgrace his Office by his actions, and just because the

Independent Counsel may have shown partiality and zeal in his investigation, this House can do better -- the road to dishonor in office can end in this Committee, in this room, on this very day. Because, what an impeachment is, of course, is the single device to remove from office the Chief Executive who you decide is constitutionally disqualified to serve and, by doing so, overturn two national elections. As many of you have said, it is the political equivalent of the death penalty.

Back in October, the Committee was listening to one another; some have said we no longer are; news reports indicate that a majority of the Committee Republicans have already stated publicly that they will support at least one article of impeachment; I hope these reports are not true and that these days of debate have purpose. In what Minority and Majority staff present, I wish I could ask you all to change places, so that Republicans would hear the arguments as Democrats, and vice versa; others have noted the portraits behind you of the two chairs of this Committee who have had the terrible burden of presiding over impeachment inquiries; interestingly, the portrait of Chairman Hyde hangs over the Democrats, and that of Chairman Rodino hangs over the Republicans; this should be the model for today's events; we should see if we can see the issues through the eyes of the other side . . . just this once.

With that in mind, Chairman Rodino recently had the opportunity to reminisce about that day, twenty four years ago, that the gavel was in his hand; I would like you to listen to what he said: **Video Clip (Rodino on bi-partisanship).** Mr. Chairman, you echoed the same thoughts before the heat of the lights and the rhetoric in this room were turned on; in a January interview you said that you were reluctant to begin hearings because Committee Democrats were not for it and when you said:

> At the end of the day, the democrats have to agree . . . I would be loathe to start something that I didn't think we could finish and right now, I doubt that Democratic support would be present. . .

We would be well-served to listen to what you and Chairman Rodino were saying; and also to the country; during our November 19 hearing, Congressman Graham accurately stated that:

> Without public outrage, impeachment is a very difficult thing, and I think it is an essential component of impeachment, I think that is something that the founding fathers probably envisioned"

The public has been telling us for months, and in every way they can, that they do not want to see a trial in the Senate where the issues will be sex, and that they want there to be censure and other alternatives to impeachment as the means to demonstrate that the President is not above the law; so, before this week is out, I hope we listen to the wisdom of the Nation as well. As we have participated in every hearing and listened to all the statements, it appears that many of the Majority seem to be going out of their way to find reasons to impeach, when our history tells us it should be the other way around. To this end and to simply toss the case to the Senate, this Committee has been:

- too willing to dilute the constitutional standard of what makes up a high crime and misdemeanor by equating a violation of a statute, even a criminal statute, to a violations of Article II, section 4;

- too willing to lower the burden of proof to suggest that the House is nothing more than a grand jury seeking to find probable cause to impeach;

- too willing to reverse the presumption of innocence so that you ask why has not the President called fact witnesses when the obligation is on the Committee;

- too willing to water down these proceedings to compare an impeachment of our only elected President to those where one of a thousand appointed federal judges is involved;

- too willing to liken impeachment of a President to a perjury conviction of a basketball coach or to attempt to apply the honor codes of military academies as proper precedents for these proceedings

This "lowering of the bar" as Professor Schlesinger has described it, must not continue; one of the constitutional scholars from whom you heard, Professor Jack Rakove, explained in this way when he said:

> . . . Impeachment [is] a remedy to be deployed only in extremely serious and unequivocal cases where we have a high degree of confidence that. . .the insult to the constitutional system is grave . . .

he went on to add that there:

> Would have to be a high degree of consensus on both sides of the aisle in congress and in both houses to proceed . . .(p. 321)."

Mr. Chairman, some have asked whether the role of the Minority staff is the same as the President's counsel; it is not; we are not here to defend the President; he better than anyone has said his conduct was not defensible. We are here, however, to strenuously defend the requirements the Constitution poses on all of us before we even consider an impeachment; our obligation is to leave Article II, section 4 they way we found it on September 9; for the Minority Staff, resort to the impeachment process is like as like that fire extinguisher behind the glass door with a big sign that reads: BREAK ONLY IN CASE OF EMERGENCY; we are asking you not to break that glass unless there literally is no other choice.

From listening to our constitutional scholars, we learned that impeachment is like the wall around the fort of the separation of powers basic to our constitution; the crack you put in the wall today, becomes the fissure tomorrow, which ultimately leads to the wall crumbling down –

it is that serious. It is so serious that the wall was not even approached when President Lincoln suspended the writ of habeas corpus, nor when President Roosevelt misled the public about United States involvement in the lend-lease program, nor when President Reagan misled the country and Congress about involvement with Iran/Contra

So, members of the Committee, before you stop listening to each other, consider that a House vote for impeachment , as Majority Leader Trent Lott said last week, requires the Senate to begin a trial; unlike your proceedings, all Senators would be involved to have to hear the real testimony of all the real witnesses, not a summary from the prosecutor; that would have to occur no matter low long it took, on the floor of the Senate, with the Chief Justice presiding; are the issues of the President's conduct in this case so grave that you would doom the country to additional months of this ordeal and paralysis of government – on the slimmest of votes on the House floor and no likely conviction in the Senate?

II. The Evidence Does Not Support The Charges

When Mr. Starr testified two weeks ago, I began to review his charges and what he called his evidence with him, but I ran out of time; I would like to do that now. The Majority would break that glass and vote four articles of impeachment: one based on the President's perjury in the grand jury, the second on perjury in the civil deposition, the third on obstruction of justice, and the fourth called abuse of power; this process has been something of a moving target -- first with Mr. Starr proposing eleven grounds, then with Majority Counsel dicing those charges into fifteen, and now with the Majority putting forth articles that match the three basic categories the Minority staff summarized on October 5, except the grand jury and the deposition are listed as separate articles

At the end of this process, we are where we started **(Tab 1; Charge Chart),** allegations and now articles of impeachment that the President lied about an improper private relationship, the President obstructed justice by asking others to conceal that same improper relationship, and the President abused his Office by taking other steps to conceal that same improper private relationship; no mater how they are dressed up, re-divided, re-named, re-organized, or duplicated they all have the same central point – the President's improper relationship with Ms. Lewinsky

Well, we are not quite where we started off; it is a little odd for me to have to present the argument about why there are no grounds for impeachment before Majority Counsel has set out why such articles might lie; I tried to get this changed, but with no avail

Similarly, the Committee will note that as we get closer and closer to a day of great constitutional moment – votes on articles of impeachment – we have gotten farther and farther away from one basic constitutional requirement – notice of the charges. Article I alleges that the President committed perjury or lied at the grand jury; Article II alleged that the President committed the same offenses during the Paula Jones deposition; Article III alleges that he committed obstruction of justice; and Article IV alleges various abuses of power

I defy anyone, Members of the Committee, to understand what statements in the grand jury the Majority contends were lies; I defy any one to do the same for the statements in the deposition; look at what it alleges – in Article I, the charge is misleading testimony concerning "THE NATURE AND DETAILS OF HIS RELATIONSHIP" - well let me the first to ask, which statements are at issue?; Article II reads no better.

Mr. Chairman, I know you and your staff are trying to be fair, but how is it fair to make these kind of unspecified charges that would be throw out for vagueness in any court in the land; in these halls, for an impeachment, against the President, we should be doing better, not worse, that the charge made in any courtroom against any criminal defendant.

Mr. Chairman, the decision to make these vague charges and to have me speak first, leave me no choice but to assume – and I hope my assumption is correct – that the phrases in the proposed articles match the original allegations made by Mr. Starr; however, I have to say, it would have been better if the Majority Staff had just said so. One more thing, October 5, I described the process by which prosecutors pile on charges to make their cases more serious; with that in mind, Mr. Chairman, I ask how it makes things clearer for this Committee and the House for Majority Staff to now take various charges and repeat them over and over again; for example, Majority Counsel has adopted the OIC's allegation that the President tried to influence Ms. Lewinsky to file a false affidavit and lists it in proposed Article III, clause 1, as an obstruction of justice; yet, I see that they have also included this same event, renaming it as perjury in Article I, clause 4 by listing it as something the President lied about in his testimony; surely, the Committee sees through this tactic.

Over and over, the Majority has stated that the President or the Minority did not call fact witnesses; Mr. Inglis repeated that charge to White House Counsel Ruff yesterday; but in America and in the People's House, it should not have been our burden to do so; however, if it is fact witnesses you need, then it will be fact witnesses you get; Mr. Chairman, on behalf of the Minority, I now call to the stand Monica Lewinsky, Betty Currie, Vernon Jordan, Linda Tripp, and the President of the United States.

Their sworn testimony is contained in the same boxes on which Majority Counsel is relying to put forth articles of impeachment, and this is what these witnesses have to say:

With respect to charges that the President lied about his relationship, even Members of the Majority, such as Mr. Graham, have stated that the President's answers to surprise questions in his deposition consisting of gobbledygook definitions of the phrase "sexual relations" set up by Linda Tripp should not be grounds for an impeachment

Yet, as I have seen the proposed articles of impeachment, the distinction between the President's deposition and his grand jury appearance has been abandoned in favor of two separate articles. But, before you decide to go forward on impeachment based on what the President admitted were strained and evasive answers to questions at the civil deposition, I

thought you and the public should hear how this all started. Even though Majority Counsel has told us that it wants to parts of the President's deposition; I thought you should have the whole picture and hear the amazing exchange between three lawyers and a judge that went into the contorted definition of "sexual relations" at the Paula Jones deposition that has gotten us all here today; I thought you should hear how all of the, and especially Judge Webber Wright, accurately predicted that the twisted definition would create havoc and confusion

But as you watch and listen, remember this – on January 17 when the deposition was taken, the Paula Jones attorneys already had Linda Tripp and her tapes, they knew they were setting up the President, and they were trying to create the havoc and confusion that has occurred, but the President, his counsel, the lawyer for Trooper Danny Ferguson, and Federal judge Webber Wright had no idea what they and Linda Tripp were planning, and so, when Judge Webber Wright states: "If you want to know the truth, I'm not sure Mr. Clinton knows all these definition," she could not have know how correct she was: **(Video Clip)**

To those who would impeach the President and condemn the President for not being more forthcoming in that deposition, put yourself in his position on that day; he was being set up by the Paula Jones attorneys and Linda Tripp, who had met with the Office of the Independent Counsel just the day before; he knew some collusion was going on to embarrass him not about sexual harassment but about a consensual affair; so, his response was an attempt to answer the questions evasively; in the twenty-twenty hindsight of almost a year, we all know he could have, should have acted better, but are his responses so hard to understand that you would impeach him for acting as anyone would.

In his grand jury appearance, the President explained his situation that day, and when you listen to what he is saying and put it in the context of what you now know of what has happening behind the scenes, a fair-minded person should see that these were not impeachable reactions to his predicament: **(Video Clip).** Despite this context, the Majority Staff has decided to include the civil deposition as a separate article, perhaps to add the appearance of more wrongdoing, but the material we have just presented should put that attempt to rest.

This would leave, as the core of the impeachment article, the allegation that the President lied under oath at his August 17 grand jury appearance; these are vaguely described in Article I. Mr. Chairman, how did we get to perjury? Independent Counsel Starr's Referral goes out of its way not to make a perjury charge because that offense is one of the hardest to prove; on October 15, Majority Counsel chopped and diced Mr. Starr's grounds into four others, but he too did not include one called perjury; while the Majority convened a perjury hearing a few weeks ago hearing, many of the witnesses were in fact talking about other crimes; yet, we now stand here as if the difficult elements of perjury have been proven, but they have not.

On October 5, Minority Staff also suggested that the Committee did not have to delve into "he said/she said" salacious facts about this charge because it could conclusively decide if the President's statements constituted lying under oath based on the relevancy and context of

those statements in the case in which they were spoken. Then, as now, the better approach would be to take the Independent Counsel at its charge – if it was President Clinton lying about Ms. Lewinsky in the Paula Jones that creates the impeachable offense, then the Committee and the House can resolve this issue by deciding the importance or impact of that statement in that specific case.

When Judge Webber Wright **(Tab 2; Chart)** ruled on January 29, 1998 that evidence about Ms. Lewinsky was "not essential to the core issues of the case" and "might even be inadmissible," and when she made the same ruling on March 9, 1998, and when she ruled on April 1 that no matter what the President did with Ms Lewinsky, Paula Jones herself had not proven that she had been harmed, she gave the Committee the ability to determine that the President's statements, whether truthful or not, were not of the grave constitutional significance to support impeachment; in any courtroom in American, so certainly in the halls of Congress, the President's misstatements about a consensual relationship made during a case alleging non-consensual harassment was not material then, and are not grounds for impeachment now.

But if reviewing the testimony in proper context is not enough for the Committee, and it wants, instead, to go ahead with this article of impeachment, let's make sure that the Committee, House Members who will be voting on this on the floor next week, and the country understand what will be the subject of a Senate trial. Again, putting aside the Majority's attempt to list as perjury clauses charges that it makes in other places, there were three main allegations of grand jury lies that probably fit into the article's phrase about the "nature and details" of the relationship: (1) the date when the relationship began; (2) whether the President really believed that sexual relations did not include oral sex; and (3) whether the President touched Monica Lewinsky.

As to the date when the relationship began, the actual charge is that Ms. Lewinsky testified that the affair began in November 1995, but the President said it started in February 1996. How can you in good faith ask this Nation to endure a Senate trial to determine the difference between three months? How more trivial could an impeachment charge and a trial, let alone one paralyzing the Senate and Supreme Court, possibly be? Mr. Chairman, you said during the perjury hearing that this "did not strike you as a serious count," and yet that is exactly what the Independent Counsel has charged and which Majority Counsel has hidden in vagueness.

The second allegation is that the President lied when he said his belief was that the phrase "sexual relations" as used in the Paula Jones deposition did not include oral sex; when many in the Majority ask how we can condone perjury in our society, this is the lie about which they are talking. How would you have a trial in the Senate to conclude whether the President was right about what he thought the phrase "sexual relations" meant; you heard and saw the gyrations that it took for three lawyers and a judge to deal with the silly expression, so who would you call to determine that the President did not believe in his interpretation?

The answer is that you do not have to call anyone; you have enough information right

now to conclude that such a trial is unnecessary; the video you saw proved that the term "sexual relations" was defined by Paula Jones attorneys for the Paula Jones case; with that in mind, let me read what one of Ms. Jones's attorney has said about the phrase when he appeared on Rivera Live and was asked. Paul Cammarata said that : "it is out of my definition of sexual relationships on a personal basis. And I think you have to understand . . . the definition he was operating on when questioned"; if Mr. Cammarata can understand that the phrase can exclude certain sex, how does this Committee in good faith base an article of impeachment on the President interpreting it the same way?

But there is more; listen to the witnesses Monica Lewinsky and Linda Tripp before the Independent Counsel confronted her, before she went back and forth over immunity, and before this became so important that the definition of sex will sink us into a constitutional quagmire; listen to the woman who you would have the Senate call as a witness as she defines the term in the exact same way you now accuse the President of lying about. **(Video Tape)**. Where is the impeachable offense when the President's testimony and Ms. Lewinsky's are the same?

And so, the perjury that some in the Majority have said tears at the fabric of our judicial system comes down to whether the President lied about whether he touched Ms. Lewinsky; no one, certainly not the Congress, and certainly not Ms. Lewinsky and her family, wants to cause further embarrassment or loss of privacy to Ms. Lewinsky; in short, no one wants to require her to testify

Members of the Committee, Members of the House, before you force that terrible result, before you necessitate her testimony in the Senate, before you put the country though the unseemly spectacle of a trial requiring Ms. Lewinsky to describe what part of him touched what part of her, you must accept that such a trial necessarily would have to elicit prurient and salacious information

Such a "he said/she said" drama, if you really want it, would also have to include questions into inconsistencies in Ms. Lewinsky's testimony that the Independent Counsel seemed to ignore in his Referral; yesterday, Mr. Goodlatte asked White House Counsel Ruff about all of the corroborating evidence, but I am assuming he was not including a lot of other material

By way of example, do you want the Senate to be required to determine what Ms. Lewinsky meant when she said this about herself: **(Video Tape)**

As another example, do you want the Senate to have to examine various statements that Ms. Lewinsky made about her relationship that are clearly erroneous. For example:

- Statements like the one she made to her friend Kathleen Estep that the Secret Service took the President to a rendevous at her apartment (*Estep 8/23/98 302* at 3);

- Statements she made to friends Ashley Raines and Neysa Erbland that she had relations with the President in the Oval Office when both were completely unclothed (*Erbland 2/12/98 GJ* at 26) (*Raines 1/25/98 302* at 1);

- Statements she made to White House steward Beyani Nelvis that the President invited her to go to Martha's Vineyard with him when the First Lady was out of the country (*Nelvis 3/12/98 GJ* at 40-42)

- Statements she made to New York job interviewers that she had lunched with the First Lady, who then offered to help her find a place to live in New York (*Risdon 1/26/98 302*).

Members of the Committee, we know that none of these happened because not even the Independent Counsel claims that they did ; but that type of embellishment would require careful scrutiny by the Senate if you truly want to send that body a trial on the nature of Ms. Lewinsky's and the President's private relationship

Is this what we want to put the country through? How do we justify an inquiry into these matters? And how to you justify to Ms. Lewinsky and to her family, that after all they have gone through, you will subject her to that ordeal to resolve these issues? You can avoid this result by recognizing that these same inconsistencies which a Senate trial would explore also mean that the evidence available now on which you have to resolve these "he said/she said" conflicts do not amount to the threshold of evidence required of the House to send charges to its sister body nature of the relationship

When he was here, look for example on page 58 of his testimony, Ken Starr said over and over about questions concerning that events at the Ritz Carlton or about taping the President that sometimes perceptions can be different without someone being called a liar; I think you can use Mr. Starr's admission in foregoing the spectacle I have just tried to explain a trial would entail

Finally, as to the article on perjury, some of the Majority have now confused the three very precise allegations of lying with some general criticism of the President for stating in his deposition, before the grand jury, or in the answers to the eighty-one questions, that he did not recall something or did not remember the details of something.

This is not what the Independent Counsel charged, it is not what Majority Counsel alleged on October 5, and it is a dangerous precedent; given statements from President Roosevelt's failure to remember that he promised military support for Panama's conflict with Colombia over the Canal to President Reagan's failures to remember how funds flowed to the Contras, this Committee should not make Presidential lapses of memory impeachable offenses or the office could go vacant forever.

If you want to understand why this tactic and charge is unfair for impeachment,

remember that despite being prepared for weeks for his appearance before this Committee and having practice sessions with his assistants and knowing the criticisms about which he would be asked, this is how the prosecutor whose material you have chosen to rely on answered many of your questions. **Video Clip**

As to Article II, alleging Obstruction of Justice, on October 5, I recognized that the charge, reminiscence to Watergate, was the most egregious four grounds alleged in the Starr Referral and in Majority Counsel's dividing that those counts into eight. As they were presented by the Referral and again as I can only assume is meant by the Majority in Article III, the charges made are that (1) the President tried to have Ms. Lewinsky submit a false affidavit, (2) the President initiated a return of the gifts he had sent Ms. Lewinsky so they would not be discovered in the Paula Jones case (3) the President sought to keep Ms. Lewinsky quiet with a job, and (4) the President sought to tamper with the testimony of Ms. Currie. Let me turn to each in order and rather than relying on conclusions and inferences from the Starr Referral, let's listen to the actual witnesses **(Tab 3:Chart)** :

With respect to the issue of Ms. Lewinsky's affidavit, both Ms. Lewinsky and the President agree with the very obvious point that she could have filed a completely truthful affidavit denying any sexual harassment and thereby avoided being called as a witness in the Paula Jones case; this is how completely the President explained this basic point. **Video Clip**

Consider that Monica Lewinsky in January 1998 conversation when Linda Tripp was wired, when speaking about her affidavit, she said: "no matter how he has wronged me . . . it was my choice." (Body Wire at 40).

Then, Members of the Committee, read what Ms. Lewinsky said the first time she ever came in to see the Independent Counsel – not after the sessions where they went over and over her testimony; she wrote what is called a "proffer" in the law and this is what it said: "Neither the president nor Mr. Jordan (nor anyone on their behalf) asked or encouraged [me] to lie." (2/1/98 Proffer Statement at 10).

Add to your consideration Ms. Lewinsky's grand jury testimony about the affidavit when she stated: "It could range . . . between just somehow mentioning, . . . innocuous things" (8/6/98 GJ at 124) to denying "sexual relations" as that term was defined.

If you want or need more evidence, you can find it in her August 6 grand jury appearance when she was the one who admitted that she would have "strongly resisted" any attempt by the President to make her reveal the relationship. (8/6/98 GJ at 234).

Also consider that on this all important issue of the President supposedly telling Ms. Lewinsky to file a false affidavit, she testified that when she asked the President if he wanted to see the affidavit, the President "told Ms. Lewinsky not to worry about the affidavit" (Lewinsky 2/1/98 Proffer at 9).

And finally, listen to Ms. Lewinsky on December 22, 1997 give you the most important statement, again before she was confronted by the OIC, made their witness, and given their immunity; as to the President wanting or know about any lie, she told this to Linda Tripp: **Video Tape**. By the way, the witness Ms. Lewinsky also was uncontradicted in the seventeen boxes that it was she, not President Clinton, who undertook each and every one of these steps that went beyond merely trying to deny an inappropriate relationship:

- She invented code names with Betty Currie (Currie 1/27/98 GJ at 47)
- The talking points were completely her idea (ML 8/6/98 GJ at 224)
- She, with the prodding of Linda Tripp, not the President decided to hide the dress (ML 8/20/98 GJ at 82)
- It was her idea to delete e-mails and files from her computer (ML 8/20/98 GJ at 83)

For these acts, Ms. Lewinsky was given immunity and the OIC and Majority Counsel would have you vote that it was the President who obstructed justice; before you do, let me have you listen to another witness, I will recall Mr. Starr to the stand, so you can hear that the proof actually can contradict this charge: **Video Tape**

Certainly the Majority cannot claim to need a trial in the Senate for the issue of the gifts exchanged between the President and Ms. Lewinsky; **Tab 4; Chart**. Rather than the President trying to hide or care about gifts, the witness Ms. Lewinsky admitted that she raised the issue with the President not vice versa; she offered sworn testimony describing this conversation on at least ten occasions; in seven of these, including the first and last times she ever testified, she indicated that the President did not respond at all; in only two of all of her statements, does she even state the outrageous lines leading to this article of impeachment that all the President ever said was: "I don't know" and "let me think about it. And left that topic." (LEWINSKY 8/6/98 GJ at 152). This is hardly the stuff of obstruction.

The Independent Counsel chose to state the President's response, without bothering to tell you and America about the other nine times they asked Ms. Lewinsky the question. But Betty Currie can be the witness you want to hear from; she stated repeatedly that Ms. Lewinsky called her and raised picking up the gifts (*Currie 1/24/98* at 3) and that the President never asked her to call Ms. Lewinsky for the gifts. Let me read the key testimony:

BC: My recollection — the best I remember is Monica calling me and asking me if I'd hold some gifts for her. I said I would.
OIC: And did the president know you were holding these things?
BC: I don't know.
OIC: Didn't he say to you that Monica had something for you to hold?

BC: I don't remember that. I don't. (Currie 5/6/98 GJ at 105-6)

* * * * * *

OIC: Exactly how [did] that box of gifts come into your possession?
BC: I do not recall the president asking me to call about a box of gifts. (Currie 7/22/98 GJ at 175-6)

Let me also re-call the President to the stand so that you can recall that it was he, and not Linda Tripp and not Lucienne Goldberg, who gave Ms. Lewinsky the proper advice: **Video Clip** (Clinton 8/17/98 GJ at 43)

Finally, the evidence is as uncontradicted as evidence could be that on December 28, 1997, the President gave Ms Lewinsky the most gifts he had ever given her on one day because of Christmas and Ms. Lewinsky moving to New York; (Referral at 101); he did this after Ms. Lewinsky had been subpoenaed for gifts and yet this charge would have you believe that on December 28 he gave Ms. Lewinsky the gifts and later that same day hatched the scheme by asking Ms Currie to go and retrieve them; the Independent Counsel's charge and this article obviously makes no sense

So, let me ask this, where does the Majority expect to find the clear and convincing evidence that this obstruction concerning gifts occurred if does not exist in the nine grand jury and other appearances by Betty Currie, the twenty-two by Monica Lewinsky, or the twenty by Linda Tripp?

A damning allegation, reminiscent of the worst of Watergate, is when a President suborns perjury in another witness; that is what Majority's article II suggests when it alleges that the President sought to influence the testimony of Betty Currie; but the actual evidence is not that the President was talking to Ms. Currie as any potential witness, but that he was talking to his secretary about a media storm about to erupt

It is not surprising, improper or impeachable for the President to want to hide his improper relationship and even hope that in conversations he might test what others knew about it; yet this proposed article of impeachment alleges that which does not exist and is literally impossible to prove no matter whether a Senate trial would take a day or a year – on January 18, 1998, when the President called Ms. Currie for a meeting, there days left in the schedule for taking evidence in the Paula Jones case

The plain, uncontradicted, and dispositive fact is simply this: Betty Currie was not listed as either a deposition or trial witness in that case; some of you have asked did it matter if the President said in his deposition: "You will have to ask Betty Currie"; but even after he said that, Ms. Currie was never added to any witness list and never even contacted by Paula Jones' attorneys.

And, although the Independent Counsel interviewed the Paula Jones attorneys, they never asked them a question about Betty Currie as a witness; do you want to know why t? Because the answer that she was never contacted, never deposed, and never added to the witness list in any way, even after the President's deposition, destroyed this subordination charge. Members of the Committee, most of you are lawyers, your colleagues on the floor will be looking to you to give them guidance about the law; certainly for something as grave as an impeachment, do not rewrite 100 years of law – you know as well as I that there cannot be subordination of a witness unless the person involved is a witness; Ms. Currie was not, and this article of impeachment has no legal ground on which to stand.

Equally important, I would call a witness for you but there is not a single one for you or to waste the Senate's time because President and Betty Currie, the only people involved in this event, both agree that the conversation on January 18 was not about testimony, was not intended to pressure her, and was caused by the inquiries from the press, not for any litigation. There has been so much misinformation about what was said between the President and Ms. Currie, including Mr. Graham's attempt to make the short conversation into a conspiracy to get Ms. Lewinsky, that perhaps it is best to let their own words speak for themselves; let's call the President to the stand: **Video Clip** (8/17/98 GJ at 55-6).

Let's call Ms. Currie; here is what she would say:

OIC: You testified that he wanted you to say right at the end of the four statements?
BC: I do not remember that he wanted me to say right. . . I could have said wrong.
OIC: Did you feel any pressure to agree with your boss?
BC: None. (Currie 7/22/98 GJ at 22-3)

Finally, I would like to re-call one more witness: when Mr. Starr was here, this is how he resolved this issue completely for you in response to the questions of Senator-elect Schumer: **Video Clip**

This Committee does not have to go any further than the admission of witness Independent Counsel Starr to see that this charge too and this article also may not go forward on this record.

As to the next allegation, how can the Majority cause the crisis of a Senate trial on the basis of a charge that the President obstructed justice by trying to get Ms. Lewinsky a job; each and every one of you know that there is no contradiction by ANY witness – not Linda Tripp, not Monica Lewinsky, not the President, not Betty Currie, not the White House staff, not Ambassador Bill Richardson, not the New York interviewers,
that the job search began long before Ms. Lewinsky was even a dream to the Paula Jones attorneys and had nothing to do with that case

How ironic is it that Linda Tripp went to see Ken Starr with a great tale about obstruction

of justice by Vernon Jordan who she said was keeping Monica Lewinsky quiet by offering to help her get a job, when it was Linda Tripp herself and not the President who suggested that they get Vernon Jordan involved (*Lewinsky 8/20/98 GJ* at 23; *Currie 5/6/98 GJ* at 176; *Jordan 3/3/98 GJ* at 65) Add to the list Linda Tripp owes apologies to, Mr. Jordan, for that allegation and for when she said this about Mr. Jordan: **Video Clip**

And finally, while it has been pointed out to the Committee many times, it cannot be pointed out too often because this statement by witness Monica Lewinsky answers this charge about obstruction and leaves this Committee without any proof; Ms. Lewinsky, even though never asked by the Independent Counsel, made sure she did not finish her testimony before stating that: "No one asked me to lie and I was never promised a job for my silence." (*Lewinsky 7/27/98 GJ* at 302)

Members of the Committee, in light of this statement, where will you find the evidence of obstruction to send to the Senate? Let's listen to witness Ken Starr who agrees: **Video Clip**

I need to address on final part of this article; not content with Starr's eleven, the Majority decided in needed one more and somehow have added as an obstruction for the President's allowing his private attorney to make a statement about the definition of "sexual relations" in the deposition that the President knew to be false.

We have dealt with twice the issue of whether the definition made enough sense for anyone to understand; and we have dealt with the issue of how it help this process be fair for the Majority to add charges when they are really the same basic issue – the President lying about sex But there is one new point to make; when the Majority was on its frolics to expand the inquiry into new matters; it did raise raucous to take the deposition of Robert Bennett, the attorney apparently involved in this article's charge; but just as fast as the Majority scheduled the deposition, it canceled it; that was more than a little bit unfair, when it was planning to make a charge, never before known, based on testimony that it conveniently engineered never was taken

Article III raises the specter of abuse of power; we saw this charge back on September 9 in the OIC's Referral, but then we never saw it again until this week; the term abuse of power does invoke the memory of President Nixon's offenses in 1974; yet those who have appeared here with Watergate knowledge --former Attorney General Elliot Richardson, judge Charles Wiggins, Father Drinan, Elizabeth Holtzman, Wayne Owens, Richard Ben Veniste, and William Weld -- all could tell you the acts before you today are not the same

In Watergate, abuse of power was proved with tapes of President Nixon telling his aides to get the CIA to stop an investigation by the FBI, to create a slush fund to keep people quiet, to break into peoples' offices, and to get the IRS to go after political enemies; here the charge stands on tapes of Monica Lewinsky and Linda Tripp talking about shopping.

As it is presented to you in 1998 and as originally contained in Mr. Starr's Grounds 10

and 11, abuse of power means that the President lied to his staff or to the people around him about that same inappropriate relationship with Ms. Lewinsky, knowing that they might repeat those misstatements, and that the President violated his oath of office because he and his attorneys tried to protect his constitutional rights by asserting privileges of law.

As to the misstatements to the staff that might be repeated in the grand jury or even to the public, this article merely repeats in another form the same charge that the President wanted to conceal his private improper relationship from anyone he could; as the Committee takes up this proposal, keep focused that this was not an attempt by a President to organize his staff to spread misinformation about the progress of the war in Vietnam, or about a break-in of the Democratic Headquarters at the Watergate, or even about how funds from arms sales in Iran were diverted to aid the Contras in Nicaragua; this was a President repeating to his staff the same denial of an inappropriate and extremely embarrassing relationship that he had already denied to the public directly. However wrong the relationship or misleading the denial, it is not nearly the same as those other examples and cannot stand on the same constitutional footing.

I heard Mr. Sensenbrenner say two days ago that there was no difference between a President lying about illegal bombing in Southeast Asia and about a private sexual affair; but Members of the Committee, let us not loose sight of the fact that unlike the case in 1974, Bill Clinton's alleged crimes are not those of an errant President, but that of an unfaithful husband.

Mr. Chairman, I hope that you can agree with me in 1998 that these statements by the President are not proper grounds for impeachment; your words in 1987 explaining the untruths told by government officials in the Iran/Contra matter, something far more important to America than the President's private life, I think answer the charge today

Speaking not about testimony under oath, but about statements made in public, you said then that:

> It seems too simplistic to condemn all lying. In the murkier grayness of the real world, choices often have to be made. All of us at some time confront conflicts between rights and duties, between choices that are evil and less evil, and one hardly exhausts moral imagination by labeling every untruth and every deception an outrage.

Mr. Chairman, the President's trying to hide his totally improper relationship to his aides and the American public seem to be exactly the "murkier grayness of the real world" about which you were speaking.

As to the ground for impeachment that the President had the audacity to assert privileges in litigation, White House Counsel Ruff did a complete job of disproving any possible issue the Committee could have; let me only note that it remains shocking that this Committee might even consider suggest that the assertion of an evidentiary privilege by the President, on the advice of

his lawyers and the White House Counsel, that was found to exist by the judge in question could ever, under any circumstances, be the grounds for an impeachment.

I have heard the Majority state that a President should not be above the law, and yet this proposed article would place him below the law that gives every American the right to assert legally accepted privileges without fearing being thrown out of their job.

III The Office of Independent Counsel's Conduct Bears on The "Credibility And Substantiality of The Evidence" OIC Abuse

In light of the high threshold and the need for clear and convincing evidence, what can you make from the fact that the Minority Staff is arguing that the evidence is so slight that it does not even exist on many of the charges: after all, you have eighteen boxes from the Independent Counsel and a 450 page damning referral.

But that is exactly the point, Members of the Committee: all that you have before you is the material that was sent by the Office of Independent Counsel: the Committee has gathered no material on its own.

And on November 19, this Committee heard an entire day from Independent Counsel Starr who sent you this material: many Majority Members criticized Democrats for asking about Mr. Starr's and his deputies' conduct instead of asking Mr. Starr about facts; Mr. Chairman, it would have been totally inappropriate to ask Mr. Starr about the so-called facts of the case: he admitted that day that he was not a fact witness and was not even the person who asked any question at any deposition or grand jury session.

What Mr. Starr admitted he was, however, was the man who made the decisions concerning whether a Referral should be sent to Congress, when it should be sent, what it should include and what it should omit, how it should be written, and what it should charge; in fact, this is how Mr. Starr described it: **(VIDEO CLIP)**

And it is precisely because there is such a large gap between what his charges state and what the evidence actually shows that we asked those questions because Mr. Starr told you that his conduct and the conduct of his office did in fact bear on the substantiality and credibility of the evidence. **Tab 5; Chart.**

As this Committee has chosen to accept Mr. Starr's Referral and its conclusions and the material he decided to send in determining whether there is clear and convincing evidence to support impeachment, and as we claim, indeed I think as we have proven, that such large gaps exists in the evidence, it was essential then, as it is now, to determine whether his material can be trusted, whether it is accurate, whether it is complete, and whether it is biased.

Let me give you one example, if Mr. Starr's concluded, as he did, that President Clinton

tried to influence the testimony of Betty Currie, but the facts are that there was no testimony to influence because she was not a witness at the time, and if the facts from Betty's Curries own mouth were that she was not being directed or pressured as to what to say, then you have to question how Mr. Starr could make his bald assertion; this is why questions to his conduct were important to ask.

Members of the Committee, the danger of accepting one-sided facts and conclusions solely from prosecutors was most recently and vividly demonstrated by the acquittal of former Secretary of Agriculture Mike Espy; the Independent Counsel in that case brought thirty-eight felony counts against Mr. Espy over the receipt of $33,000 in gifts; that Independent Counsel stated that the conduct he charged corrupted the working of government and were heinous crimes; but, the judge dismissed eight counts when the government rested its case, and the jury made short order of the rest.

Ordinarily, cross-examination of witnesses and motions made to trial judges are the devices to make sure evidence is reliable; however, in the proceedings before this Committee, these tried and true methods of getting at the truth have not occurred. Given the results in the Espy case, you can readily see that relying on the charges and one-sided presentations of Independent Counsels when they have not been cross-examined or tested can lead to erroneous conclusions.

Almost 50 years ago, then Attorney General Robert H. Jackson who became one of the countries great Supreme Court Justices, addressed all the U.S. Attorneys at the Department of Justice. In his speech, he warned his prosecutors of the exact result of relying on evidence such as that the Committee has before it when he said that:

> ". . . with the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violations of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. **Tab 6**

So questions asked of Mr. Starr about whether his Office and he had a conflict of interest, whether they pushed Monica Lewinsky too hard to become its witness, whether they violated Justice Department rules on its way to Congress or whether they were leaking to the press were not to suggest that Ken Starr is a bad man, it was to suggest that he was operating under a bad law; and if you accept the findings from that bad law without asking tough questions about how the evidence was gathered, you run the risk of giving the material he sent more weight than it deserves.

When you now resolve the enormous difference between what the Referral concludes and what the evidence we have demonstrated show in order to determine whether the material he sent

is clear and convincing for something as important as an impeachment, please recall that you have every reason to question the strength of the evidence when it is presented with such opinion as Mr. Starr chose to do

I pointed out that Special Prosecutor Jaworski said that, in his report, "Facts would have to stand on their own – contain no comments, no interpretations, and not a word or phrase of accusatory nature" **(Tab 7)** so that you could see that Mr. Starr's Referral, which was described as having" "an attitude" must be viewed more skeptically; Mr. Starr's shouting the charges with phrases like "concocted false alibis," "engaged in a scheme," "premeditated pattern of obstruction" does not make the evidence clear and convincing.

And the fact that Mr. Starr's own ethics advisor believed that Mr. Starr crossed the line "to serve as an aggressive advocate . . . that the president committed impeach able offenses" **(Tab 8)** should serve as a red flag to you not to accept everything that is written in the Referral as gospel.

Moreover and more importantly, this entire Referral results from charges made by Linda Tripp who was responsible for getting the OIC in the case a few days before she gave the fruits of her illegal tapes to the Paula Jones attorneys so they could set up the President and create the events that are now before the Committee; if some of you are not comfortable with the relationship that existed between Linda Tripp, the Paula Jones attorneys, and the Office of Independent Counsel, you are not alone; compare how Mr. Starr answered questions about whether he had the ability and motive to have stopped Linda Tripp here as compared to his prime-time statement on the news show Twenty-Twenty; this is what he told you on November 19: **Hearing Video Clip** and this is what he told Diane Sawyer: **20/20 Video Clip.**

Yesterday, Mr. Canady agreed with White House Counsel Ruff that the Members needed to go beyond the Referral into the actual material sent; when there is any ambiguity in the material or any place where it is not clear or any leap it makes, look at this list of events **(OIC Abuse Chart; Tab 9)** calling into question the objectivity of the Office of Independent Counsel and you will see that you cannot simply assume or adopt the conclusions made.

IV. The Constitutional Standard

Now that we have shown you the very little evidence that actually exists, let me turn to the constitutional law that applies to those facts; when I appeared on October 5, the Majority was resisting the Minority's requests to begin the inquiry with a full and fair hearing to discuss the constitutional threshold for impeachment

We have all now heard from a number of witnesses, and it was an important, in fact, the critical, event to have learned

- that over 400 historians all took the time to write the Committee to state **(Tab10;**

Chart):

> That the theory of impeachment underlying these efforts is unprecedented in our history. . . [and] are extremely ominous for the future of our political institutions. If carried forward, they will leave the presidency permanently disfigured and diminished, at the mercy as never before of the caprices of congress. (President. 1).

- That that over 200 constitutional legal scholars wrote the Committee to agree that these offenses even if proven true did not rise to impeachment

We even learned from the Majority's witnesses called before the Committee such as Professor Michael Gerhardt who said the offenses had to be: "great or dangerous offenses causing some serious injury to the republic; the framers also emphasized that the ultimate purpose of impeachment was not to punish but to protect and preserve the public trust" (President. 64). Or Professor William Van Alstyne who eloquently concluded that: " . . . if the President did that which the special counsel report has declared, are crimes of such a low order that it would unduly flatter the President by submitting him to trial in the senate. I would not bother to do it." (President. 351)

With that high standard in mind, the Majority must not further dilute the Constitution by arguing phrases like the House is like a grand jury that simply votes out an article of impeachment and lets the Senate worry about it or when it states the House does not have to hear evidence or make decisions about who is telling the truth because that is the Senate's job.

Former Watergate Era Attorney General Elliot Richardson said it best when he warned:

> A vote to impeach is a vote to remove. If members. . . believe that should be the outcome, they should vote to impeach. If they think that is an excessive sentence, they should not vote to impeach, because if they do . . . the matter is out of your hands . . .

If you try to rewrite history by contending that the House is merely the body that accuses and the Senate is the body that tries, you forfeit the double protection that the founders intended. Contrary to having the House be a mere rubber stamp for sending allegations of wrongdoing to the Senate, the Constitution actually requires that the House as well as the Senate look to the same evidence with the same standards. One constitutional writer, Professor John H. Labovitz, examined the history and how it applied in Watergate and concluded with words that seem as if they were written for today; he said:

> . . . there were undesirable consequences if the house voted impeachment on the basis of one-sided or incomplete information or insufficiently persuasive evidence. Subjecting the senate, the president, and the nation to the uncertainty

> and potential divisiveness of a presidential impeachment trial is not a step to be lightly undertaken. While the formal consequences of an ill-advised impeachment would merely be acquittal after trial, the political ramifications could me much more severe. Accordingly, the house . . . should not vote impeachments that are unlikely to succeed in the senate . . . the standard of proof applied in the House should reflect the standards of proof in the Senate . . . (President. 192-3) **(Tab 11)**

Professor Labovitz then meticulously documented that in the Nixon inquiry everyone agreed -- the Majority, the Minority, and the President's counsel -- that the standard of proof for the Committee and the House was "clear and convincing evidence

Former Member Elizabeth Holtzman said it more simply on Tuesday, when she said: "we voted as if we were the Senate."

Again speaking to 1974, there is one more introductory thought I would make in light of the requirement of "high crimes and misdemeanors" and the requirement for "clear and convincing evidence"; on October 5, we suggested as a frame of reference that which is even more compelling today -- that was the bi-partisan vote against an article of impeachment for President Nixon's lying to the IRS about his taxes. Please be clear that the article included the allegation that President Nixon's tax returns, like all filings with government agencies, had the import or an oath; please also be clear that the allegations included the fact that the lies were purposeful, included backdated documents, and were about something important -- the means by which our government is funded.

Please also keep in mind, in light of Mr. Canady's questions to Mr. Ruff, that while some Members did justify their "no" votes because they felt the evidence was insufficient, that others, including the key Democrats which made this a bi-partisan decision did no because they stated it was not an impeachable offense.

With all of that in mind, let us ask what we asked two months ago: if President Nixon's alleged lies to the IRS about his taxes were not grounds for impeachment in 1974, how then are alleged lies about President Clinton's private sexual relationship with Ms. Lewinsky grounds in 1998?

Just last week you heard from someone who could help answer this question, and I know we are all listening when Majority witness, former Watergate-era Committee Member and now federal judge Charles Wiggins said:

> I confess to you that I would recommend that you not vote to impeach the president . . . I find it troubling that this matter has grown to the consequence that it now occupies on the public screen."

V. An Impeachment Cannot Occur Unless It Is Bi-Partisan

Mr. Chairman, one of the articles uses the phrase "abuse of power"; that phrase does have that Watergate ring, and I am sure that is why it has been resuscitated even without evidence.

But in a way, it is good that the Majority has made that attempt; you see, the Committee is right to be on the lookout for Watergate similarities because that sad chapter of American history really does describe events that truly are impeachable; but calling something a Watergate offense, does not make it so. The more you look at Watergate, the more you see, just how different these proceedings truly are; in the end, Watergate was a congressional event which both sides could identify as serious and substantial enough to call for truly bi-partisan action, just as both you and Chairman Rodino understood needed to be the case.

But that is not the case today; both Watergate and today's inquiry started with a referral from a special prosecutor sending grand jury material to the Congress, but that is where the similarity ends: the Office of Independent Counsel today certainly did not act like Mr. Jaworski's office did then, and the two Judiciary Committee have not acted in the same way either:

- the Judiciary Committee in Watergate kept the evidence to itself until it could be sure what was relevant and what was not -- it did not dump the material into the public;

- the Judiciary Committee in Watergate had agreements on what witnesses to call and what evidence to gather -- it did not go on unilateral excursions from the from one matter to the next (like the Paula Jones case to campaign finance reform) in hopes of finding something more;

- the Judiciary Committee in Watergate heard from actual witnesses whose credibility could be assessed – it did not rely on the conclusions and inferences of the prosecutor;

- the Judiciary Committee in Watergate agreed that the House needed clear and convincing evidence – it did not state it was a mere rubber stamp to send the prosecutor's material to the Senate; and finally,

- the Judiciary Committee in Watergate took its actions, including voting articles of impeachment, with bi-partisan votes.

I raise all of these comparisons because the more we all try to dress ourselves up in the clothes of Watergate, the more we see that they simply do not fit. But that does not have to be the case; in this last moment, in these last sessions, when it finally counts, this Committee can reach back in history to rise as did our Watergate counterparts; it can, in the end, merge the portrait behind you on the right with the one of the left; it can, in effect, create another chapter of congressional

history for which we can be as proud as we are about our counterparts 24 years ago.

When you gave us the high honor and privilege of addressing you on October 5, we ended the presentation by reading what we thought was the most important part of the history of the how the impeachment clause was ratified by the Constitutional Conventions.

If you recall, we described Alexander Hamilton's explanations and warnings when seeking to assure the fears of the country; he said then what seems even more germane today:

> Prosecutions of impeachment "will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases, it will connect itself with the pre-existing factions, . . . and, in such cases, there will always be the danger that the decision will be regulated more by the comparative strength of the parties than by real demonstrations of innocence and guilt. *Federalist No. 65* at 424.

Mr. Chairman, Members of the Committee, and Members of the House beyond these Committee's walls, we truly are at the moment were we can avoid "connecting this important debate to pre-existing factions," we are at a place where, if we slip, the decision "can be regulated more by the strength of the parties than by real demonstrations of innocence and guilt."

Even though the Majority has the votes it needs to do as it pleases, we conclude as we began: by urging that we all listen to Hamilton's plea, listen to each other, and especially listen to the American people asking to be relieved from the course you are about to undertake.

Chairman HYDE. I want to thank you, Mr. Lowell, for a really first-rate presentation, very instructive, very helpful.

I am going to yield to Mr. Conyers and then we will recess until 2 o'clock this afternoon for Mr. Schippers. But Mr. Conyers is recognized.

Mr. CONYERS. Mr. Chairman and members, on behalf of not just the Democrats on the Committee on Judiciary but on behalf of all members of the committee who recognize that Abbe Lowell, our chief minority investigative counsel, has delivered a highly professional and exceptionally well-crafted and exceedingly moving statement in terms of his obligation as the chief minority counsel, I want to thank him from the bottom of my heart.

Chairman HYDE. The committee stands in recess until 2 p.m.

[Whereupon, at 12:45 p.m., the committee recessed, to reconvene at 2:00 p.m., this same day.]

Chairman HYDE. The committee will come to order.

The Chair recognizes Mr. Scott.

Mr. SCOTT. Mr. Chairman, first I would like to ask unanimous consent that a statement from a former Member, Congressman Ray Thornton, be submitted for the record.

Chairman HYDE. Without objection, so ordered.

[The information was not available at presstime.]

Mr. SCOTT. Second, I have a motion that has been distributed that I would like considered.

Chairman HYDE. Please. The gentleman is recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. The motion is as follows: That I move that the committee establish a specific scope of inquiry prior to the White House's rebuttal of still undefined allegations. If it shall be necessary to expand the scope of the inquiry, then such expansion shall be permitted by majority vote of the committee. And, in addition, once the specific allegations of inquiry have been designated, the committee shall hear from witnesses with direct knowledge of these allegations before it considers any article of impeachment.

Mr. Chairman, this motion was presented before the White House counsel came, and I think it is still timely. It was somewhat unseemly to watch the counsel leave and then have distributed—well, actually, while he was here, have taken from him the allegations, because he wasn't supposed to get them, before he knew what the actual charges are.

And, Mr. Chairman, I think I owe some of the Republicans an apology, because I have been making a mockery out of the suggestion that, not knowing what the charges were, some might even conclude that legalistic answers to 81 questions might be impeachable offenses. But I shouldn't have said that, because, of course, when we got the specifics, 81 questions, in fact, became articles of impeachment.

Mr. Chairman, the unseemly part was that before the counsel got the actual charges, Roll Call newspaper has a headline, Defense Rests, and then he learns the charges. Well, we had our counsel similarly disadvantaged when he had to guess as to what the charges were. He indicated he was guessing that it might be this

and it might be that. Now, we will find out after his presentation what he was responding to.

Since most of us, in terms of the witnesses, believe that—some of us anyway—believe that the allegations, even if they are true, are not impeachable offenses, before we know what the allegations are, we are not able to entertain calling of witnesses. But once we have with specificity what the allegations are, I would hope that we would hear from fact witnesses who have direct knowledge so that we are not depending on one counsel's interpretation of documents that cannot be cross-examined compared to another counsel's interpretation of documents which cannot be cross-examined.

So that before we go forward with any articles of impeachment, we ought to hear from fact witnesses. And if there are no witnesses presented, zero to zero, then, of course, unless there is a presumption of guilt, we certainly cannot go forward.

I yield back the remainder of my time.

Chairman HYDE. I thank the gentleman. In response, briefly, you have asked that a specific scope of inquiry be established. That was established in Resolution 581. You have said if it shall be necessary to expand the scope of the inquiry. The inquiry hasn't been expanded. The articles of impeachment are no surprise to anybody. They are based on the referral from the Independent Counsel.

And as to wanting more witnesses, that has been overtaken by events. We had time yesterday to call witnesses for the White House. Any witnesses you have ever wanted, you have been permitted to offer them. So this has really been overtaken by events.

So if there is no further discussion, I will call for a vote.

Mr. WATT. Mr. Chairman.

Chairman HYDE. The gentleman from North Carolina.

Mr. WATT. Thank you, Mr. Chairman. I move to strike the last word.

Chairman HYDE. The gentleman is recognized for 5 minutes.

Mr. WATT. Thank you, Mr. Chairman.

I rise in support of Mr. Scott's motion. This is really not different from what Mr. Scott and I and several members of this committee have been requesting throughout this process.

For those of us who come from a legal background, many of whom got to this committee by virtue of long interest in and involvement with the practice of law and the procedures that protect individual citizens from abuse by the government, this process has been a very grueling and disconcerting one. We would never think of calling into court, commencing a legal process against any citizen in the United States of America without specifying the charges against that individual. It is a basic precept of our democracy and our judicial system, and the members of this committee know that. The American people know that. The only way that individual citizens can be protected from the abuses of the legal process, especially the criminal process in this country, is to have that important protection provided to them.

We have given lip service throughout this process to the notion that no person, including the President of the United States, should be above the law or below the law. And yet this process that this committee has followed throughout this investigation and ordeal has consistently treated the President of the United States

below any procedural due process that we would ever think of providing any citizen of the United States of America.

My sense is that although I hear quite often from my constituents that they perceive that this is unfair, that there are a number of people out there who, because this is an impeachment proceeding, feel like we can just slide around that basic protection that we provide to American citizens. I sense that there are people out there who believe that somehow, because we are members of the Judiciary Committee of the House of Representatives, because they have seen us time after time after time do things that we wouldn't do in a civilized democracy, in a court setting, in a judicial setting, in a constitutional setting to any citizen of the country, believe that we think we are above the law. We make this stuff up as we go along. And that is the feeling that I have had throughout this process; that the rules are just being made as we go along.

This is about protection of the citizens of this country, Mr. Chairman.

Chairman HYDE. Thank you. The gentleman's time——

Mr. WATT. I think if we don't provide it in this committee, we have an obligation to tell the American people why we are not.

Chairman HYDE. The gentleman's time has expired.

Mr. SENSENBRENNER. Mr. Chairman.

Chairman HYDE. Just a moment, please. The Chair would like to inform the gentleman who just spoke and the gentleman who spoke before him that we did call Charles Ruff.

Mr. WATT. Mr. Chairman, what are we doing here? What's the regular order?

Chairman HYDE. Well, I am just trying to inform you, but if you don't want to be informed, I won't.

Mr. WATT. I am just trying to find out, Mr. Chairman. The light has not started over.

Mr. SENSENBRENNER. Mr. Chairman, I move the previous question.

Chairman HYDE. The previous question has been moved. All those in favor say aye.

Opposed; nay.

The ayes have it. The previous question is moved. The question now occurs on the motion by Mr. Scott.

All those in favor will say aye.

All those opposed, no.

In the opinion of the Chair the noes have it.

Mr. SCOTT. Roll call vote.

Chairman HYDE. The motion is not agreed to. And now we go to Mr. Schippers.

Mr. SCOTT. May I have a roll call, Mr. Chairman?

Chairman HYDE. You want a roll call? Why absolutely. We will have a roll call. The clerk will call the roll.

Mr. WATT. Thank you, Mr. Chairman.

The CLERK. Mr. Sensenbrenner.

Mr. SENSENBRENNER. No.

The CLERK. Mr. Sensenbrenner votes no.

Mr. McCollum.

Mr. MCCOLLUM. No.

The CLERK. Mr. McCollum votes no.

Mr. Gekas.
Mr. GEKAS. No.
The CLERK. Mr. Gekas votes no.
Mr. Coble.
Mr. COBLE. No.
The CLERK. Mr. Coble votes no.
Mr. Smith.
Mr. SMITH. No.
The CLERK. Mr. Smith votes no.
Mr. Gallegly.
Mr. GALLEGLY. No.
Mr. Canady.
[No response.]
The CLERK. Mr. Inglis.
Mr. INGLIS. No.
The CLERK. Mr. Inglis votes no.
Mr. Goodlatte.
Mr. GOODLATTE. No.
The CLERK. Mr. Goodlatte votes no.
Mr. Buyer.
Mr. BUYER. No.
The CLERK. Mr. Buyer votes no.
Mr. Bryant.
Mr. BRYANT. No.
The CLERK. Mr. Bryant votes no.
Mr. Chabot.
Mr. CHABOT. No.
The CLERK. Mr. Chabot votes no.
Mr. Barr.
Mr. BARR. No.
The CLERK. Mr. Barr votes no.
Mr. Jenkins.
Mr. JENKINS. No.
The CLERK. Mr. Jenkins votes no.
Mr. Hutchinson.
Mr. HUTCHINSON. No.
The CLERK. Mr. Hutchinson votes no.
Mr. Pease.
Mr. PEASE. No.
The CLERK. Mr. Pease votes no.
Mr. Cannon.
[No response.]
The CLERK. Mr. Rogan.
Mr. ROGAN. No.
The CLERK. Mr. Rogan votes no.
Mr. Graham.
Mr. GRAHAM. No.
The CLERK. Mr. Graham votes no.
Mrs. Bono.
Mrs. BONO. No.
The CLERK. Mrs. Bono votes no.
Mr. Conyers.
Mr. CONYERS. Aye.
The CLERK. Mr. Conyers votes aye.

Mr. Frank.
Mr. FRANK. Aye.
The CLERK. Mr. Frank votes aye.
Mr. Schumer.
Mr. SCHUMER. Aye.
The CLERK. Mr. Schumer votes aye.
Mr. Berman.
[No response.]
The CLERK. Mr. Boucher.
[No response.]
The CLERK. Mr. Nadler.
Mr. NADLER. Aye.
The CLERK. Mr. Nadler votes aye.
Mr. Scott.
Mr. SCOTT. Aye.
The CLERK. Mr. Scott votes aye.
Mr. Watt.
Mr. WATT. Aye.
The CLERK. Mr. Watt votes aye.
Ms. Lofgren.
Ms. LOFGREN. Aye.
The CLERK. Ms. Lofgren votes aye.
Ms. Jackson Lee.
Ms. JACKSON LEE. Aye.
The CLERK. Ms. Jackson Lee votes aye.
Ms. Waters.
[No response.]
The CLERK. Mr. Meehan.
Mr. MEEHAN. Aye.
The CLERK. Mr. Meehan votes aye.
Mr. Delahunt.
Mr. DELAHUNT. Aye.
The CLERK. Mr. Delahunt votes aye.
Mr. Wexler.
[No response.]
The CLERK. Mr. Rothman.
Mr. ROTHMAN. Aye.
The CLERK. Mr. Rothman votes aye.
Mr. Barrett.
Mr. BARRETT. Aye.
The CLERK. Mr. Barrett votes aye.
Mr. Hyde.
Chairman HYDE. No.
The CLERK. Mr. Hyde votes no.
Chairman HYDE. Mr. Canady.
Mr. CANADY. No.
The CLERK. Mr. Canady votes no.
Chairman HYDE. Mr. Berman.
Mr. BERMAN. Aye.
Chairman HYDE. Mr. Berman votes aye.
The CLERK. Mr. Berman votes aye.
Chairman HYDE. Mr. Cannon.
The CLERK. Mr. Cannon is not recorded, Mr. Chairman.
Mr. CANNON. No.

The CLERK. Mr. Cannon votes no.

Mr. Chairman, there are 13 ayes and 21 noes.

Chairman HYDE. And the motion is not agreed to.

We will now proceed as we had scheduled by introducing David P. Schippers, the chief investigative counsel for the majority, who will make a presentation, which I assume will take some time, as did Mr. Lowell's this morning.

Before Mr. Schippers begins, I would like to notify those members of the committee who care to listen that over the noon hour we called the White House counsel, Mr. Ruff, to invite him back if he wanted to, and he declined to come back, with thanks. And that was done in conjunction with Mr. Epstein, as well as our staff.

So, Mr. Schippers.

STATEMENT OF DAVID SCHIPPERS, CHIEF INVESTIGATIVE COUNSEL

Mr. SCHIPPERS. Thank you, Mr. Chairman. On October 5th, 1998, I came before this committee to advise you of the results of our analysis——

Mr. WATT. Mr. Chairman, could the witness move the microphone in front of him so we could hear him on this?

Mr. SCHIPPERS. Is that a little better?

Mr. WATT. Thank you, sir.

Mr. SCHIPPERS. I came before you to advise you of the results of our analysis and review of the referral from the Office of the Independent Counsel. We concluded at that time that there existed substantial and credible evidence of several separate events directly involving the President that could constitute grounds for impeachment. At that time I specifically limited my review and report to evidence of possible felonies. In addition, I asserted that the report and analysis was merely a litany of crimes that might have been committed.

Mr. SCOTT. Mr. Chairman.

Chairman HYDE. For what purpose does the gentleman seek recognition?

Mr. SCOTT. Do we have copies of his statement?

Chairman HYDE. I have no idea. Have you got a blue book down there? Everyone else has one.

Mr. SCHIPPERS. Copies are being made, Mr. Chairman, as we speak.

Chairman HYDE. Copies are being made?

Mr. SCHIPPERS. As we speak.

Chairman HYDE. Okay, fine. You will get a copy as soon as it's ready.

Please proceed.

Mr. SCHIPPERS. On October 7th, the House of Representatives passed Resolution 581 calling for an inquiry to determine whether the House should exercise its constitutional duty to impeach President William Jefferson Clinton. Thereafter, this committee heard testimony from several experts and other witnesses, including the Independent Counsel himself, Kenneth Starr.

Since that time my staff and I, as requested, have conducted ongoing investigations and inquiries. We have received and reviewed additional information and evidence from the Independent Counsel

and have developed additional information from diverse other sources. Unfortunately, because of the extremely strict time limits placed upon us, a number of very promising leads had to be abandoned. We just ran out of time.

In addition, other allegations of possible serious wrongdoing cannot be presented publicly at this time by virtue of circumstances totally beyond our control. For example, we uncovered more incidents involving probable direct and deliberate obstructions of justice, witness tampering, perjury and abuse of power. We were, however, informed both by the Department of Justice and by the Office of the Independent Counsel that to bring forth publicly that evidence at this time would seriously compromise pending criminal investigations. Most of those investigations, I understand, are nearing completion. We have, accordingly, bowed to their suggestion.

If I may digress very briefly from my prepared text, I want to tell you, the members of the committee, that I have been privileged to work with some of the finest human beings that I have ever met in my life. The staff of the committee and my personal staff that have worked with me constitute some of the finest lawyers, the best investigators and just generally good people. They have worked till midnight, 1, 2 o'clock in the morning. They have worked through the weekends. They have done whatever had to be done. I owe them everything for what you are going to hear today, and I really believe that they are entitled to the gratitude of this committee and the gratitude of the people of the United States.

Now I will go on.

Before I proceed, allow me to assert my profound and unqualified respect for the office of President of the United States. It represents to the American people and, actually, to the entire world the strength, the philosophy and, most of all, the honor and integrity that makes us a great Nation and an example for developing peoples. Because all eyes are focused upon that high office, the character and credibility of any temporary occupant is vital to the domestic and foreign welfare of the citizens. Consequently, serious breaches of integrity and duty, of necessity, adversely influence the reputation of the entire United States.

When I appeared in this committee room a little over 2 months ago, it was merely to analyze the referral and to report to you. Today, after our investigation, I have come to a point that, frankly, I prayed I would never reach. It is my sorrowful duty now to accuse President William Jefferson Clinton of obstruction of justice, false and deliberately misleading statements under oath, witness tampering, abuse of power, and false statements to and obstruction of the Congress of the United States in the course of this very impeachment inquiry. These are what Mr. Lowell referred to as the insignificant offenses of President Clinton.

Whether these charges are high crimes and misdemeanors and whether the President should be impeached or not is not for me to say or even to give an opinion. That is your decision. I am merely going to set forth the evidence and the testimony so that you can judge.

As I stated earlier, this is not about sex or private conduct. It is about multiple obstructions of justice; perjury; false and mislead-

ing statements; witness tampering; abuses of power, all committed or orchestrated by the President of the United States.

Before we get into the President's lies and obstructions, it is important to place the events in their proper context. We have acknowledged all along that if this were only about sex, then you would not be engaged in this debate. But the manner in which the Lewinsky relationship arose and continued is important. It is illustrative of the character of the President and of the decisions that he made.

Monica Lewinsky, a 22-year-old intern, was working at the White House during the government shutdown in 1995. Prior to their first intimate encounter, she had never even spoken to the President. Sometime on November 15th, 1995, Ms. Lewinsky made an improper gesture to the President. What did he do in response? Did the President immediately confront her or report her to her supervisors, as you would expect? Did he make it clear that such conduct would not be tolerated in the White House? No. That would have been an appropriate reaction, but it is not the one the President chose. Instead, the President of the United States invited this unknown young intern into a private area off the Oval Office where he kissed her. He then invited her back later, and when she returned, the two engaged in the first of many acts of inappropriate conduct.

Thereafter, the two concocted a cover story. If Ms. Lewinsky was seen, she was just bringing papers to the President. That story was totally false. The only papers she brought were personal messages having nothing to do with her duties or those of the President.

After Ms. Lewinsky moved from the White House to the Pentagon, her frequent visits to the President were disguised as visits to Betty Currie. Now, those cover stories are important because they play a vital role in the later perjuries and obstructions.

Over the term of their relationship, the following significant matters occurred. Monica Lewinsky and the President were alone on at least 21 occasions. They had at least 11 personal sexual encounters, excluding phone sex; three in 1995, five in 1996, and at least three in 1997. They had at least 55 telephone conversations, some of which, at least 17, involved phone sex. The President gave Ms. Lewinsky 24 presents, and Ms. Lewinsky gave the President 40 presents.

Now, these are the essential facts which form the backdrop for all of the events which followed. During the fall of 1997, things were relatively quiet. Monica Lewinsky was working at the Pentagon and looking for a high-paying job in New York. The President's attempt to stall the Paula Jones case was still pending in the Supreme Court, and nobody seemed to care one way or another what the outcome would be. Then, in the first week of December, 1997, things began to unravel.

Now, I do not intend to discuss the sexual details of the President's encounters with Ms. Lewinsky. However, I do not want to give this committee the impression that those encounters are irrelevant. In fact, they are highly relevant, because the President repeatedly lied about that sexual relationship in his deposition, before the grand jury, and in his responses to this committee's questions.

He has consistently maintained that Ms. Lewinsky performed acts on him while he never touched her in a sexual manner. This characterization not only directly contradicts Ms. Lewinsky's testimony, it also contradicts the sworn grand jury testimony of three of her friends and the statements by two professional counselors with whom she contemporaneously shared the details of that relationship.

While his treatment of Ms. Lewinsky may be offensive, it is much more offensive for the President to expect this committee to believe that in 1996 and 1997, his intimate contact with her was so narrowly tailored that it conveniently escaped his strained interpretation of a definition of sexual relations which he did not even conceive until 1998.

A few words of caution, if I may. The evidence and testimony must be viewed as a whole. It cannot be compartmentalized. Please do not be cajoled into considering each event in isolation and then treating it separately. That is a tactic employed by defense lawyers in every conspiracy trial that I have ever seen. Remember, events and words that may seem innocent or even exculpatory in a vacuum may well take on a sinister or even criminal connotation when observed in the context of the whole plot.

For example, everyone agrees that Monica Lewinsky testified, no one ever told me to lie, no one ever promised me a job. When considered alone, as it has been consistently, this would seem exculpatory. In the context of the other evidence, we see that this is, again, technically parsing words to give a misleading inference.

Of course no one said, Monica, go in there and lie. They didn't have to. Monica knew what was expected of her. Similarly, nobody promised her a job. But once she signed that false affidavit, she got one, didn't she?

Likewise, please don't permit the obfuscations and legalistic pyrotechnics of the President's defenders to distract you from the real issue here. A friend of mine flew bombers over Europe in the Second World War. And, yes, I'm old enough to have friends who flew bombers in the Second World War. He once told me that the planes would carry packages of lead-based tin foil strips. And when the planes flew into the perimeter of the enemy's radar coverage, the crews would release that tin foil. It was intended to confuse and distract the radar operators from the real target. Now, the treatment Monica Lewinsky received from the Independent Counsel, the motives of some of the witnesses and those who helped finance Paula Jones' case, that's tin foil.

The real issues are whether the President of the United States testified falsely under oath, whether he engaged in a continuing plot to obstruct justice, to hide evidence, to tamper with witnesses, and to abuse the power of his office in furtherance of that plot.

The ultimate issue is whether the President's course of conduct is such as to affect adversely the office of the Presidency by bringing scandal and disrespect upon it and also upon the administration of justice, and whether he has acted in a manner contrary to his trust as President and subversive to the rule of law and to constitutional government.

Finally, the truth is not decided by the number of scholars with different opinions, the outcome of polls or by the shifting winds of

public opinion. Moreover, you often possess more information than is generally available to the public. As representatives of the citizens, you must honestly and thoroughly examine all the evidence, apply the applicable constitutional precepts and vote your conscience, independently and without fear or favor.

As Andrew Jackson said, one man with courage makes a majority.

The offense that formed the basis of these charges actually began in late 1995. They reached a critical stage in the winter of 1997 and the first month of 1998, and the final act in this sordid drama took place on August 17, 1998, when the President of the United States appeared before a Federal grand jury, raised his right hand to God and swore to tell the truth.

Did he? We shall see.

This committee has been asked by the President's counsel to keep an open heart and mind and to focus on the record. I completely agree. So in the words of Al Smith, a good Democrat, let's look at the record.

On Friday, December 5, 1997, Monica Lewinsky asked Betty Currie if the President could see her the next day, Saturday, but Ms. Currie said that the President was scheduled to meet with his lawyers all day. Later that Friday, Ms. Lewinsky spoke briefly to the President at a Christmas party (See Appendix A, Chart E). That evening, Paula Jones' attorneys faxed a list of potential witnesses to the President's attorney. The list included the name of Monica Lewinsky; however, Ms. Lewinsky did not find out that her name was on the list until the President told her 10 days later on December 17th. That delay is significant (See Appendix A, Chart E).

After a conversation with Ms. Currie and after seeing the President at the Christmas party, Ms. Lewinsky drafted a letter to the President terminating their relationship. The next morning, Saturday, December 6th, Ms. Lewinsky went to the White House to deliver that letter and some gifts for the President. She intended to deliver them to Ms. Currie.

When she arrived at the White House, Ms. Lewinsky spoke to several Secret Service officers, and one of them told her that the President was not, as she thought, with his lawyers, but rather he was meeting with Eleanor Mondale.

Ms. Lewinsky left in a huff, called Ms. Currie from a pay phone, angrily exchanged words with her and went home. After that phone call, after that phone call, Ms. Currie told the Secret Service watch commander that the President was so upset about the disclosure of his meeting with Ms. Mondale that he wanted somebody fired.

At 12:05 p.m., records demonstrate that Ms. Currie paged Bruce Lindsey with a message, call Betty ASAP. Around that same time, according to Ms. Lewinsky, while she was back at her apartment, she and the President spoke on the telephone, and the President was very angry. He told Ms. Lewinsky that no one had ever treated him as poorly as she had.

The President acknowledged to the grand jury that he was upset about Ms. Lewinsky's behavior and considered it inappropriate.

Nevertheless, in a sudden change of mode, he invited her to visit him at the White House that afternoon. Monica arrived at the White House for the second time that day and was cleared to enter at about 12:52 p.m. Although, in her words, the President had been very angry with her during her recent telephone conversation, he was sweet and very affectionate during this visit. He also told her that he would talk to Vernon Jordan about getting her a job.

The President also suddenly changed his attitude toward the Secret Service. Ms. Currie informed some officers that if they kept quiet about the Lewinsky incident, there would be no disciplinary action sought. According to the Secret Service watch commander again, captain Jeffrey Purdie, the President personally told him, "I hope you use your discretion," or, "I hope I can count on your discretion."

Deputy Chief Charles O'Malley, Captain Purdie's supervisor, testified that he knew of no other time in his 14 years of service at the White House where the President raised a performance issue with a member of the Secret Service Uniformed Division.

After his conversation with the President, Captain Purdie told a number of officers that they should not discuss the Lewinsky incident.

When the President was before the grand jury and questioned about his statement to the Secret Service regarding this incident, the President testified, I don't remember. "I don't remember what I said, and I don't remember to whom I said it." When confronted with Captain Purdie's testimony, the President again testified, "I don't remember anything I said to him in that regard. I have no recollection of that whatever."

President Clinton testified before the grand jury that he learned that Ms. Lewinsky was on the Jones witness list that evening, that is, Saturday, December 6th, during a meeting that took place with his lawyers. He stood by this answer in the response to our request, or your request number 16, and the meeting occurred about 5 p.m. So that was true. It was after Ms. Lewinsky had left the White House.

According to Bruce Lindsey, at the meeting Bob Bennett had a copy of the Jones witness list that had been faxed to him the previous night (See Appendix B, Exhibit 15). However, during his deposition the President testified that he had heard about the witness list before he saw it. In other words, if the President testified truthfully during the course of his deposition, then he knew about the witness list before the 5 p.m. meeting.

It is valid to infer that hearing Ms. Lewinsky's name on the witness list prompted the President's sudden and otherwise unexplained change from very angry to very affectionate. It is also reasonable to infer that it prompted him to give the unique instruction to a Secret Service watch commander to use discretion regarding Ms. Lewinsky's visit to the White House, which the watch commander interpreted as instructions to keep the matter under wraps.

Now, to go back a little, Monica Lewinsky had been looking for a good-paying and high-profile job in New York since the previous July. She wasn't having much success despite the President's promise to help. In early November, Betty Currie arranged a meeting

with Vernon Jordan, who was supposed to help. On November 5th, Monica met for 20 minutes with Mr. Jordan. No action followed, no job interviews were arranged, and there were no further contacts with Mr. Jordan. It was obvious that he made no effort to find a job for Ms. Lewinsky. Indeed, it was so unimportant to him that he actually had no recollection of an early November meeting, and he testified that finding a job for Ms. Lewinsky was really not a priority (See Appendix A, Chart R). Nothing happened throughout the month of November because Mr. Jordan was either gone or would not return Monica's calls.

During the December 6th meeting with the President, she mentioned that she had not been able to get in touch with Mr. Jordan and that it didn't seem that he had done anything to help her. The President responded by saying, oh, I'll take care of that. I will get on it, or something to that effect. There was obviously still no urgency to help Monica. Mr. Jordan met the President the next day, December 7th, but the meeting had nothing to do with Ms. Lewinsky.

The first activity calculated to help Monica actually procure employment took place on December 11th. Mr. Jordan met with Ms. Lewinsky and gave her a list of contact names. The two also discussed the President.

By the way, that meeting Mr. Jordan remembered.

Vernon Jordan immediately placed calls to two prospective employers. Later in the afternoon he even called the President to give him a report of his job search efforts. Clearly, Mr. Jordan and the President were now very interested in helping Monica find a good job in New York.

But why the sudden interest? Why the total change in focus? Nobody but Betty Currie really cared about helping Ms. Lewinsky throughout November. Even after the President learned that her name was on the prospective witness list, it didn't really escalate into any great urgency. Did something happen to remove the job search from a low to a high priority on that day?

Oh, yes, something happened. On the morning of December 11, 1997, Judge Susan Webber Wright ordered that Paula Jones was entitled to information regarding any State or Federal employee with whom the President had sexual relations or proposed or sought to have sexual relations. To keep Monica on the team was now of critical importance.

Remember, they already knew that she was on the witness list, although nobody had bothered to tell her yet. That was remedied on December 17, 1997, between 2 and 2:30 in the morning. Monica Lewinsky's phone rang unexpectedly in the wee hours of that morning, and it was the President of the United States. The President said that he wanted to tell Ms. Lewinsky two things: One, that Betty Currie's brother had been killed in a car accident; and second, he said that "he had some more bad news;" that he had seen the witness list for the Paula Jones case, and her name was on it. The President told Ms. Lewinsky that seeing her name on the list broke his heart. I imagine it did.

He then told her that if she were to be subpoenaed, she should contact Betty and let Betty know that she had received a subpoena.

Ms. Lewinsky asked what she should do if she were subpoenaed? The President responded, well, maybe you can sign an affidavit.

Now, both parties knew that the affidavit would need to be false and misleading in order to accomplish the desired result.

Then the President had a very pointed suggestion for Monica Lewinsky, a suggestion that left little room for compromise. No, he did not say, go in and lie. What he did say is, you know, you can always say you were coming to see Betty or that you were bringing me papers.

Now, in order to understand the significance of that statement, it is necessary to remember the cover stories that the President and Ms. Lewinsky had previously structured in order to deceive those who protected and worked with the President. Ms. Lewinsky, if you will recall, testified that she would carry papers; that when she visited the President, when she saw him, she would say, oh, gee, here are your letters, wink, wink, wink; and he would answer, okay, that's good.

After Ms. Lewinsky left White House employment, she would return to the Oval Office under the guise of visiting Betty Currie, not the President who was the real person she was visiting.

Moreover, Monica promised him that she would always deny that sexual relationship and would always protect him, and the President would respond, that's good, or similar language of encouragement.

So when the President called Monica at 2 a.m. on December 17th to tell her she was on the witness list, he made sure to remind her of those prior cover stories. Ms. Lewinsky testified that when the President brought up the misleading story, she understood that the two would continue their preexisting pattern of deception. It became clear that the President had no intention of making his sexual relationship with Monica Lewinsky public, and he would use lies, deceit and deception to ensure that the truth would never be known.

It is interesting to note that when the President was asked by the grand jury whether he remembered calling Monica Lewinsky at 2 a.m., he said, "No, sir, I don't but it would—it is quite possible that that happened."

And when he was asked whether he encouraged Monica Lewinsky to continue the cover stories of coming to see Betty or bringing the letters, he answered, "I don't remember exactly what I told her that night." That was the answer to a direct question: "I don't remember exactly what I told her that night."

Six days earlier, he had become aware that Paula Jones' lawyers were now able to inquire about other women. Monica could file a false affidavit, but it might not work. It was absolutely essential that both parties told the same story. The President knew that he would lie if asked about Ms. Lewinsky, and he wanted to make certain that she would lie also. Why else would the President of the United States call a 24-year-old woman at 2:00 in the morning?

But the President had an additional problem. It was not enough that he and Ms. Lewinsky simply deny the relationship. You see, the evidence was beginning to accumulate, and it was the evidence that was driving the President to reevaluate his defense.

By this time, the evidence was establishing, through records and through eyewitness accounts, that the President and Monica Lewinsky were indeed spending a significant amount of time together in the Oval Office complex. It was no longer expedient simply to refer to Ms. Lewinsky as a groupie, a stalker, a clutch or a homewrecker, as the White House first attempted to do. The unassailable facts were forcing the President to acknowledge the relationship, but at this point he still had the opportunity to establish a nonsexual explanation for their meetings.

You see, he still had that opportunity because his DNA hadn't yet turned up on Monica Lewinsky's blue dress. Therefore, the President needed Monica Lewinsky to go along with the cover story in order to provide an innocent, intimate-free explanation for their frequent meetings. And that innocent explanation came in the form of documents delivered and friendly chats with Monica—with Betty Currie.

It is also interesting to note that when the President was deposed on January 17th, 1998, he used the exact same cover stories that had been utilized by Ms. Lewinsky. In doing so, he stayed consistent with any future Lewinsky testimony while still maintaining his defense in the Jones case.

In the President's deposition, he was asked whether he was ever alone with Monica Lewinsky. He responded, "I don't recall. She—it seems to me she brought things to me once or twice on the weekends." In that case, whatever time she would be in there, drop it off, exchange a few words and go. She was there.

Additionally, you will notice that whenever questions were posed regarding Ms. Lewinsky's frequent visits to the Oval Office, the President never hesitated to bring Betty Currie's name into his answers. "And my recollection is that on a couple of occasions after [the pizza party meeting], she was there," there being in the Oval Office, "but my secretary, Betty Currie, was there with her.

Question: "When was the last time you spoke with Monica Lewinsky?"

Now, remember, this is January 17.

Answer: "I'm trying to remember. Probably sometime before Christmas. She came by to see Betty sometime before Christmas. And she was there talking to her, and I stuck my head out, said hello to her."

Now, I am going to ask you, please, to pay attention to the screens up here, and I would like you to listen to the President's deceptions for yourself.

[Videotape played.]

[The audio transcription follows:]

Question: Mr. President, before the break, we were talking about Monica Lewinsky. At any time were you and Monica Lewinsky together alone in the Oval Office?

Answer: I don't recall, but as I said, when she worked at the legislative affairs office, they always had somebody there on the weekends. I typically worked some on the weekends. Sometimes they'd bring me things on the weekends. She—it seems to me she brought things to me once or twice on the weekends. In that case, whatever time she would be in there, drop it off, exchange a few words and go, she was there. I don't have any specific recollections of what the issues were, what was going on, but when the Congress is there, we're working all the time, and typically I would do some work on one of the days of the weekends in the afternoon.

Question: So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?

Answer: Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only person there. That's possible.

Question: At any time were you and Monica Lewinsky alone in the hallway between the Oval Office and this kitchen area?

Answer: I don't believe so, unless we were walking back to the back dining room with the pizza. I just I don't remember. I don't believe we were alone in the hallway, no.

Question: At any time have you and Monica Lewinsky ever been alone together in any room in the White House?

Answer: I think I testified to that earlier. I think that there is a, it is—I have no specific recollection, but it seems to me that she was on duty on a couple of occasions working for the legislative affairs office and brought me some things to sign, something on the weekend. That's I—have a general memory of that.

Question: Do you remember anything that was said in any of those meetings?

Answer: No. You know, we just have conversation, I don't remember.

Mr. SCHIPPERS. Life was so much simpler before they found that dress, wasn't it?

The President said Ms. Lewinsky's greatest fears were realized on December 19th, when Monica was subpoenaed to testify in a deposition to take place on January 23, 1998, in the Jones case.

(See Appendix A, Charts F and G). Extremely distraught, she immediately called the President's best friend, Vernon Jordan. Now, you will recall that Ms. Lewinsky testified that the President had previously told her to call Betty Currie if she was subpoenaed. She called Mr. Jordan instead because Ms. Currie's brother had just recently died, and she didn't want to bother her with this.

Mr. Jordan invited Ms. Lewinsky to his office and she arrived shortly before 5 p.m., still extremely distraught. Sometime around this time, Jordan called the President and told him that Monica had been subpoenaed (see Appendix B, Exhibit 1). Jordan called the President at about 5 p.m. on the 19th and told the President that Monica had been subpoenaed.

During the meeting, Ms. Lewinsky, which Jordan characterized as a disturbing meeting, she talked about her infatuation with the President. Mr. Jordan also decided that he would call a lawyer for her and get her someone to represent her. That evening, Mr. Jordan met with the President and relayed his conversation with Ms. Lewinsky. The details are extremely important because the President, in his deposition, didn't recall that meeting.

Mr. Jordan told the President again that Ms. Lewinsky had been subpoenaed—that is the second time he told the President—that he was concerned about her fascination with the President, and that Ms. Lewinsky had even asked Mr. Jordan if he thought the President would leave the First Lady after he left office. He also asked President Clinton if he had any sexual relations with Ms. Lewinsky.

Now, wouldn't a reasonable person conclude that this type of conversation would be locked in the President's memory?

The President was asked,

Question: Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?

Answer: I don't think so.

Question: Did you ever talk with Monica Lewinsky about the possibility that she might be asked to testify in the case?

Answer: Bruce Lindsey. I think Bruce Lindsey told me that she was. I think maybe that's the first person told me she was. I want to be as accurate as I can.

In the grand jury, the President first repeated his denial that Mr. Jordan told him about Ms. Lewinsky being subpoenaed. Then, when given more specific facts, he admitted that he knows now that he spoke with Jordan about the subpoena on the night of December 19th, but his memory was still not clear.

In an attempt to explain away his false deposition testimony, the President testified in the grand jury that he was trying to remember who told him first, but that was not the question. So his answer was, again, false and misleading.

When one considers the subject matter and the nature of the conversation between the President and Mr. Jordan, the suggestion that it would be forgotten defies common sense.

December 28, 1997, is a crucial date. The evidence shows that the President made false and misleading statements to the Federal court, the Federal grand jury and to the Congress of the United States about the events that took place on that date (see Appendix A, Chart J). It also is critical evidence that he obstructed justice.

Now, the President testified that it was possible, that is his word, that he invited Ms. Lewinsky to the White House for this visit. He admitted that he probably gave Ms. Lewinsky the most gifts he had ever given her on that date and that he had given her gifts on other occasions (see Appendix A, Chart D). Among the many gifts the President gave Ms. Lewinsky on December 28th was a bear that he said was a symbol of strength.

The President forgot that he had given any gifts to Monica.

Watch this from the deposition.

[Videotape played.]

[The audio transcription follows:]

Question: Well, have you ever given any gifts to Monica Lewinsky?
Answer: I don't recall. Do you know what they were?
Question: A hat pin?
Answer: I don't, I don't remember. But I certainly, I could have.

Mr. SCHIPPERS. Now, as an attorney, the President knew that the law will not tolerate someone who says, I don't recall, when the answer is unreasonable under the circumstances. He also knew that under the circumstances his answer in the deposition could not be believed. When asked in the grand jury why he was unable to remember, though he had given Ms. Lewinsky so many gifts only 2½ weeks earlier, the President put forth a lame and obviously contrived explanation. "I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them."

The President adopted that same answer in his response number 42 to the committee's request to admit or deny (see Appendix B, Exhibit 18). He was not asked in the deposition to identify the gifts. He was simply asked, have you ever given gifts to Ms. Lewinsky?

The answer—the law does not allow a witness to insert an unstated premise or a mental reservation into a simple question so as to make his answer technically true, if factually false.

The essence of lying is in the deception, not in the words. The President's answer was false. He knew it then. He knows it now.

The evidence also proves that his explanation to the grand jury and to this committee is also false. The President would have us believe that he was able to analyze questions as they were being asked and pick up such things as verb tense in an attempt to make his statements at least literally true, but when he is asked a simple straightforward question, suddenly he wants us to believe that he couldn't understand it.

Neither his answer in the deposition nor his attempted explanation is reasonable or true.

While we are on gifts, the President was asked in the deposition if Monica ever gave him gifts. He responded, "Once or twice."

Once again, watch the tape.

[Videotape played.]

[The information follows:]

Question: Has Monica Lewinsky ever given you any gifts?
Answer: Once or twice. I think she's given me a book or two.

Mr. SCHIPPERS. That is also false testimony. He answered this question in response to the committee by saying that he receives numerous gifts, and he really didn't focus on the precise number (see Appendix B, Exhibit 18). The law, again, does not support the President's position. An answer that baldly understates a numerical fact in response to a specific quantitative inquiry can be deemed technically true but actually false.

For example, a witness is testifying falsely if he says he went to the store five times when, in fact, he went 50 times. Of course, he also went five times, and that is literally true, but it is actually false. So, too, when the President answered, once or twice, in the face of the evidence that Ms. Lewinsky was always bringing gifts, 40 of them, he was lying (see Appendix A, Chart C).

On December 28th, one of the most blatant efforts to obstruct justice and conceal evidence occurred. Ms. Lewinsky testified that she discussed with the President the facts that she had been subpoenaed and that the subpoena called for her to produce the gifts. She recalled telling the President that the subpoena requested a hat pin, and that caused her concern. The President told her that it bothered him, too.

Ms. Lewinsky then suggested that she take the gifts somewhere or give them to someone, maybe to Betty. The President responded, "I don't know," or, let me think about that (see Appendix A, Chart L).

Later that day, Ms. Lewinsky got a call from Ms. Currie, who said, "I understand you have something to give me," or, "The President said you have something to give me."

Ms. Currie has an amazingly fuzzy memory about this incident, but says that the best that she can remember Ms. Lewinsky called her. There is key evidence that Ms. Currie's fuzzy recollection is wrong. Monica said that she thought Betty called from her cell phone (see Appendix A, Chart K; Appendix B, Exhibit 2).

Is that chart up?

Take a look at the record. Chart K, that is Betty Currie's cell phone record, and that telephone call at 3:21 on the afternoon of December 28th, 1997, is to Monica Lewinsky's home. Monica Lewinsky is now corroborated, and it proves conclusively that it

was Ms. Currie who called Monica from her cell phone several hours after Monica had left the White House.

Why did Betty Currie pick up the gifts from Ms. Lewinsky? The facts speak for themselves. The President told her to. That conclusion is buttressed by Ms. Currie's actions. If it was Ms. Lewinsky that called her, did Currie ask, like anyone would, why in the world do you want to give me a box of gifts from the President?

Did she tell the President of this strange request? No. Ms. Currie's position was not to ask the reason why. She simply took the gifts and put them under her bed without asking a single question.

Another note about this: The President stated in his response to questions number 24 and 25 from this committee that he was not concerned about these gifts (see Appendix B, Exhibit 18). In fact, he said he recalled telling Monica that if the Jones lawyers requested gifts, she should turn them over. The President testified that he is "not sure" if he knew the subpoena asked for gifts.

Why would Monica and the President discuss turning over gifts to the Jones lawyers if Ms. Lewinsky hadn't told the President that the subpoena called for gifts? On the other hand if President Clinton knew the subpoena requested gifts, why would he give more gifts to Monica on December 28th? This does seem odd.

Ms. Lewinsky's testimony, though, provides the answer. She said that she never questioned "that we were ever going to do anything but keep this private." That meant to, and this is a quote, take "whatever appropriate steps needed to be taken" to keep it quiet.

The only inference is that the gifts, including the bear, symbolizing strength, were a tacit reminder to Ms. Lewinsky that they would deny that relationship even in the face of a Federal court subpoena.

Furthermore, the President at various times in his deposition seriously misrepresented the nature of his meeting with Ms. Lewinsky on December 28th. First he was asked, "Did she tell you she had been served with a subpoena in this case?" The President answered, flatly, "No. I don't know she had been."

He was also asked if he ever talked to Monica Lewinsky about the possibility of her testifying. His answer: "I'm not sure." He then added that he may have joked to her that the Jones lawyers might subpoena every woman he had ever spoken to, and that, "I don't think we ever had more of a conversation than that about it."

Not only does Monica Lewinsky directly contradict this testimony, but the President himself also directly contradicted it when he testified before the grand jury.

Speaking of his December 28th meeting, he said that he, "knew by then, of course, that she had gotten a subpoena" and that they had a, "conversation about the possibility of her testifying."

Remember, he had this conversation about her testimony only 2½ weeks before the deposition. Again, his version is not reasonable.

The President knew that Monica Lewinsky was going to make a false affidavit. He was so certain of the content that when Monica asked if he wanted to see it, he told her, no, he had seen 15 of them. He got his information in part from his attorneys and from discussions with Ms. Lewinsky and Vernon Jordan generally about the content of the affidavit. Besides, he had suggested the affidavit

himself, remember, and he trusted Mr. Jordan to be certain the mission would be accomplished.

In the afternoon of January 5, Ms. Lewinsky met with her lawyer Mr. Carter. The purpose was to discuss the affidavit. The lawyer asked her some very hard questions about how she had gotten her job at the Pentagon. After the meeting, Monica called Betty and said that she wanted to speak to the President before she signed anything.

Lewinsky and the President met and discussed the issue of how she would answer under oath if asked about how she did get her job at the Pentagon. The President told her, "Well, you could always say that the people in Legislative Affairs got it for you or helped you get it."

That, by the way, is another lie.

The President was also kept advised as to the contents of the affidavit by Vernon Jordan. On January 6th, Ms. Lewinsky picked up a draft of the affidavit from Mr. Carter's office. She delivered a copy to Mr. Jordan because she wanted Mr. Jordan to look at the affidavit, in the belief that if Vernon Jordan gave his imprimatur, the President would also approve of the language (see Appendix A, Chart M). Ms. Lewinsky and Mr. Jordan conferred about the contents and agreed to delete a paragraph inserted by Mr. Carter which Ms. Lewinsky felt might open a line of questions concerning whether she had actually been alone with the President (see Appendix B, Exhibit 3).

Contrast this to the testimony of Mr. Jordan who said he had nothing to do with the details of the affidavit. He admits, though, that he spoke with the President after conferring with Ms. Lewinsky about the changes that had been made in that affidavit.

The next day, January 7th, Monica Lewinsky signed the false affidavit (see Appendix A, Chart N; Appendix B, Exhibit 12). She showed the executed copy to Mr. Jordan that same day (see Appendix B, Exhibit 4). Why? So that Mr. Jordan could report to the President that the false affidavit had been signed, and another mission had been accomplished.

On January 8th, the next day, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews & Forbes in Illinois—in New York. The interview went quite poorly, so Ms. Lewinsky was upset, called Mr. Jordan and told him. Vernon Jordan, who, by the way, had done nothing from early November to mid-December, then called the CEO of MacAndrews & Forbes, Mr. Perelman, to "make things happen, if they could happen."

Mr. Jordan called Monica back and told her not to worry. That evening, Ms. Lewinsky was called by MacAndrews & Forbes and told that she would be given more interviews the next morning. Well, what do you know. The next morning, Monica received her reward for signing the false affidavit. After a series of new interviews with MacAndrews & Forbes personnel, she was informally offered a job. When Monica called Mr. Jordan to tell him, he passed the good news on to Betty Currie. Tell the President, mission accomplished.

Later, Mr. Jordan called the President and told him personally (see Appendix A, Chart P). After months of looking for a job, since July, according to the President's lawyers, Vernon Jordan just so

happens to make the call to the CEO the day after the false affidavit was signed.

If you think it is mere coincidence, consider this. Mr. Perelman testified that Mr. Jordan had never called him before about a job recommendation. Jordan, on the other hand, said that he had called Mr. Perelman to recommend people for hiring. Who did he recommend? The former Mayor Dinkins of New York, a very talented attorney from Akin Gump, a Harvard business school graduate, and Monica Lewinsky. Even if Mr. Perelman's testimony was mistaken, Monica Lewinsky does not fit within the caliber of persons that would merit Mr. Jordan's direct recommendation to a CEO of a Fortune 500 company.

Mr. Jordan was well aware that people with whom Ms. Lewinsky worked at the White House didn't like her and that she was very unhappy with her Pentagon job. Vernon Jordan was asked if at "any point during this process you wondered about her qualifications for employment?" He answered: "No, because that was not my judgment to make." Yet when he called Mr. Perelman the day after the signing of the false affidavit, he referred to Monica as a bright young girl who is "terrific." Mr. Jordan said that she had been hounding him for a job and voicing unrealistic expectations concerning positions and concerning salary. Moreover, she had narrated a very disturbing story about the President leaving the First Lady, and how the President wasn't spending enough time with her. Yet none of that gave Mr. Jordan pause in making the recommendation. Do people like Vernon Jordan go to the wall for marginal employees? They do not, unless there is a compelling reason. The compelling reason was that the President told him this was top priority, especially after Monica was subpoenaed.

Just how important was Monica Lewinsky's false affidavit to the President's deposition? Well, it enabled President Clinton, through his attorneys, to assert at his January 17, 1998 deposition that there is nothing, "there is absolutely no sex of any kind, shape or form with President Clinton." You will see this later.

When questioned by his own attorney in the deposition, the President stated specifically that the infamous paragraph 8 of Monica's affidavit, the infamous false paragraph, was, "absolutely true." The President later affirmed the truth of that statement when testifying before the grand jury.

Now I am going to read paragraph 8 of Ms. Lewinsky's affidavit (see Appendix A, Chart N). Here is what it says: "I have never had a sexual relationship with the President. He did not propose that we have a sexual relationship. He did not offer me employment or other benefits in exchange for a sexual relationship. He did not deny me employment or other benefits for rejecting a sexual relationship."

Recall that Monica Lewinsky reviewed the draft affidavit on January 6 and signed it on January 7 after deleting that reference to being alone with the President. She showed a copy of the signed affidavit to Vernon Jordan who called the President and told him.

Getting the affidavit signed, though, was only half the battle. To have its full effect, it had to be filed with the court and provided to the President's attorneys in time for his deposition that was scheduled for January 17. On January 14, the President's lawyers

called Monica's lawyer and left a message, presumably to find out if he had filed the affidavit with the court (see Appendix A, Chart O). On January 15, the President's attorneys called her attorney twice; it is starting to get close. When they finally reached him, they requested a copy of the affidavit and asked him, "Are we still on time?" Ms. Lewinsky's lawyer faxed a copy on January 15. The President's counsel was aware of its contents, and as we will see a little later, used it powerfully in the deposition.

Monica's lawyer called the court in Arkansas twice on January 15 to be certain that the affidavit could be filed on Saturday, the 16th—the 17th, I am sorry (see Appendix B, Exhibit 5). He completed the motion to quash Monica's deposition in the early morning hours of January 16 and mailed it to the court with the false affidavit attached. It was sent for Saturday delivery. The President's lawyers called him again on the 16th telling him, "You'll know what it's about." Obviously, the President needed that affidavit to be filed with the court to support his plans to mislead Ms. Jones' attorneys in the deposition.

On January 15, Michael Isikoff of Newsweek called Betty Currie and asked her about Monica sending gifts to her by courier. Ms. Currie then called Monica and told her about it. The President was out of town, so Betty Currie called Monica back and asked for a ride to Mr. Jordan's office. When they got there, Mr. Jordan advised her to speak with Bruce Lindsey and Mike McCurry. Ms. Currie testified that she spoke immediately to Mr. Lindsey about Mr. Isikoff's call.

The President also provided false and misleading testimony in the grand jury when he was asked about Mr. Bennett's representation in the Jones deposition that the President is, "fully aware," that Lewinsky filed an affidavit saying that, "There is absolutely no sex of any kind, in any manner shape or form with President Clinton."

President Clinton was asked about this representation made by his lawyer in his presence and whether he felt obligated to inform the Federal judge who was sitting there of the true facts. The President answered that he was, "not even sure I paid much attention to what Mr. Bennett was saying." And when pressed further, he said he didn't believe he "even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment," that moment being in the deposition, "the whole argument just passed me by."

This last statement by the President is critical. First, he had planned his answers to the grand jurors. Of course he did. He spent literally days with his attorney going over that deposition with a fine tooth comb and crafting answers in his own mind that wouldn't be too obviously false. Second, he knew that he could only avoid that admission that he allowed a false affidavit to be filed by convincing the grand jury that he hadn't been paying attention. Take a look at this tape that is coming up, and you will see what the President of the United States doesn't want the people of the United States ever to see. Watch.

[Videotape played.]

[The audio transcription follows:]

Mr. Bennett: Your Honor, excuse me, Mr. President, I need some guidance from the Court at this point. I'm going to object to the innuendo. I'm afraid, as I say, that this will leak. I don't question the predicates here. I question the good faith of Counsel, the innuendo in the question. Counsel is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape or form, with President Clinton, and yet listening to the innuendo in the questions——

Well, Your Honor, with all due respect, I would like to know the proffer. I'm not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Lewinsky's affidavit, so I have not told him a single thing he doesn't know, but I think when he asks questions like this where he's sitting on an affidavit from the witness, he should at least have good faith proffer.

Mr. SCHIPPERS. Do you think for one moment, after watching that tape, that the President wasn't paying attention? They were talking about Monica Lewinsky, at the time the most dangerous person in the President's life. If the false affidavit worked, he was home free, because they wouldn't be permitted to question him about her. Can anyone rationally argue that the President wasn't vitally interested in what Mr. Bennett was saying? Nonetheless, when he was asked in the grand jury whether Mr. Bennett's statement was false, he still was unable to tell the truth, even before a Federal grand jury. He answered with a now famous sentence: "It depends on what the meaning of 'is' is."

That single declaration, members of the committee, reveals more about the character of the President than perhaps anything else in the record. It points out his attitude and his conscious indifference and complete disregard for the concept of the truth. He picks out a single word and he weaves from it a deceitful answer. "Is" doesn't mean "was" or "will be," so I can answer no. He also invents convoluted definitions of words or phrases in his own crafty mind. Of course he will never seek to clarify a question because that may trap him into a straight answer.

Can you imagine dealing with such a person in any important matter? You would never know his secret mental reservations or the unspoken redefinition of words. And even if you thought you had solved the enigma, it wouldn't matter; he would just change the meaning to suit his purpose.

But the President reinforced Monica's lie. Mr. Bennett read to him the paragraph, paragraph 8, in the affidavit where she denied a sexual relationship, not sexual relations, sexual relationship, with the President. Watch.

[Videotape played.]

The audio transcription follows:]

Question: In paragraph eight of her affidavit, she says this, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship."

Is that a true and accurate statement as far as you know it?

Answer: That is absolutely true.

Mr. SCHIPPERS. "That is absolutely true." And at the time the President knew that it was absolutely false.

When asked about this in the grand jury and when questioned about it by this committee, the President said that if Ms. Lewinsky believed it to be true, then it was a true statement (see Appendix B, Exhibit 18).

Well, let's see: First of all, Monica admitted to the grand jury that the paragraph was false. Second, the President wasn't asked about Ms. Lewinsky's belief. He was asked quite clearly and directly by his own lawyer whether the statement was true. His answer was unequivocally, yes. Even by the President's own tortured reading of the definition of sexual relations, that statement is false. To use the President's own definition, Monica Lewinsky touched, "one of the enumerated body parts." Therefore, she had sexual relations with him even as he defined it (see Appendix B, Exhibit 13).

Lastly, the President wants us to believe that according to his reading of the deposition definition, he did not have sexual relations with Ms. Lewinsky. That definition was an afterthought, conceived while preparing for his grand jury testimony. His explanation to the grand jury then was also false and misleading.

The President does not explain his denial of an affair or of a sexual affair. He can't. Neither can he avoid his unequivocal denial in the answers to the interrogatories in the *Jones* case. These interrogatories were answered before any narrowed definition of sexual relations had been developed. But here, listen for yourself.

[Videotape played.]

[The audio transcription follows:]

Question: Did you have an extramarital sexual affair with Monica Lewinsky?

Answer: No.

Question: If she told someone that she had a sexual affair with you beginning in November of 1995, would that be a lie?

Answer: It's certainly not the truth. It would not be the truth.

Question: I think I used the term "sexual affair." And so the record is completely clear, have you ever had sexual relations with Monica Lewinsky, as that term is defined in Deposition Exhibit #1, as modified by the Court?

Mr. Bennett: I object because I don't know that he can remember——

Judge Wright: Well, it's real short. He can—I will permit the question and you may show the witness deposition number one.

Answer: I have never had sexual relations with Monica Lewinsky. I've never had an affair with her.

Mr. SCHIPPERS. By the time the President concluded his deposition, he knew that someone was talking, and he knew that the only person who could be talking was Ms. Lewinsky herself. The cover story that he and Monica had created and that he used liberally himself during the deposition was now in real jeopardy. It became imperative that he not only contact Ms. Lewinsky, but that he obtain corroboration from his trusted secretary, Betty Currie (see Appendix A, Chart S). So at about 7 p.m. on the night of the deposition, the President called Ms. Currie and asked that she come in the following day, which was a Sunday. (See Appendix B, Ms. Currie could not recall the President ever before calling her that late at home on a Saturday night (see Appendix A, Chart S). Sometime in the early morning hours of January 18, by the way, the President learned of the Drudge report concerning Ms. Lewinsky that had been released earlier that day (see Appendix B, Exhibit 14).

As those charts indicate over there, between 11:49 and 2:55 p.m., there were three phone calls between Mr. Jordan and the President (see Appendix B, Exhibit 7). At about 5 p.m., Ms. Currie met with the President. The President said that he had just been deposed and that the attorneys asked several questions about Monica Lewinsky. That, incidentally, was a direct violation of Judge

Wright's order prohibiting discussions about the deposition testimony. The President then made a series of statements to Ms. Currie (see Appendix A, Chart T):

I was never really alone with Monica, right?

You were always there when Monica was there, right?

Monica came on to me and I never touched her, right?

You could see and hear everything, right?

She wanted to have sex with me and I can't do that.

During Betty Currie's grand jury testimony, she was asked whether she believed that the President wanted her to agree with that statement.

Question: Would it be fair to say, then, based on the way he stated the five points and the demeanor that he was using at the time that he stated it to you, that he wished you to agree with that statement?

Answer: I can't speak for him but——

Question: How did you take it? Because you told us at these meetings in the last several days that that is how you took it.

Answer: (Nodding.) Witness is nodding.

Question: And you're nodding your head "yes"; is that correct?

Answer: That's correct.

Question: Okay, with regard to the statement that the President made to you, quote, "You remember I was never really alone with Monica, right?" was that also a statement that, as far as you took, that he wished you to agree with that?

Answer: Correct.

When the President testified in the grand jury, he was questioned about his intentions when he made those five statements. The President stated:

I thought we were going to be deluged by press comments and I was trying to refresh my memory about what the facts were. And what I wanted to establish was that Betty was there at all other times in the complex and I wanted to know what Betty's memory was about what she heard, what she could hear. And what I did not know was—I did not know that, and I was trying to figure out in a hurry because I knew something was up. So I was not trying to get Betty Currie to say something that was untruthful. I was trying to get as much information as quickly as I could.

Though Ms. Currie would later intimate that she did not necessarily feel pressured by the President, she did state that she felt the President was seeking her agreement or disagreement with those statements.

Logic tells us that the President's plea that he was just trying to refresh his memory is contrived and false again.

First, consider the President's options after he left his deposition. He could abide by Judge Wright's order to remain silent and not divulge any details of his deposition. He could choose to defy Judge Wright's orders, call Betty on the phone and ask her an open-ended question; for example, what do you remember about Monica Lewinsky and so on and so forth. Or he could call Ms. Currie, arrange a Sunday afternoon meeting at a time when the fewest distractions exist and the White House staff is at a minimum. The President chose the third option.

He made sure that this was a face-to-face meeting, not an impersonal telephone call. He made sure that no one else was present when he spoke to her. He made sure that he had the meeting in his office, an area where he was comfortable and could utilize its power and its prestige to influence future testimony.

Once the controls were established, the President made short, clear, understandable, declarative statements telling Ms. Currie

what her testimony was to be. He wasn't interested in what she knew. Why? He didn't want to be contradicted by his personal secretary. And the only way to ensure that was by telling her what to say, not asking her what she remembered. And you certainly don't make declarative statements to someone regarding factual scenarios of which the listener was totally unaware.

Betty Currie could not possibly have any personal knowledge of the facts the President was asking about. How could she know if they were never alone? If they were, Ms. Currie wasn't there, right? So, too, how would she know that the President never touched Monica? No, this wasn't any attempt by the President to refresh anybody's recollection. It was witness tampering, pure and simple.

The President essentially admitted to making those statements when he knew that they were not true. Consequently, he had painted himself kind of into a legal corner. Understanding the seriousness of the President coaching Ms. Currie, his attorneys have argued that those statements to her could not constitute obstruction because she had not been subpoenaed and the President didn't know she was a potential witness at the time. This argument is refuted both by law and facts.

The United States Court of Appeals rejected that very argument and stated:

> A person may be convicted of obstructing justice if he urges or persuades a prospective witness to give false testimony. Neither must the target be scheduled to testify at the time of the offense, nor must he or she actually ever give testimony at a later time.

As discussed, the President and Ms. Lewinsky concocted that cover story that brought Ms. Currie into the fray. She was there as a corroborating witness for the President. True to the scheme, the President, as previously noted, invoked Ms. Currie's name frequently as a witness who could corroborate his false and misleading testimony about the Lewinsky affair in the deposition. For example, during that deposition, when asked whether he was alone with Ms. Lewinsky, the President said that he was not alone with her or that Betty Currie was there with Monica. When asked about the last time he saw Ms. Lewinsky, which was December 28, he falsely testified that he only recalled that she was there to see Betty. He also told the Jones lawyers to "ask Betty" whether Lewinsky was alone with him or with Betty in the White House between the hours of midnight and 6 a.m. Asked whether Ms. Lewinsky sent packages to him, he stated that Betty handled packages for him. Asked whether he may have assisted in any way with Ms. Lewinsky's job search, he stated that he thought Betty suggested Vernon Jordan talk to Ms. Lewinsky, and that Monica asked Betty to ask someone to talk to Ambassador Richardson about a job at the U.N.

Of course Ms. Currie was a prospective witness, and the President clearly wanted her to be deposed as a witness. His "ask Betty," constantly "ask Betty," clearly demonstrates that he wanted them to bring her in. Now, the President claims that he called Ms. Currie into work on a Sunday night only to find out what she knew. But the President knew the truth about the relationship with Ms. Lewinsky, and if he had told the truth during his deposi-

tion the day before, he would have no reason to worry about what Ms. Currie knew. More important, the President's demeanor, Ms. Currie's reaction to his demeanor and the suggested lies clearly prove that the President was not merely interviewing Ms. Currie. Rather, he was looking for corroboration for his false cover-up, and that is why he coached her.

Very soon after his Sunday meeting with Ms. Currie at 5:12 p.m., the flurry of telephone calls began, looking for Monica (see Appendix A, Chart S). Between 5:12 and 8:28, Ms. Currie paged Monica four times. "Kay" is a reference to a code name that Ms. Lewinsky and Ms. Currie had created when contacting one another. At 11:02, the President called Ms. Currie at home to ask if she had reached Lewinsky.

On the following morning, January 19, Currie continued to work diligently on behalf of the President. Between 7:02 and 8:41 a.m., she paged Ms. Lewinsky another five times (see Appendix A, Chart S; Appendix B, Exhibit 8). After the 8:41 page, Betty called the President at 8:43 and said that she had been unable to reach Monica. One minute later, she again pages Monica. This time Ms. Currie's page stated "family emergency." Apparently, in an attempt to alarm Monica into calling back, they put that code in there. That may have even been the President's idea, since Betty had just spoken with him. The President was obviously quite concerned because he called Betty Currie only 6 minutes later, at 8:50. Immediately thereafter, at 8:51, Currie tries a different tack, sending the message, "Good news." Another one of the President's ideas, no doubt. If bad news doesn't get her to call, maybe good news will. Ms. Currie said that she was trying to encourage Ms. Lewinsky to call, but there was no sense of "urgency." Ms. Currie's recollection of why she was calling was again amazingly fuzzy. She said at one point that she believed the President asked her to call Ms. Lewinsky and she thought she was calling just to tell her that her name had come up in the deposition. Monica Lewinsky had been subpoenaed, and everybody knew it. Of course her name came up in the deposition. There was obviously another and a much more important reason the President needed to get in touch with her.

At 8:56 a.m., the President telephoned Vernon Jordan, who then joined in the search. Over a course of 24 minutes, from 10:29 to 10:53 a.m., Mr. Jordan called the White House three times, paged Ms. Lewinsky, and called Ms. Lewinsky's attorney Frank Carter. Between 10:53 a.m. and 4:54 p.m., there are continued calls between Mr. Jordan, Ms. Lewinsky's attorney and several individuals at the White House.

Later that afternoon, things really went downhill for the President. At 4:54 p.m., Mr. Jordan called Mr. Carter and Carter relayed the information that he had been told he no longer represented Ms. Lewinsky. Mr. Jordan then made feverish attempts to reach the President, or someone at the White House, to tell them the bad news, as represented by the six calls between 4:58 and 5:22 p.m. Vernon Jordan said that he tried to relay this information to the White House because, "The President asked me to get Monica Lewinsky a job." She had a job.

And he thought it was "information they ought to have." (See Appendix A, Chart Q.)

So do I.

Mr. Jordan then called Mr. Carter back at 5:14 p.m. to "go over" what they had already talked about. Mr. Jordan finally reached the President at 5:56 and told him that Mr. Carter had been fired.

Now, why all this activity? It shows how important it was for the President of the United States to find Monica Lewinsky to learn to whom she was talking. Betty Currie was in charge of contacting Monica. The President had just completed a deposition in which he had provided false and misleading testimony about his relationship. She was a co-conspirator, she being Monica Lewinsky, in hiding this relationship from the Jones attorneys, and he was losing control over her. She was slipping away. The President never again got complete control over Monica Lewinsky, and that is why we are here today.

On August 17, the last act of this tragedy took place. After six scorned invitations, the President of the United States appeared before a grand jury of his fellow citizens and took an oath to tell the truth. We all now know what happened after that. The President equivocated, engaged in legalistic fencing, but he also lied. During the course of this presentation, I discuss several of those lies specifically. Actually the entire performance, and it was a performance, was calculated to mislead and to deceive the grand jury and eventually the American people. The tone was set at the very beginning. You recall Judge Starr testified that in a grand jury, a witness can either tell the truth, lie or assert his privilege against self-incrimination (see Appendix A, Chart Y). President Clinton was given a fourth choice. The President was permitted to read a statement. There it is, over there on the chart (see Appendix A, Chart Z).

Even that statement is false in many particulars. President Clinton claims that he engaged in wrong conduct with Ms. Lewinsky "on certain occasions in early 1996 and once in 1997." Notice he didn't mention 1995. There was a reason. On the three occasions in 1995, Monica was a 21-year-old intern. As for being on "certain occasions," the President was alone with Monica more than 21 times at least (see Appendix A, Chart A). The President also told the jurors in that statement that he "also had occasional telephone conversations with Ms. Lewinsky that included sexual banter." Now, "occasional" sounds like once every 3 or 4 months, doesn't it? Actually the two had at least 55 phone conversations, many in the middle of the night. And in 17 of those calls, Monica and the President of the United States engaged in phone sex (see Appendix A, Chart B). Now, I am not going to go into any details, but if what happened on those phone calls is banter, then Buckingham Palace is a cabin.

Here we are again with the President carefully crafting his statements to give the appearance of being candid when actually his intent was exactly the opposite. In addition, throughout the testimony, whenever the President was asked a specific question that could not be answered directly without either admitting the truth or giving an easily provable false answer, he said, "I rely on my statement." Nineteen times he relied on his statement, his false and misleading statement; nineteen times, then, he repeated those lies. Let's just watch one of them.

[Videotape played.]

[The audio transcription follows:]

Question: Getting back to the conversation you had with Mrs. Currie on January 18th, you told her—if she testified that you told her, Monica came on to me and I never touched her, you did, in fact, of course, touch Ms. Lewinsky, isn't that right, in a physically intimate way?

Answer: Now, I've testified about that. And that's one of those questions that I believe is answered by the statement that I made.

Mr. SCHIPPERS. When Judge Starr was testifying here before you, he made reference to six occasions on which, faced with a choice, the President chose deception. Make it seven.

In an effort to avoid unnecessary work and to bring this inquiry to an expeditious end, this committee submitted to the President 81 requests to admit or deny specific facts relevant to the investigation (see Appendix B, Exhibit 18). Although for the questions could have been answered with a simple admit or deny, the President elected to follow the pattern of selective memory, reference to other testimony, blatant untruths, artful distortions, outright lies and half-truths, the blackest lie of all. When he did answer, he engaged in legalistic hair-splitting in an obvious attempt to skirt the whole truth and to deceive this committee.

Thus, on at least 23 questions, the President professed a lack of memory. This from a man who is renowned for his remarkable memory, for his amazing ability to recall details.

In at least 15 answers, the President merely referred to "White House records." He also referred to his own prior testimony and to that of others. He answered several of the requests by merely stating the same deceptive answers that he gave to the grand jury. We have pointed out several of those false statements in this summation already.

The answers are a gratuitous insult to your intelligence and to your common sense. The President then has lied under oath in a civil deposition, lied under oath in a criminal grand jury. He lied to the people, he lied to his Cabinet. He lied to his top aides. And now he has lied under oath to the Congress of the United States. There is no one left to lie to.

In addition, the half-truths, legalistic parsings, evasive and misleading answers, were obviously calculated to obstruct the efforts of this committee. They have had the effect of seriously hampering the committee's ability to inquire and to ascertain the truth. The President has, therefore, added obstruction of an inquiry and an investigation before the legislative branch to his obstructions of justice before the judicial branch of our constitutional system of government.

Now, let's talk a little about abuse of power. As soon as Paula Jones filed her lawsuit, President Clinton, rather than confront the charges, tried to get it dismissed.

To do so, he used the power and dignity of the office of the President in an attempt to deny Ms. Jones her day in court. Remember, this was a private suit against the President in his private capacity.

He argued that as President, he is immune from a lawsuit during his tenure in office; that is, that the President as President is immune from the civil law of the land. As I recall, a similar posi-

tion was taken by King John just before that gathering at Runnymede where he was forced to sign the Magna Carta.

More interesting is the rationale given by the President for his immunity, and I am quoting from one of his documents: "The broad public and constitutional interests that would be placed at risk by litigating such claims against an incumbent President far outweigh the asserted private interests of a plaintiff who seeks civil damages for an alleged past injury."

There you have it. Sorry, Ms. Jones. Because William Jefferson Clinton occupies the office of President, your lawsuit against him, not as President, but personally, must be set aside. The President's lawyers are referring to the most basic civil rights of an American citizen to due process of law and to the equal protection of the laws, those same rights that President Clinton had taken an oath to preserve and protect. Or is it that some people are more equal than others?

Here is a clear example of the President abusing the power and majesty of his office to obtain a purely personal advantage over Ms. Jones and to avoid having to pay money damages.

The case was actually stalled for several years until the Supreme Court ruled. If there is one statement that might qualify as the model of President Clinton, it is that contained in one of the briefs filed on behalf of him. "In a very real and significant way, the objectives of William J. Clinton, the person, and his administration, are one and the same."

But the President was just getting started. He employed the power and prestige of his office and of his Cabinet officers to mislead and to lie to the American people about the *Jones* case and the Monica Lewinsky matter. But even more, throughout the grand jury investigation and other investigations, the President has tried to extend the relatively narrow bounds of presidential privilege to unlimited if not bizarre lengths. One witness, Bruce Lindsey, asserted executive privilege before the grand jury even after that claim had been dropped by the President. I guess he didn't get the message.

The whole plan was to delay, obstruct, and detour the investigations; not to protect the presidency, but to protect the President personally. It is bad enough that the office was abused for that purpose, but the infinite harm done to the presidency by those frivolous and dilatory tactics is irreparable. With a single exception, every claim of immunity and every privilege has been rejected outright by the courts. Future presidents will be forced to operate within those strictures because one person assumed that the office put him above the law.

Furthermore, the power and prestige of the office of President was marshaled to destroy the character and the reputation of Monica Lewinsky, a young woman who had been ill-used by the President. As soon as her name surfaced, the campaign began to muzzle any possible testimony and to attack the credibility of witnesses in a concerted effort to insulate the President from the lawsuit of a single female citizen of Arkansas. It almost worked.

When the President testified at his deposition that he had no sexual relations, no sexual affairs or the like with Monica Lewinsky, he felt secure. Monica, the only other witness, was al-

ready in the bag. She'd furnished the false affidavit also denying everything. Later when he realized from the Dredge Report that there were taped conversations between Ms. Lewinsky and Linda Tripp, he had to come up with a new story, and he did. In addition, he recounted that story to White House aides to passed it on to the grand jury.

On Wednesday, January 21, 1998, The Washington Post published a story entitled, "Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones Lawyers." The White House learned the substance of the story on the evening of the 20th. After the President learned of the existence of that story, he made a series of telephone calls.

At 12:08 a.m. he called his attorney, Mr. Bennett, and they had a conversation. The next morning, Mr. Bennett was quoted in The Washington Post stating: "The President adamantly denies he ever had a relationship," not relation, relationship, "with Ms. Lewinsky and she has confirmed the truth of that." He added, "This story seems ridiculous and I frankly smell a rat."

He was right.

After that conversation, the President had a half-hour conversation with White House counsel, Bruce Lindsey. At 1:16 a.m., the President called Betty Currie and spoke to her for 20 minutes. He then called Bruce Lindsey again. At 6:30 a.m., the President called Vernon Jordan. He wasn't sleeping too well, apparently. After that, the President again conversed with Bruce Lindsey.

This flurry of activity was a prelude to the stories which the President would soon inflict upon top White House aides and his advisers. On the morning of January 21, the President met with Chief of Staff Erskine Bowles and his two deputies, John Podesta and Sylvia Matthews. Erskine Bowles recalled entering the President's office at 9 a.m. that morning. He then recounts the President's immediate words as he and two others entered the Oval Office (see Appendix A, Chart V): "And he looked up at us and he said the same thing he said to the American people. He said, 'I want you to know, I did not have sexual relationships with this woman, Monica Lewinsky. I did not ask anybody to lie, and when the facts come out, you'll understand.'" After the President made that blanket denial, Mr. Bowles responded: "I said, 'Mr. President, I don't know what the facts are. I don't know if they are good, bad or indifferent. But whatever they are, you ought to get them out and you ought to get them out right now.'"

When counsel asked whether the President responded to Bowles' suggestions that he tell the truth, Bowles responded, "I don't think he made any response, but he didn't disagree with me."

Deputy Chief John Podesta also recalled a meeting with the President on the morning of January 21st. He testified before the grand jury as to what occurred in the Oval Office (see Appendix A, Chart V):

And we started off meeting—we didn't—I don't think we said anything. And I think the President directed this specifically to Mr. Bowles. He said, "Erskine, I want you to know that this story is not true."

"Question: What else did he say?

"Answer: He said that—that he had not had a sexual relationship with her and that he never asked anybody to lie.

Two days later on January 23rd, Mr. Podesta had another discussion with the President:

I asked him how he was doing and he said he was working on his draft and he said to me that he never had sex with her, and that—and that he never asked, you know, he repeated the denial. But he was extremely explicit in saying he never had sex with her.

Then Podesta testified as follows:

Question: Okay. Not explicit in that sense, that he got more specific than sex, than the word "sex."
Answer: Yes, he was more specific than that.
Question: Okay, share that with us.
Answer: Well, I think he said, he said that—there was some spate of, you know, what sex acts were counted, and he said he had never had sex with her in any way whatsoever.
Question: Okay.
Answer: That they had not had oral sex.

Later in the day on January 21st, the President called Sidney Blumenthal to his office. It is interesting to note how the President's lies become more elaborate and pronounced when he has time to concoct his newest line of defense. Remember that when the President spoke to Mr. Bowles and Mr. Podesta he simply denied the story. But by the time he spoke to Mr. Blumenthal, the President had added three new angles: One, he now portrays Monica Lewinsky as the aggressor; two, he launched an attack on her reputation by portraying her as a stalker; and three, he presents himself as an innocent victim being attacked by the forces of evil.

Note well this recollection by Mr. Blumenthal in his June 4th, 1998, grand jury testimony (see Appendix A, Chart U):

"And it was at this point that he gave his account of what had happened to me and he said that Monica—and it came very fast, he said, 'Monica Lewinsky came at me and made a sexual demand on me.' He rebuffed her. He said, 'I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again."

She threatened him. She said that she would tell people that they'd had an affair, that she was known as the stalker among her peers and that she hated it and if she had an affair or said she had an affair, then she wouldn't be the stalker anymore.

This is the President speaking.

And then consider what he told Mr. Blumenthal moments later.

And he said, "I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel "Darkness at Noon.'" And I said to him, "When this happened with Monica Lewinsky, were you alone?" And he said, "Well, I was within eyesight or earshot of someone."

At one point Mr. Blumenthal was asked by the grand jury to describe the President's manner and demeanor during the exchange:

Question: In response to my question how you responded to the President's story about a threat or discussion about a threat from Mrs. Lewinsky, you mentioned you didn't recall specifically. Do you recall generally the nature of your response to the President?

"Answer: It was generally sympathetic to the President, and I certainly believed his story.

Listen to this. "It was a very heartfelt story. He was pouring out his heart, and I believed him."

When Betty Currie testified before the grand jury, she couldn't recall whether she had a second one-on-one discussion with the

President on January 20th or Wednesday January 21st. She did state that on one of those days, the President summoned her back into his office. At that time he recapped their now famous Sunday afternoon post-deposition discussion in the Oval Office. I think you all remember that meeting.

That is when the President made a series of those statements to Ms. Currie, some of which Ms. Currie could not have possibly known. Monica came on to me and stuff like that.

When he spoke to her on January 20th and 21st, he spoke in the same tone and the same demeanor that he'd used on Sunday afternoon. Ms. Currie stated that the President may have mentioned that she might be asked about Monica Lewinsky.

It is abundantly clear that the President's assertions to staff were designed for dissemination to the American people. But it is equally important to understand that the President intended his aides to relate that false story to investigators and grand jurors alike. We know that this is true for the following reasons: The special division had recently appointed the Office of Independent Counsel to investigate the Monica Lewinsky matter. The President realized that the Jones attorneys and investigators were investigating this matter. The Washington Post journalists and investigators were exposing the details of the Lewinsky affair, and the investigation relating to perjury charges based on presidential activities in the Oval Office would certainly lead to interviews and possible testimony on the part of West Wing employees and high-level staffers.

Because the President knew he wasn't going to appear before the grand jury, his version of the events could be supplied by those staffers to whom he was telling these lies. The President actually acknowledged that he knew his aides might be called before the grand jury. In addition, Mr. Podesta testified that he knew he was likely to be a witness in the ongoing grand jury criminal investigation. He said he was "sensitive about not exchanging information because I knew I was a potential witness."

He also recalled that the President volunteered to provide information about Ms. Lewinsky to him, even though Mr. Podesta had not asked for those details. In other words, the President's lies and deceptions to his White House aides, coupled with his steadfast refusal to accept an invitation to testify, had the effect of presenting a totally false account of the events to the investigators and to the grand jurors.

The President's aides believed the President when he told them his contrived account. The aides' eventual testimony provided the President's calculated falsehoods to the grand jury which, in turn, gave the jurors a totally inaccurate and misleading set of facts upon which to base any decisions.

President Clinton also implemented a win at any cost strategy. We know this because of testimony presented by Dick Morris to the Federal grand jury. Mr. Morris, a former presidential advisor, testified that on January 21st he met President Clinton and they discussed the turbulent events that were occurring that day. The President again denied the accusation against him, and after further discussion, they decided to take an overnight poll to determine if the American people would forgive the President for adultery,

perjury and obstruction of justice. When Mr. Morris obtained the results he called the President.

This is Mr. Morris talking:

"And I said, 'They're just too shocked by this. It's just too new. It's too raw.' And I said, 'And the problem is they're willing to forgive you for adultery, but not for perjury or obstruction of justice or the various other things.'"

Morris recalls the following exchange:

"And I said, 'They're just not ready for it,'" meaning the voters.

"And the President said, 'Well, we just have to win, then.'" The President, of course, can't recall this statement.

Worst of all, in order to win, it was necessary to convince the public and hopefully those grand jurors who read the newspapers that Monica Lewinsky was unworthy of belief. If the account given by Monica to Linda Tripp was believed, then there would emerge a tawdry affair in or near the Oval Office. Moreover, the President's own perjury and that of Monica Lewinsky would surface. How do you do this? Congressman Graham showed you. You employ the full power and credibility of the White House and the press corps of the White House to destroy the witness.

Thus on January 19th:

"Inside the White House, the debate goes on about the best way to destroy 'that woman,' as President Bill Clinton called Monica Lewinsky. Should they paint her as a friendly fantasist or a malicious stalker?"

Again: "That poor child has serious emotional problems," Representative Charles Rangel, Democrat of New York, said Tuesday night before the State of the Union. "She's fantasizing. And I haven't heard that she played with a full deck in her other experiences."

Listen to Gene Lyons, an Arkansas columnist, on January 30:

"But it's also very easy to make a mirror's eye view of this thing, look at this thing from a completely different direction and take the same evidence and posit a totally innocent relationship in which the President was, in a sense, the victim of someone rather like the woman who followed David Letterman around."

From another "source" on February 1st:

"Monica had become known at the White House, says one source, as 'the stalker.'"

And on February 4th:

"The media have reported that sources describe Lewinsky as 'infatuated' with the President, 'star struck', and even 'a stalker.'"

Here is the worst:

"One White House aide called reporters"—called reporters—"to offer information about Monica Lewinsky's past, her weight problems, and what the aide said was her nickname, 'The Stalker.'"

"Junior staff members, speaking on the condition that they not be identified, said she was known as a flirt, wore her skirts too short, and was 'A little bit weird.'"

"Little by little, ever since allegations"—this is all part of this same article—"ever since allegations of an affair between the U.S. President, Bill Clinton, and Lewinsky surfaced 10 days ago, White House sources have waged a behind-the-scenes campaign to portray her as an untrustworthy climber obsessed with the President."

"Just hours after the story broke, one White House source made unsolicited calls offering that Lewinsky was the 'troubled' product of divorced parents and may have been following the footsteps of her mother, who wrote a tell-all book."

"One story"—still, we are still in this same article—"one story had Lewinsky following former Clinton aide George Stephanopoulos to Starbucks. After observing what kind of coffee he ordered, she showed up the next day at his secretary's desk with a cup of the same coffee to 'surprise him.'"

The President was given every opportunity to present to this committee witnesses. Did you see one human being come in to corroborate these filthy stories?

Sound familiar? It ought to, because that is the same tactics that were used to destroy Paula Jones. The difference is that these rumors were emanating from the White House, the bastion of the free world, and to protect one man from being forced to answer for his conduct in the highest office in the United States.

Now, let's turn to President Clinton's grand jury appearance. On August 16th, the President's personal attorney, David Kendall, provided the following statement:

"There is apparently an enormous amount of groundless speculation about the President's testimony tomorrow. The truth is the truth. Period. And that's how the President will testify."

On August 17th the President testified. He admitted to the grand jury that, after the allegations were publicly reported, he made misleading statements to particular aides whom he knew were likely to be called to testify before the grand jury.

Question: "Do you deny" or "Do you recall denying any sexual relationship with Monica Lewinsky to the following people: Harry Thomasson, Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal, Mr. Jordan, Ms. Betty Currie? Do you recall denying any sexual relationship with Monica Lewinsky to those individuals?"

Here is the President's straightforward answer:

"I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe, sir, that you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying."

Question: "If they testified that you denied sexual relations with Monica Lewinsky, or if they told us that you denied that, do you have any reason to doubt them, in the days after the story broke; do you have any reason to doubt them?"

Answer—for once—"No."

The President then was specifically asked whether he knew that his aides were likely to be called before the grand jury.

Question: "It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?"

Yes or no?

Mr. Clinton: "That's right. I think I was quite careful what I said after that. I may have said something to all the people to that effect, but I'll also—whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that would get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about it."

Question: "If all these people—let's leave Mrs. Currie for a minute. Vernon Jordan"—and then they name all the people—"after the story broke, after Judge Starr's involvement was known * * * have said that you denied sexual relationship with them. Are you denying that?"

Answer: "No."

Which is it? He didn't talk to anybody, but if they come in and say he did talk to somebody, they're not lying?

Question: "And you've told us that you"——

Mr. Clinton: "I'm just telling you what I meant by it. I told you what I meant by it when they started this deposition."

Question: "You've told us now"—he refers to deposition, by the way, when he's talking about the grand jury testimony—"You've told us now that you were being careful, but that it might have been misleading. Is that correct?"

Answer: "It might have been * * *. So what I was trying to do was to give them something they could—that would be true, even if misleading in the context of this deposition, and keep them out of trouble, and let's deal—and deal with what I thought was the almost ludicrous suggestion that I had urged someone to lie or tried to suborn perjury, in other words."

As the President testified before the grand jury, he maintained that he was being truthful with his aides.

Watch the screen, again.

[Video tape played.]

[The audio transcription follows:]

Question: You don't remember denying any kind of sex in any way, shape or form, and including oral sex, correct?

Answer: I remember that I issued a number of denials to people that I thought needed to hear them, but I tried to be careful and to be accurate, and I do not remember what I said to John Podesta.

Question: Did you deny it to them or not, Mr. President?

Answer: Let me finish. So, what—I did not want to mislead my friends, but I wanted to find language where I could say that. I also, frankly, did not want to turn any of them into witnesses, because I—and, sure enough, they all became witnesses.

Question: Well, you know they might be——

Answer: And so——

Question: Witnesses, didn't you?

Answer: And so I said to them things that were true about this relationship. That I used—in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter further. So, I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

Mr. SCHIPPERS. He stated that when he spoke to his aides, he was very careful with his wording. The President stated he wanted his statement regarding "sexual relations" to be literally true because he was only referring to intercourse.

However, recall that John Podesta said that the President denied sex "in any way whatsoever," including oral.

The President told Mr. Podesta, Mr. Bowles, Ms. Williams, and Harold Ickes that he did not have a "sexual relationship" with that woman.

And also take note of this fact: Seven days after the President's grand jury appearance, the White House issued a document entitled "Talking Points, January 24, 1998." (See Appendix A, Chart W; Appendix B, Exhibit 16.) They're up there on that chart. This "Talking Points" document outlined proposed questions that the President may be asked in the press conference. It also outlined suggested answers to those questions. The "Talking Points" purport to state the President's view of sexual relations and his view of the relationship with Ms. Lewinsky (see Appendix B, Exhibit 17). The talking points are as follows:

Question: "What acts does the President believe constitute a sexual relationship?"

Answer: "I can't believe we're on national television discussing this. I'm not about to engage in an 'act-by-act' discussion of what constitutes a sexual relationship."

"Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?"

Answer: "Of course it would."

Based upon this foregoing material, the President's own talking points refute his "literal truth" argument.

I would like to take a few moments to address some of the matters that have been put before you by the President's defenders over the past few days. Ever since this inquiry began, we have heard the complaint that no factual witnesses were being called by the majority. Actually, there are many factual witnesses: Monica Lewinsky, Vernon Jordan, Betty Currie, Sidney Blumenthal, Erskine Bowles, John Podesta, all of whom have testified one or more times under oath—under oath, either in a formal deposition or before a grand jury.

With minimal exceptions, I've avoided reference to interviews and the like. Interviewees are not under oath and 0usually the report doesn't reflect the exact words of the witness. I note, though, that the President did rely on unsworn testimony and unsworn interviews and produced no factual witnesses whatsoever.

Now, some Members have suggested that none of these witnesses have been subjected to cross-examination. Well, the answer to that is twofold.

First, this is not, as some seem to believe, a trial. It is in the nature of an inquest. Any witnesses whose testimony is referred to in this proceeding will be subjected to full cross-examination if a trial results in the Senate. That is the time to cross-examine and test credibility. As it stands, all of the factual witnesses upon whose testimony I have relied are uncontradicted and amply corroborated.

Second, if any Member or the President's counsel had specific questions for any of these witnesses that I just named, he or she was free to bring them before the committee and to ask them to testify in this proceeding.

Although the President's lawyers admit that his actions in the Jones case and in the Lewinsky matter were immoral, and I think they used the term "maddening" acts, they argue that they don't rise to the level of criminal activity and certainly not to the level of impeachable offenses.

They produced another gaggle of witnesses to testify that this really is not so bad, it's only lying about sex; that only private conduct is involved and really the Congress should just close up the book, slap the President on the hand, and, well, just kind of get on with politics as usual. Some even suggested that a prosecutor wouldn't even consider an indictment based upon the evidence available here. Well, that remains to be seen.

I doubt if any of those experts have read all the evidence that I have read, and we know that the prosecutors are in possession of that evidence and perhaps much more. Whether to indict is their decision. And whether the offenses of President Clinton are criminally chargeable is of no moment whatever. This is not a criminal trial, nor is it a criminal inquiry. It is a fundamental precept that an impeachable offense need not be a criminal act.

Concerning the perjury issue, it is noteworthy that the President's argument is focused on only one aspect of his testimony, that regarding whether he had sexual relations. He glosses over or ignores the perjury claims premised on his denial of being alone with Ms. Lewinsky, his denial of any involvement in obtaining a job for her in his January 17th deposition, his falsely minimizing the number of occasions on which he had encounters with Ms. Lewinsky and his lies regarding the gifts to and from her.

They also argue that because the President believed that he was telling the truth and there is no proof that he didn't so believe, then he cannot be guilty of perjury. Now that is a good one. That is a good one. That totally misstates the law of perjury. They assert that under the law, the subjective belief of the defendant is what counts. In fact, however, the question in perjury is judged by an objective standard as to what is reasonable under the circumstances, not the nebulous subjective standard advanced by the President's counsel.

The President's subjective belief is not sufficient. He admits that he is an attorney and at the time of his deposition was represented by Mr. Bennett as well as Mr. Ruff. The President had an independent duty to review the definition of "sexual relations" and to determine whether, in fact, his conduct fell within that definition. He cannot rely on his attorney, who was not in possession of all the facts, to divorce himself from a determination of whether he told the truth. He cannot rely on what his attorney thinks any more than he could rely on what Monica Lewinsky thought when he, the President, is the only person who knows the relevant facts and is able to determine whether his conduct fell within that definition. In other words, there must be a reasonable basis for the President's subjective belief. There was no reasonable basis.

Similarly, the argument that there is "no proof" that the President didn't believe that he was telling the truth as to whether he engaged in sexual relations under the Jones definition ignores the record. The proof that the President's subjective belief is contradicted by the evidence is overwhelming, and it has been addressed

in detail. For the President now to advance the assertion that he had a subjective belief that his conduct did not constitute "sexual relations" continues that same subterfuge and obstruction begun in the Jones case, continued in the grand jury, and now presented here before the Congress.

Another argument propounded by those who oppose impeachment is that the President's lies were not material to the Jones case. How many times have we heard that? That is to say, the Lewinsky information was private and irrelevant. That argument was disposed of by Judge Susan Webber Wright in her order of December 11, 1997. She said:

> The Court finds, therefore, that the plaintiff is entitled to information regarding any individuals with whom the President had sexual relations or proposed or sought to have sexual relations and who were during the relevant time frame . . . State or Federal employees. Plaintiff is also entitled to information regarding every person whom the President asked, during the relevant time frame, to arrange a private meeting between himself and any female.

More than a month before the President's deposition and six days before the President suggested that Monica Lewinsky could sign a phony affidavit to avoid testifying, the judge had clearly concluded that the subject matter was neither private nor irrelevant. So much for the materiality issue.

If the President's testimony concerning Monica Lewinsky was not material, the judge—who, by the way, was sitting there while the deposition was being taken—would never have allowed it.

Judge Wright's order is not the only decision on the materiality question. A recently unsealed opinion from the United States Court of Appeals for the District of Columbia Circuit conclusively decided the issue and is right on point.

In the opinion, filed under seal on May 26th, 1998, the court addressed Ms. Lewinsky's argument that she could not have committed perjury or obstruction of justice because her false affidavit did not involve facts material to the Jones case. In a three to zero decision, the Court of Appeals rejected that argument.

The Court examined whether the misrepresentation or concealment was predictably capable of affecting, that is, had a natural tendency to affect, the official decision. Here is what the judges unanimously concluded:

There can be no doubt that Lewinsky's statements in her affidavit were—in the words of Kungys versus United States—predictably capable of affecting this decision. She executed and filed her affidavit for this very purpose.

Of course, if Ms. Lewinsky's relationship with President Clinton was a material issue when she signed her affidavit, it certainly was a material issue when the President testified at a deposition. And just as those lies could support perjury and obstruction of justice against Ms. Lewinsky, they support perjury and obstruction of justice against the President. Both Ms. Lewinsky and the President are subject to the same criminal code.

However, even if the three judges on the D.C. Court of Appeals were wrong and if, for some hypothetical reason, the President's relationship was not material in the Jones case, there can be no doubt in the President's or anyone else's mind that the relationship

was absolutely material when he lied to the grand jury and when he lied to this committee.

Perhaps the most strident complaint from the President's supporters is what they perceive as the fundamental unfairness of this process. They have, however, been hard-pressed to point with any degree of specificity to any unfair actions.

With reference to the Office of the Independent Counsel, did they treat the President unfairly? They invited him to testify before the grand jury on six occasions before they issued a subpoena. Even then, they withdrew the subpoena and allowed Mr. Clinton the dignity of appearing voluntarily.

During his grand jury testimony, which, by the way, was given in the White House and not the district court, the President was permitted to have his lawyers present at all times. The prosecutors allowed him to read a statement into the record and to rely on that statement in lieu of an answer some 19 times. Finally, the time allotted for questioning the President was limited. Not one of these courtesies is afforded to any other witness before a grand jury.

How about in his dealings with the committee? Has the President been treated fairly? He has been treated with extraordinary courtesy and fairness. Examples abound.

The Rodino Watergate format was adopted, giving the White House the privilege of responding to evidence received and testimony adduced; suggesting additional testimony or other evidence to make a complete record; attending all executive or open hearings at which witnesses are called; and questioning witnesses before the committee.

The President's counsel was permitted to cross-examine Judge Starr for a full hour. I only got 45 minutes.

A complete hearing was held in part because of a White House request concerning standards for impeachment.

The President's counsel was allowed access to the secure room over in the Ford Building so it could assist him in preparing his defense.

The committee afforded the President 30 hours, or the equivalent of 4 full days, if he needed it, to present witnesses or other defense evidence.

The staff met with White House counsel to try working out a method of cooperation.

And the Chairman repeatedly asked the White House to submit any exculpatory evidence.

Despite all of these efforts, the Chairman continues to suffer from accusations of unfairness. What more do they want?

On the other hand, how fair have the President and his supporters been?

Was it fair to procure and produce false affidavits from prospective witnesses in the Jones case and thus subject those witnesses to prosecution for perjury? How about employing every conceivable means, including perjury and obstruction, to defeat the legal rights of a woman who claimed she had been wronged? How fair was it to stand by and allow his friends to attack that woman's character with remarks like, "drag a $10 bill through a trailer camp and you never know what will turn up"?

Was it fair to Monica Lewinsky to construct an elaborate lie that made it appear that she was a predator who threatened to lie about a sexual encounter if the President didn't succumb to her advances? By the way, if the dress had not turned up, that story would have been President Clinton's defense today. The stage had already been set, the scenery was in place, and the actors had been given their lines.

Was it fair for the President to coach Betty Currie, knowing that she would likely testify under oath and expose herself to possible criminal charges? And how about the constant trashing of anyone who had the courage to criticize or to refuse to go along with the game plan? Is it fair to make misstatements about the Independent Counsel's Referral and then use those misstatements as the basis to attack Judge Starr's credibility?

As to the last, my staff and I have had the unenviable task of reviewing the President's latest Submission consisting of almost 200 pages. For the most part, there was nothing new. It had all been presented to you in one form or another by the experts brought in by the Minority and the President, which, by the way, far outnumbered those produced by the Republican Majority. Most of the arguments have been dealt with in my presentation already, but a few points might be highlighted.

In paragraph 2 of the Preface the statement is made: "He," referring to the President, "did not want anyone to know about his personal wrongdoing." That personal wrongdoing includes perjury, obstruction and the like. Of course he didn't want anybody to know, and he lied and had others lie to conceal it.

The introduction contains this statement: "He repeatedly has acknowledged that what he did was wrong, he has apologized, and he has sought forgiveness." We all know that he has only admitted what he couldn't deny, and he has continued to play games about the rest.

Stripped to its basic elements, the President's Submission merely states:

That the President lied; that it was okay to lie because it was nobody's business but his own; that his conduct isn't a high crime or misdemeanor; that he would never be convicted of perjury or obstruction in a court of law; that the Jones suit was bogus, therefore, his testimony didn't matter.

By the way, do you settle bogus suits for $700,000 after you won?

Judge Starr was a prosecutor most foul; Judge Starr purposely failed to include relevant exculpatory evidence; and, finally, impeachment is such a big step that the committee shouldn't put the country through it.

By the way, who is putting the country through this? The President, by his actions.

The Submission is the ultimate use of the "legal technicality" concept.

We have heard all of this before. This Submission is a last-ditch effort of a President caught in his own legacy of lies, scandal and abuse of the highest office in the land. The American people deserve better. They do not deserve legal hair-splitting, prevarication and dissembling.

Most disturbing to me was the series of misrepresentations regarding the Referral from Mr. Starr and the material produced to support it. Let me give you just a few salient examples:

Regarding the President's and Ms. Lewinsky's testimony, the Submission omits a key passage of a quotation. They say: For example, the President answered yes to the question, "Your testimony is that it was possible, then, that you were alone with her?" This is the defense. He answered yes.

Now, listen to the full testimony:

Question: So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?

Answer: Yes, that is correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only one there. That is possible.

Not quite the same. The President testified that, despite the theoretical possibility that he was alone with Ms. Lewinsky, he had no recollection of it and even that possibility was limited to while she was working at the White House and when she was delivering papers. Same old cover story.

Given that the President and Ms. Lewinsky had been alone less than 3 weeks earlier as well as numerous other times over the span of two-and-a-half years, there is reason to doubt the truthfulness of his answer.

Again, the President was asked in the deposition: Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?

According to the White House, when the President responded negatively, "I don't think so," he meant something other than the words he uttered.

From the Submission: Plainly, the President was not testifying that no one other than his attorneys had told him that Ms. Lewinsky had been subpoenaed. Now they are trying to tell you that "no" means "yes." Can't go much further.

The White House Submission notes that Ms. Lewinsky stated that no one asked her to lie. The Referral makes this very point. I think that aspect has been covered thoroughly.

Concerning evidence regarding the transfer of gifts, the White House contends that the Referral omits a fundamental and important fact that it was Ms. Lewinsky who, in her December 28th conversation with the President, first mentioned Ms. Currie as a possible holder of the gifts. In fact, the Referral twice quotes Ms. Lewinsky's testimony that she asked the President if, "I should put the gifts outside my house somewhere or give them to someone, maybe Betty."

Another one. The White House Submission contends that a wealth of information contradicts the allegation that the President obstructed justice with regard to gifts he had given Ms. Lewinsky. As the most dramatic contradiction highlighted as the epigraph to the section, the Submission juxtaposes the Independent Counsel's statement that, "the President and Ms. Lewinsky met and discussed what should be done with the gifts subpoenaed from her," and Ms. Lewinsky's statement in the grand jury that "he really

didn't—he really didn't discuss it." In truth, he really didn't discuss it.

He really didn't discuss it came in answer to—in response to a second, more specific question after Ms. Lewinsky had spent several hundred words recounting her conversation with the President about the gifts. The White House quotation is so brazenly misleading that I'm going to quote the full excerpt:

> Juror: Retell for me the conversation you had with the President about the gifts.
> The Witness (Ms. Lewinsky): Okay. It was December 28th and I was there to get my Christmas gifts from him. And we spent maybe about 5 minutes or so, not very long, talking about the case. And I said to him, "Well, do you think—
> What I mentioned, I said to him that it had really alarmed me about the hat pin being in the subpoena, and I think he said something like, "Oh," you know, "that sort of bothered me, too." You know, "That bothers me." Something like that.
> And at one point I said, "Well, do you think I should—" I don't think I said "get rid of." I think I said, "But do you think I should put away or maybe give to Betty or give to someone the gifts?"
> And he—I don't remember his response. I think it was something like, "I don't know," or "Hmm," or—there really was no response.
> I know that I didn't leave the White House with any notion of what I should do with them, that I should do anything different than if they were sitting in my house. And then later I got a call from Betty.
> Juror: Now, did you bring up Betty's name or did the President bring up Betty's name?
> The Witness: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't—he didn't discuss it. So either I brought up Betty's name, which I think is probably what happened, because I remember not being too, too shocked when Betty called.

As an omission characterized as very cautious, insidious, extraordinary and wholly unfair—there is that word again—the Submission charges that the Referral never attempted to rebut Ms. Currie's assertion that Ms. Lewinsky wanted to get rid of the gifts because, in Ms. Currie's words, "people were asking questions about the stuff he had gotten." In fact, the Referral outlines Ms. Currie's understanding of these questions and points out the contradictory evidence.

The White House alleges that "no mention is made in the Referral of the fact that the OIC and the grand jurors regarded as 'odd' that there was a gift-giving on the same day." In fact, the Referral not only acknowledges this apparent anomaly but uses exactly the same term: "When Ms. Lewinsky was asked whether she thought it odd for the President to give her gifts under the circumstances, she testified that she didn't think of it at the time, but she did note some hesitancy on the President's part."

According to the White House, the Referral omits important testimony from Ms. Currie to the effect that Ms. Lewinsky asked her to pick up the box of gifts. In fact, the Referral includes Ms. Lewinsky's recollection three times.

The White House contends that the Referral inaccurately indicates that Ms. Currie said that the gift transfer occurred on December 28th. In fact, the Referral says that "Ms. Currie stated, at various times, that the transfer occurred some time in late December or early January."

I could go on. I have pages here of things that happened, and I'm not going to take your time to go through each one of these obvious misstatements.

I will, however, say that the same effort was made this morning. You were allowed to listen to a taped conversation between Ms. Tripp and Ms. Lewinsky. The conversation was as follows:

Ms. Tripp: Hmm, he knows you are going to lie? You've told him, haven't you?
Lewinsky answer: No.

A great deal was made about that answer. There is Monica Lewinsky saying the President said no.

Listen to the rest of it.

Ms. Tripp: Who, me?
Ms. Lewinsky: No, me.
Ms. Tripp: Oh.
Ms. Lewinsky: Whatever my "quote, unquote" truth is.
Ms. Tripp: Hmm, he knows you're going to lie. You've told him, haven't you?
Ms. Lewinsky: No.
Ms. Tripp: I thought that night when he called that you established that much.
Ms. Lewinsky: Well, I mean, I don't know.
Ms. Tripp: Oh, Jesus, does he think you're going to tell the truth?
Answer: No.

What do they think we are? Do they think we don't read what they give us? Do they think we don't listen to what we hear in this room? The Submission has cited wrong testimony. They have cited wrong propositions of law. They have cited experts who say exactly the opposite of what they say they say. Does it ever stop? This again proves the arrogance of the White House and its total disdain for the intellect of the American people.

Some of the experts that have testified have questioned whether the President's deportment affects his office, the government of the United States or the dignity and honor of the country. Let's take just a couple of minutes to cover that issue.

Our Founders decided in the Constitutional Convention that one of the duties imposed on the President is to take care that the laws are faithfully executed. Furthermore, he is required to take an oath to preserve, protect and defend the Constitution of the United States. Twice this President stood on the steps of the Capitol, raised his right hand to God and repeated that oath.

Now, the fifth amendment to the Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.

The seventh ensures that in civil suits, the trial—the right to trial by jury shall be preserved.

Finally, the 14th guarantees due process of law and the equal protection of the laws.

Shall we examine the concepts of due process, equal protection and the right to trial by jury as practiced by the President to determine whether he's kept its oath to preserve and protect?

Paula Jones, as I have said, is an American citizen, just a single American citizen who felt she'd suffered a legal wrong. More important, that legal wrong was based on the Constitution. She claimed essentially that she was subjected to sexual harassment which, in turn, constitutes discrimination on the basis of gender. The case wasn't brought against just any citizen, though, it was brought against the President of the United States, who was under a legal and moral obligation to preserve and protect Ms. Jones' rights. It is a relatively simple matter to mouth high-minded platitudes and to prosecute vigorously rights violated by others. It is, however, a

test of courage, honor and integrity to enforce those rights against yourself. The President failed that test.

As a citizen Ms. Jones enjoyed an absolute constitutional right to petition the judicial branch of government to redress her wrong by filing a lawsuit in the United States District Court. That she did. At this point she became entitled to a trial by jury, if she chose. Due process of law, and equal protection of the laws, no matter who the defendant happened to be. Due process, though, contemplates the right to a full and fair trial, which, in turn, means the right to call and question witnesses, to cross-examine adverse witnesses, and to have her case decided by an unbiased and fully informed jury. What did she actually get? None of the above.

On May 27th, the United States Supreme Court ruled in a nine-to-nothing decision that like every other citizen, Paula Jones has a right to an orderly disposition of her claims. In accordance with that decision, Judge Susan Webber Wright ruled on December 11th that she was entitled to information regarding those employees. Six days after this ruling, the President filed an answer to Ms. Jones' amended complaint. Here's the answer. "President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman."

Ms. Jones' right to call and depose witnesses was thwarted by perjurious and misleading affidavits and motions. Her right to elicit testimony from adverse witnesses was compromised by perjury and false and misleading statements under oath, and as a result, had a jury tried that case, it would have been deprived of critical information.

That result is bad enough in itself, but it reaches constitutional proportions when denial of civil rights is directed by the President of the United States who twice took an oath to preserve, protect and defend those very rights. I think we already know by now what the "sanctity of an oath" means to this President.

Moreover, the President is a spokesman for the government of the people of the United States concerning both domestic and foreign matters. His honesty and integrity, therefore, directly influence the credibility of this country. When, as here, that spokesman is guilty of a continuing pattern of lies, misleading statements and deceits over a long period of time, the believability of any of his pronouncements is seriously called into question. Indeed, how can anyone in or out of our country any longer believe anything he says, and what does that do to the confidence and the honor and integrity of the United States?

I am going to give you a few short quotations: "The President must be permitted to respond to allegations not only to defend his personal integrity, but the integrity of the office of the presidency itself."

"The President, for all practical purposes, affords the only means through which we can act as a Nation."

And finally, "A President needs to maintain prestige as an element of presidential influence in order to carry out his duties effectively. In particular, a President must inspire confidence in his integrity, compassion, competency and capacity to take charge in any conceivable situation. Indeed, it is scarcely possible to govern well in the absence of such confidence."

Now, I am not quoting from some law book or from an esoteric treatise on government. These quotations are taken directly from the pleadings and briefs filed in the Jones case on behalf of William Jefferson Clinton.

Make no mistake, the conduct of the President is inextricably bound to the welfare of the people of the United States. Not only does it affect economic and national defense, but more directly, it affects the moral and law-abiding fiber of the commonwealth without which no Nation can survive. When, as here, that conduct involves a pattern that I have demonstrated, the resulting damage to the honor and respect due to the United States is of necessity devastating.

Again, there is no such thing as nonserious perjury, nonserious lying under oath. Every time a witness lies, that witness chips a stone from the foundation of our entire legal system. Likewise, every act of obstruction of justice, of witness tampering, or of perjury, adversely affects the judicial branch of government like a pebble tossed into a lake. You may not notice the effect at once, but you can be certain that the tranquility of that lake has been disturbed. And if enough pebbles are thrown into the water, the lake itself may disappear. So too with the truth-seeking process of the courts. Every unanswered and unpunished assault upon it has its lasting effects, and given enough of them, the system itself will implode.

That is why those 2 women who testified before you had been indicted, convicted and punished severely for false statements under oath in a civil case. And that is why only a few days ago a Federal grand jury in Chicago, from whence came Mr. Sullivan, yesterday indicted 4 former college football players because they had given false testimony under oath in a grand jury. Nobody suggested that they shouldn't be charged because their motives may have been to protect their careers, and nobody has suggested that the perjury was not serious because it involved only lies about sports. Lies are lies are lies.

Apart from all else, the President's illegal actions constitute an attack upon and utter disregard for the truth and for the rule of law. Much worse, they manifest an arrogant disdain not only for the rights of his fellow citizens, but also for the functions and the integrity of the other two coequal branches of our constitutional system. One of the witnesses that appeared before you earlier likened the Government of the United States to a three-legged stool. The analysis is apt, because the entire structure of our government rests upon the three equal supports: legislative, judicial and executive. Remove one of those supports and the State will totter. Remove two, and the structure will either collapse altogether, or will rest upon a single branch of government. There is another name for that: Tyranny.

The President mounted a direct assault upon the truth-seeking process, which is the very essence and foundation of the judicial branch. Not content with that, though, Mr. Clinton renewed his lies, half-truths and obstruction to this Congress when he filed his answers to simple requests to admit or deny. In doing so, he also demonstrated his lack of respect for the constitutional functioning of the legislative branch.

Actions do not lose their public character merely because they may not directly affect the domestic and foreign functioning of the executive branch. Their significance must be examined for the effect on the functioning of the entire system of government. Viewed in that manner, the President's actions were both public and were extremely destructive.

Today, our country is really at a crossroad at which two branches, or two paths branch off. One leads to the principles that are once familiar and immortal that are contained in our Declaration of Independence and the Constitution. These are the principles that for over 200 years have so affected our actions as to earn the admiration of the world and to gain for the United States the moral leadership among nations. There was a time not so very long ago when a policy decision by the President of the United States was saluted as "the most unsordid act in the history of mankind."

The other path leads to expediency, temerity, self-interest, cynicism, and a disdain for the welfare of others and the common good. That road will inevitably end in inequity, dishonor, and abandonment of the high principles that we as a people rely upon for our safety and happiness. There is no third road.

This is a defining moment both for the presidency and especially for the members of this committee.

For the presidency as an institution, because if you don't impeach as a consequence of the conduct that I have just portrayed, then no House of Representatives will ever be able to impeach again. The bar will be so high that only a convicted felon or a traitor will need to be concerned.

Remember, experts came up before you and pointed to the fact that the House refused to impeach President Nixon for lying on an income tax return. Can you imagine a future President faced with possible impeachment pointing to the perjuries, lies, obstructions, tamperings and abuses of power by the current occupant of the office as not rising to the level of high crimes and misdemeanors? If this isn't enough, what is? How far can the standard be lowered without completely compromising the credibility of the office for all time?

It is likewise a defining moment for you, the Members of this Judiciary Committee.

The roster of this committee over the years has contained the names of great Americans: Peter Rodino, Emmanuel Celler, Tom Railsback, Bill McCulloch and Barbara Jordan.

These walls are infused with the honor and integrity that has always prevailed in this chamber. Now it is your turn to add to or subtract from that honor and integrity.

You have heard the evidence. You have read the law. You have listened to the experts, and you have heard all of the arguments.

What I say here will be forgotten in a few days, but what you do here will be incised in the history of the United States for all time to come. Unborn generations, assuming those generations are still free and are still permitted to read true history, will learn of these proceedings and will most certainly judge this committee's actions. What will be their verdict? Will it be that you rose above party and faction and reestablished justice, decency, honor and truth as the standard by which even the highest office in the land

must be evaluated? Or will it be that you announce that there is no abiding standard, and that public officials are answerable only to politics, polls, and propaganda? God forbid that that will be your legacy.

The choice is yours.

On Tuesday, one of the witnesses referred to our country as the Ship of State. The allusion is to the poem, "The Building of the Ship" by Longfellow. Permit me to quote a short stanza which refers to that.

Sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
is hanging breathless on thy fate!

How sublime, poignant and uplifting; yet how profound and sobering are those words at this moment in history. You are now confronted with a monumental responsibility of deciding whether William Jefferson Clinton is fit to remain at the helm of that ship of state.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Schippers follows:]

On October 5, 1998, I came before this Committee to advise you of the results of our analysis and review of the Referral from the Office of the Independent Counsel. We concluded that there existed substantial and credible evidence of several separate events directly involving the President that COULD constitute grounds for impeachment. At that time I specifically limited my review and report to evidence of possible felonies. In addition, I asserted that the Report and analysis was merely a litany of crimes that MIGHT HAVE been committed.

On October 7, the House of Representatives passed Resolution 581 calling for an inquiry to determine whether the House should exercise its constitutional duty to impeach President William Jefferson Clinton.

Thereafter, this Committee heard testimony from several experts and other witnesses, including the Independent Counsel, Kenneth Starr.

Since that time, my staff and I, as requested, have conducted ongoing investigations and inquiries. We have received and reviewed additional information and evidence from the Independent Counsel, and have developed additional information from diverse sources.

Unfortunately, because of the extremely strict time limits placed upon us, a number of very promising leads had to be abandoned. We just ran out of time. In addition, many other allegations of possible serious wrongdoing cannot be presented publicly at this time by virtue of circumstances totally beyond our control.

For example, we uncovered more incidents involving probable direct and deliberate obstruction of justice, witness tampering, perjury and abuse of power. We were, however, informed both by the Department of Justice and by the Office of the Independent Counsel that to bring forth publicly that evidence at this time would seriously compromise pending criminal investigations that are nearing completion. We have bowed to their suggestion.

First of all, allow me to assert my profound and unqualified respect for the Office of the President of the United States. It represents to the American people and to the world, the strength, the philosophy and most of all, the honor and integrity that makes us a great nation and an example for developing people.

Because all eyes are focused upon that high office, the character and credibility of any temporary occupant of the office is vital to the domestic and foreign welfare of the citizens. Consequently, serious breaches of integrity and duty of necessity adversely influence the reputation of the United States.

When I appeared in this Committee Room a little over two months ago, it was merely to analyze the Referral and report. Today, after our investigation, I have come to a point that I prayed I would never reach. It is my sorrowful duty now to accuse President William Jefferson Clinton of obstruction of justice, false and deliberately misleading statements under oath, witness tampering, abuse of power, and false statements to and obstruction of the Congress of the United States in the course of this very impeachment inquiry. Whether these charges are high crimes and misdemeanors and whether the President should be impeached is not for me to say or even to give an opinion. That is your job. I am merely going to set forth the evidence and testimony before you so that you can judge.

As I stated earlier, this is not about sex or private conduct, it is about multiple obstructions of justice, perjury, false and misleading statements, witness tamperings and abuses of power, all committed or orchestrated by the President of the United States.

Before we get into the President's lies and obstruction, it is important to place the events in the proper context. We have acknowledged all along that if this were only about sex, you would not now be engaged in this debate. But the manner in which the Lewinsky relationship arose and continued is

important. It is illustrative of the character of the President and the decisions he made.

Monica Lewinsky, a 22 year old intern, was working at the White House during the government shutdown in 1995. Prior to their first intimate encounter, she had never even spoken with the President. Sometime on November 15, 1995, Ms. Lewinsky made an improper gesture to the President. What did the President do in response? Did the President immediately confront her or report to her supervisor as you would expect? Did he make it clear that such conduct would not be tolerated in the White House?

That would have been an appropriate reaction, but it was not the one the President took. Instead, the President of the United States of America invited this unknown young intern into a private area off the Oval Office, where he kissed her. He then invited her back later and when she returned, the two engaged in the first of many acts of inappropriate contact.

Thereafter, the two concocted a cover story. If Ms. Lewinsky was seen, she was bringing papers to the President. That story was totally false. The only papers she brought were personal messages having nothing to do with her duties or those of the President. After Ms. Lewinsky moved from the White House to the Pentagon, her frequent visits to the President were disguised as visits to Betty Currie. Those cover stories are important, because they play a vital role in the later perjuries and obstructions.

Over the term of their relationship the following significant matters occurred:

1. Monica Lewinsky and the President were alone on at least twenty-one occasions;

2. They had at least eleven personal sexual encounters, excluding phone sex:

Three in 1995
Five in 1996 and
Three in 1997;

3. They had at least 55 telephone conversations, some of which at least 17 involved phone sex;

4. The President gave Ms. Lewinsky 24 presents; and,

5. Ms. Lewinsky gave the President 40 presents.

These are the essential facts which form the backdrop for all of the events that followed. During the fall of 1997, things were relatively quiet. Monica Lewinsky was working at the Pentagon and looking for a high paying job in New York. The President's attempt to stall the Paula Jones case was still pending in the Supreme Court, and nobody seemed to care one way or another what the outcome would be. Then, in the first week of December 1997, things began to unravel.

I do not intend to discuss the sexual details of the President's encounters with Ms. Lewinsky. However, I do not want to give this Committee the impression that those encounters are irrelevant. In fact, they are highly relevant because the President repeatedly lied about that sexual relationship in his deposition, before the grand jury, and in his responses to this Committee's questions. He has consistently maintained that Ms. Lewinsky performed acts on him, while he never touched her in a sexual manner. This characterization not only directly contradicts Ms. Lewinsky's testimony, but it also contradicts the sworn grand jury testimony of three of her friends and the statements by two professional counselors with whom she contemporaneously shared the details of her relationship.

While his treatment of Ms. Lewinsky may be offensive, it is much more offensive for the President to expect this Committee to believe that in 1996 and 1997 his intimate contact with Ms. Lewinsky was so narrowly tailored that it conveniently escapes his strained interpretation of a definition of "sexual relations" which he did not conceive until 1998.

A few words of caution:

The evidence and testimony must be viewed as a whole; it cannot be compartmentalized. Please do not be cajoled into considering each event in isolation, and then treating it separately. That is the tactic employed by

defense lawyers in every conspiracy trial that I have ever seen. Remember, events and words that may seem innocent or even exculpatory in a vacuum, may well take on a sinister, or even criminal connotation when observed in the context of the whole plot. For example, everyone agrees that Monica Lewinsky testified "No one ever told me to lie; nobody ever promised me a job."

When considered alone this would seem exculpatory. In the context of the other evidence, we see that this is again technical parsing of words to give a misleading inference. Of course no one said, "Now, Monica, you go in there and lie." They didn't have to; Monica knew what was expected of her. Similarly, nobody promised her a job, but once she signed the false affidavit, she got one, didn't she?

Likewise, please don't permit the obfuscations and legalistic pyrotechnics of the President's defenders to distract you from the real issues here. A friend of mine flew bombers over Europe in the Second War. He once told me that the planes would carry packages of lead based tinfoil strips. When the planes flew into the perimeter of the enemy's radar coverage, the crews would release that tinfoil. It was intended to confuse and distract the radar operators from the real target.

Now, the treatment that Monica Lewinsky received from the Independent Counsel, the legality of Linda Tripp's taping, the motives of some of the witnesses, and those who helped finance the Paula Jones lawsuit - that's tinfoil. The real issues are whether the President of the United States testified falsely under oath; whether he engaged in a continuing plot to obstruct justice, to hide evidence, to tamper with witnesses and to abuse the power of his office in furtherance of that plot. The ultimate issue is whether the President's course of conduct is such as to affect adversely the Office of the Presidency by bringing scandal and disrespect upon it and also upon the administration of justice, and whether he has acted in a manner contrary to his trust as President and subversive to the Rule of Law and Constitutional government.

Finally, the truth is not decided by the number of scholars with different opinions, the outcome of polls or by the shifting winds of public opinion. Moreover, you often possess information that is not generally available to the public. As Representatives of the people you must honestly and thoroughly examine all the evidence, apply the applicable Constitutional precepts and vote your conscience - independently and without fear or favor. As Andrew Jackson said: "One man with courage makes a majority."

The events that form the basis of these charges actually began in late 1995. They reached a critical stage in the winter of 1997 and the first month of 1998. The final act in this sordid drama took place on August 17, 1998, when the President of the United States appeared before a federal grand jury, raised his right hand to God and swore to tell the truth. Did he? We shall see.

This Committee has been asked to keep an open heart and mind and focus on the record. I completely agree. So, in the words of Al Smith, a good Democrat, let's look at the record.

December 5-6, 1997

On Friday, December 5, 1997, Monica Lewinsky asked Betty Currie if the President could see her the next day, Saturday, but Ms. Currie said that the President was scheduled to meet with his lawyers all day. Later that Friday, Ms. Lewinsky spoke briefly to the President at a Christmas party.

That evening, Paula Jones's attorneys faxed a list of potential witnesses to the President's attorneys. The list included Monica Lewinsky. However, Ms. Lewinsky did not find out that her name was on the list until the President told her ten days later, on December 17. That delay is significant.

After her conversation with Ms. Currie and seeing the President at the Christmas party, Ms. Lewinsky drafted a letter to the President terminating their relationship. The next morning, Saturday, December 6, Ms. Lewinsky went

to the White House to deliver the letter and some gifts for the President to Ms. Currie. When she arrived at the White House, Ms. Lewinsky spoke to several Secret Service officers, and one of them told her that the President was not with his lawyers, as she thought, but rather, he was meeting with Eleanor Mondale. Ms. Lewinsky called Ms. Currie from a pay phone, angrily exchanged words with her, and went home. After that phone call, Ms. Currie told the Secret Service watch commander that the President was so upset about the disclosure of his meeting with Ms. Mondale that he wanted somebody fired.

At 12:05 p.m., records demonstrate that Ms. Currie paged Bruce Lindsey with the message: "Call Betty ASAP." Around that same time, according to Ms. Lewinsky, while she was back at her apartment, Ms. Lewinsky and the President spoke on the telephone. The President was very angry; he told Ms. Lewinsky that no one had ever treated him as poorly as she had. The President acknowledged to the grand jury that he was upset about Ms. Lewinsky's behavior and considered it inappropriate. Nevertheless, in a sudden change of mood, he invited her to visit him at the White House that afternoon.

Monica Lewinsky arrived at the White House for the second time that day, and was cleared to enter at 12:52 p.m. Although, in Ms. Lewinsky's words, the President was "very angry" with her during their recent telephone conversation, he was "sweet" and "very affectionate" during this visit. He also told her that he would talk to Vernon Jordan about her job situation.

The President also suddenly changed his attitude toward the Secret Service. Ms. Currie informed some officers that if they kept quiet about the Lewinsky incident, there would be no disciplinary action. According to the Secret Service watch commander, Captain Jeffrey Purdie, the President personally told him, "I hope you use your discretion" or "I hope I can count on your discretion." Deputy Chief Charles O'Malley, Captain Purdie's supervisor, testified that he knew of no other time in his fourteen years of service at the White House where the President raised a performance issue with a member of the Secret Service uniformed division. After his conversation with the President, Captain Purdie told a number of officers that they should not discuss the Lewinsky incident.

When the President was before the grand jury and questioned about his statements to the Secret Service regarding this incident, the President testified "I don't remember what I said and I don't remember to whom I said it." When confronted with Captain Purdie's testimony, the President testified, "I don't remember anything I said to him in that regard. I have no recollection of that whatever."

President Clinton testified before the grand jury that he learned that Ms. Lewinsky was on the Jones witness list that evening, Saturday, December 6, during a meeting with his lawyers. He stood by this answer in response to Request Number 16 submitted by this Committee. The meeting occurred around 5 p.m., after Ms. Lewinsky had left the White House. According to Bruce Lindsey, at the meeting, Bob Bennett had a copy of the Jones witness list faxed to Bennett the previous night. (Exhibit 15)

However, during his deposition, the President testified that he had heard about the witness list <u>before</u> he saw it. In other words, if the President testified truthfully in his deposition, then he knew about the witness list before the 5 p.m. meeting. It is valid to infer that hearing Ms. Lewinsky's name on a witness list prompted the President's sudden and otherwise unexplained change from "very angry" to "very affectionate" that Saturday afternoon. It is also reasonable to infer that it prompted him to give the unique instruction to a Secret Service watch commander to use "discretion" regarding Ms. Lewinsky's visit to the White House, which the watch commander interpreted as an instruction to keep the incident under wraps.

THE JOB SEARCH

Now to go back a little, Monica Lewinsky had been looking for a good

paying and high profile job in New York since the previous July. She wasn't having much success despite the President's promise to help. In early November, Betty Currie arranged a meeting with Vernon Jordan who was supposed to help.

On November 5, Monica met for 20 minutes with Mr. Jordan. No action followed, no job interviews were arranged and there were no further contacts with Mr. Jordan. It was obvious that Mr. Jordan made no effort to find a job for Ms. Lewinsky. Indeed, it was so unimportant to him that he "had no recollection of an early November meeting" and that finding a job for Ms. Lewinsky was not a priority. (Chart R) Nothing happened throughout the month of November, because Mr. Jordan was either gone or would not return Monica's calls.

During the December 6 meeting with the President, she mentioned that she had not been able to get in touch with Mr. Jordan and that it did not seem he had done anything to help her. The President responded by stating, "Oh, I'll talk to him. I'll get on it," or something to that effect. There was obviously still no urgency to help Monica. Mr. Jordan met the President the next day, December 7, but the meeting had nothing to do with Ms. Lewinsky.

The first activity calculated to help Monica actually procure employment took place on December 11. Mr. Jordan met with Ms. Lewinsky and gave her a list of contact names. The two also discussed the President. That meeting Mr. Jordan remembered. Vernon Jordan immediately placed calls to two prospective employers. Later in the afternoon, he even called the President to give him a report on his job search efforts. Clearly, Mr. Jordan and the President were now very interested in helping Monica find a good job in New York.

But why the sudden interest, why the total change in focus and effort? Nobody but Betty Currie really cared about helping Ms. Lewinsky throughout November, even after the President learned that her name was on the prospective witness list. Did something happen to move the job search from a low to a high priority on that day. Oh yes, something happened. On the morning of December 11, 1997, Judge Susan Webber Wright ordered that Paula Jones was entitled to information regarding any state or federal employee with whom the President had sexual relations or proposed or sought to have sexual relations. To keep Monica on the team was now of critical importance. Remember, they already knew that she was on the witness list, although nobody bothered to tell her.

December 17, 1997

That was remedied on December 17, 1997. Between 2:00 and 2:30 in the morning, Monica Lewinsky's phone rang unexpectedly. It was the President of the United States. The President said that he wanted to tell Ms. Lewinsky two things: One was that Betty Currie's brother had been killed in a car accident. Secondly, the President said that he "had some more bad news," that he had seen the witness list for the Paula Jones case and her name was on it. The President told Ms. Lewinsky that seeing her name on the list "broke his heart." He then told her that "if [she] were to be subpoenaed, [she] should contact Betty and let Betty know that [she] had received the subpoena." Ms. Lewinsky asked what she should do if subpoenaed. The President responded: "Well, maybe you can sign an affidavit." Both parties knew that the Affidavit would need to be false and misleading to accomplish the desired result.

Then, the President had a very pointed suggestion for Monica Lewinsky, a suggestion that left little room for compromise. He did not say specifically "go in and lie." What he did say is "you know, you can always say you were coming to see Betty or that you were bringing me letters."

In order to understand the significance of this statement, it is necessary to recall the "cover stories" that the President and Ms. Lewinsky had previously structured in order to deceive those who protected and worked with the President.

Ms. Lewinsky said she would carry papers when she visited the President. When she saw him, she would say: "Oh, gee, here are your letters," wink, wink, wink and he would answer, "okay that's good." After Ms. Lewinsky left White House employment, she would return to the Oval Office under the guise of visiting Betty Currie, not the President.

Moreover, Monica promised him that she would always deny the sexual relationship and always protect him. The President would respond "that's good" or similar language of encouragement.

So, when the President called Monica at 2:00 a.m. on December 17 to tell her she was on the witness list, he made sure to remind her of those prior "cover stories." Ms. Lewinsky testified that when the President brought up the misleading story, she understood that the two would continue their pre-existing pattern of deception.

It became clear that the President had no intention of making his sexual relationship with Monica Lewinsky a public affair. And he would use lies, deceit, and deception to ensure that the truth would not be known.

It is interesting to note that when the President was asked by the grand jury whether he remembered calling Monica Lewinsky at 2:00 a.m., he responded: "No sir, I don't. But it would - it is quite possible that that happened. . . "

And when he was asked whether he encouraged Monica Lewinsky to continue the cover stories of "coming to see Betty" or "bringing the letters," he answered: "I don't remember exactly what I told her that night."

Six days earlier, he had become aware that Paula Jones' lawyers were now able to inquire about other women. Monica could file a false affidavit, but it might not work. It was absolutely essential that both parties told the same story. He knew that he would lie if asked about Ms. Lewinsky; and he wanted to make certain that she would lie also. Why else would the President of the United States call a twenty-four year old woman at 2:00 in the morning?

But the President had an additional problem. It was not enough that he (and Ms. Lewinsky) simply deny the relationship. You see, ladies and gentlemen, the evidence was beginning to accumulate. And it was the evidence that was driving the President to re-evaluate his defense. By this time, the evidence was establishing, through records and eyewitness accounts, that the President and Monica Lewinsky were spending a significant amount of time together in the Oval Office complex. It was no longer expedient simply to refer to Ms. Lewinsky as a "groupie", "stalker", "clutch", or "home wrecker" as the White House first attempted to do. The unassailable facts were forcing the President to acknowledge the relationship. But at this point, he still had the opportunity to establish a non-sexual explanation for their meetings. You see, he still had this opportunity because his DNA had not yet been identified on Monica Lewinsky's blue dress.

Therefore, the President needed Monica Lewinsky to go along with the cover story in order to provide an innocent, intimate-free explanation for their frequent meetings. And that innocent explanation came in the form of "document deliveries" and "friendly chats with Betty Currie."

It is also interesting to note that when the President was deposed on January 17, 1998, he used the exact same cover stories that had been utilized by Ms. Lewinsky. In doing so, he stayed consistent with any future Lewinsky testimony while still maintaining his defense in the Jones lawsuit.

In the President's deposition, he was asked whether he was ever alone with Monica Lewinsky. He responded: "I don't recall. . . She - it seems to me <u>she brought things to me</u> once or twice on the weekends. In that case, whatever time she would be in there, <u>drop it off</u>, exchange a few words and go, she was there."

Additionally, you will notice that whenever questions were posed regarding Ms. Lewinsky's frequent visits to the Oval Office, the President never hesitated to bring Betty Currie's name into his answers:

> And my recollection is that on a couple
> of occasions after [the pizza party meeting],
> she was there [in the oval office] but my
> secretary, Betty Currie, was there with her.

Q. When was the last time you spoke with Monica Lewinsky?

A. I'm trying to remember. Probably sometime before Christmas. She came by to see Betty sometime before Christmas. And she was there talking to her, and I stuck my head out, said hello to her.

Listen to the President's deceptions for yourself:

[DEPOSITION TAPE 3]

Life was so much simpler before the dress was discovered.

December 19, 1997

The President's and Ms. Lewinsky's greatest fears were realized on December 19, 1997, when Monica was subpoenaed to testify in a deposition on January 23, 1998 in the Jones case.

(Charts F and G) Extremely distraught, she immediately called the President's best friend, Vernon Jordan. You will recall that Ms. Lewinsky testified that the President previously told her to call Betty Currie if she was subpoenaed. She called Mr. Jordan instead because Ms. Currie's brother recently died and she did not want to bother her.

Mr. Jordan invited Lewinsky to his office and she arrived shortly before 5 p.m., still extremely distraught. Sometime around this time, Jordan called the President and told him Monica had been subpoenaed. (Exhibit 1) During the meeting with Ms. Lewinsky, which Jordan characterized as "disturbing," she talked about her infatuation with the President. Mr. Jordan also decided that he would call a lawyer for her. That evening, Mr. Jordan met with the President and relayed his conversation with Ms. Lewinsky. The details are extremely important because the President, in his Deposition, did not recall that meeting.

Mr. Jordan told the President again that Ms. Lewinsky had been subpoenaed, that he was concerned about her fascination with the President, and that Ms. Lewinsky had asked Mr. Jordan if he thought the President would leave the First Lady. He also asked the President if he had sexual relations with Lewinsky. Would not a reasonable person conclude that this is the type of conversation that would be locked in the President's memory? The President was asked:

Q. Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?

A. I don't think so.

Q. Did you ever talk with Monica Lewinsky about the possibility that she might be asked to testify in this case?

A. Bruce Lindsey, I think Bruce Lindsey told me that she was, I think maybe that's the first person told me she was. I want to be as accurate as I can.

In the grand jury, the President first repeated his denial that Mr. Jordan told him Ms. Lewinsky had been subpoenaed. Then, when given more specific facts, he admitted that he "knows now" that he spoke with Jordan about the subpoena on the night of December 19, but his "memory is not clear." In an attempt to explain away his false deposition testimony, the President testified in the Grand Jury that he was trying to remember who told him first. But that was not the question. So his answer was again false and misleading. When one considers the nature of the conversation between the President and Mr. Jordan, the suggestion that it would be forgotten defies common sense.

December 28, 1997

December 28, 1997 is a crucial date, because the evidence shows that the President made false and misleading statements to the federal court, the federal grand jury and the Congress of the United States about the events on that date. (Chart J) It also is critical evidence that he obstructed justice.

The President testified that it was "possible" that he invited Ms. Lewinsky to the White House for this visit. He admitted that he "probably" gave Ms. Lewinsky the most gifts he had ever given her on that date, and that he had given her gifts on other occasions.(Chart D) Among the many gifts the President gave Ms. Lewinsky on December 28 was a bear that he said was a symbol of strength. Yet only two-and-a-half short weeks later, the President forgot that he had given any gifts to Monica.

[DEPOSITION TAPE #1]

Now, as an attorney, he knew that the law will not tolerate someone who says "I don't recall" when that answer is unreasonable under the circumstances. He also knew that, under those circumstances, his answer in the deposition could not be believed. When asked in the grand jury why he was unable to remember, though he had given Ms. Lewinsky so many gifts only two-and-a-half weeks before the deposition, the President put forth a lame and obviously contrived explanation.

> I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them.

The President adopted that same answer in Response No. 42 to the Committee's Request To Admit or Deny. (Exhibit 18) He was not asked in the deposition to identify the gifts. He was simply asked, "Have you ever" given gifts to Ms. Lewinsky. The law does not allow a witness to insert "unstated premises" or mental reservations into the question to make his answer technically true, if factually false. The essence of lying is in deception, not in words.

The President's answer was false; he knew it then, and he knows it now. The evidence also proves that his explanation to the grand jury and to this Committee is also false. The President would have us believe that he was able to analyze questions as they were being asked, and pick up such things as verb tense in an attempt to make his statements at least literally true. But when he is asked a simple, straight forward question, suddenly he wants us to believe that he did not understand it. Neither his answer in the deposition nor his attempted explanation is reasonable or true.

While we're on gifts. . . the President was asked in the deposition if Monica Lewinsky ever gave him gifts. He responded, "once or twice."

[DEPOSITION TAPE #1]

This is also false testimony. He answered this question in his Response to the Committee by saying that he receives numerous gifts, and he did not focus on the precise number. (Exhibit 18) The law again does not support the President's position. An answer that "baldly understates a numerical fact" in "response to a specific quantitative inquiry" can be deemed "technically true" but actually false. For example, a witness is testifying falsely if he says he went to the store five times when in fact he had gone fifty, even though technically he had gone five times also. So too, when the President answered once or twice in the face of evidence that Ms. Lewinsky was always bringing gifts, he was lying. (Chart C)

On December 28, one of the most blatant efforts to obstruct justice and conceal evidence occurred. Ms. Lewinsky testified that she discussed with the President the facts that she had been subpoenaed and that the subpoena called for her to produce gifts. She recalled telling the President that the subpoena requested a hat pin, and that caused her concern. The President told her that it "bothered" him, too. Ms. Lewinsky then suggested that she take the gifts somewhere, or give them to someone, maybe to Betty. The President

answered: "I don't know" or "Let me think about that." (Chart L) Later that day, Ms. Lewinsky got a call from Ms. Currie, who said: "I understand you have something to give me" or "the President said you have something to give me." Ms. Currie has an amazingly fuzzy memory about this incident, but says that "the best she can remember," Ms Lewinsky called her. There is key evidence that Ms. Currie's fuzzy recollection is wrong. Monica said that she thought Betty called from her cell phone. (Chart K, Exhibit 2) Well, look at this record. This is Betty's cell phone record. It corroborates Monica Lewinsky and proves conclusively that Ms. Currie called Monica from her cell phone several hours after she had left the White House. Why did Betty Currie pick up the gifts from the Ms. Lewinsky? The facts strongly suggest the President directed her to do so.

That conclusion is buttressed by Ms. Currie's actions. If it was Ms. Lewinsky that called her, did Currie ask -- like anyone would -- why in the world Ms. Lewinsky was giving her a box of gifts from the President? Did she tell the President of this strange request? No. Ms. Currie's position was not to ask the reason why. She simply took the gifts and placed them under her bed without asking a single question.

Another note about this. The President stated in his Response to questions No. 24 and 25 from this Committee that he was not concerned about the gifts. (Exhibit 18) In fact, he said that he recalled telling Monica that if the Jones lawyers request gifts, she should turn them over. The President testified that he is "not sure" if he knew the subpoena asked for gifts. Why in the world would Monica and the President discuss turning over gifts to the Jones lawyers if Ms. Lewinsky had not told him that the subpoena asked for gifts? On the other hand, if he knew the subpoena requested gifts, why would he give Monica more gifts on December 28? This seems odd. But Ms. Lewinsky's testimony reveals the answer. She said that she never questioned "that we were ever going to do anything but keep this private" and that meant to take "whatever appropriate steps needed to be taken" to keep it quiet. The only logical inference is that the gifts -- including the bear symbolizing strength -- were a tacit reminder to Ms. Lewinsky that they would deny the relationship -- even in the face of a federal subpoena!

Furthermore, the President, at various times in his deposition, seriously misrepresented the nature of his meeting with Ms. Lewinsky on December 28. First, he was asked: "Did she tell you she had been served with a subpoena in this case?" The President answered flatly: "No. I don't know she had been."

He was also asked if he "ever talked to Monica Lewinsky about the possibility of her testifying." "I'm not sure...," he said. He then added that he may have joked to her that the Jones lawyers might subpoena every woman he has ever spoken to, and that "I don't think we ever had more of a conversation than that about it...." Not only does Monica Lewinsky directly contradict this testimony, but the President also directly contradicted himself before the grand jury. Speaking of his December 28, 1997 meeting, he said that he "knew by then, of course, that she had gotten a subpoena" and that they had a "conversation about the possibility of her testifying." Remember, he had this conversation about her testimony only two-and-a-half weeks before his deposition. Again, his version is not reasonable.

January 5 - 9, 1998

MONICA SIGNS THE AFFIDAVIT AND GETS A JOB

The President knew that Monica Lewinsky was going to make a false Affidavit. He was so certain of the content that when Monica asked if he wanted to see it, he told her no, that he had seen fifteen of them. He got his information in part from his attorneys, and from discussions with Ms. Lewinsky and Vernon Jordan generally about the content of the affidavit. Besides, he had suggested the Affidavit himself and he trusted Mr. Jordan to be certain the mission was accomplished.

In the afternoon of January 5, 1998, Ms. Lewinsky met with her lawyer, Mr. Carter, to discuss the Affidavit. The lawyer asked her some hard questions about how she got her job. After the meeting, she called Betty Currie, and

said that she wanted to speak to the President before she signed anything. Lewinsky and the President discussed the issue of how she would answer under oath if asked about how she got her job at the Pentagon. The President told her: "Well, you could always say that the people in Legislative Affairs got it for you or helped you get it." That, by the way, is another lie.

The President was also kept advised as to the contents of the affidavit by Vernon Jordan. On January 6, 1998, Ms. Lewinsky picked up a draft of the Affidavit from Mr. Carter's office. She delivered a copy to Mr. Jordan's office, because she wanted Mr. Jordan to look at the Affidavit in the belief that if Vernon Jordan gave his imprimatur, the President would also approve. (Chart M) Ms. Lewinsky and Mr. Jordan conferred about the contents, and agreed to delete a paragraph inserted by Mr. Carter which might open a line of questions concerning whether she had been alone with the President. (Exhibit 3) Contrast this to the testimony of Mr. Jordan, who said he had nothing to do with the details of the Affidavit. He admits, though, that he spoke with the President after conferring with Ms. Lewinsky about the changes made to her Affidavit.

The next day, January 7, Monica Lewinsky signed the false Affidavit. (Chart N; Exhibit 12) She showed the executed copy to Mr. Jordan that same day. (Exhibit 4) Why? So that Mr. Jordan could report to the President that it had been signed and another mission had been accomplished.

On January 8, 1998, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews and Forbes in New York. The interview went poorly, so Ms. Lewinsky called Mr. Jordan and informed him. Mr. Jordan, who had done nothing from early November to mid December, then called MacAndrews and Forbes CEO, Ron Perelman, to "make things happen, if they could happen". Mr. Jordan called Monica back and told her not to worry. That evening, Ms. Lewinsky was called by MacAndrews and Forbes and told that she would be given more interviews the next morning.

The next morning, Monica received her reward for signing the false Affidavit. After a series of interviews with MacAndrews and Forbes personnel, she was informally offered a job. When Monica called Mr. Jordan to tell him, he passed the good news on to Betty Currie. Tell the President, "Mission Accomplished." Later, Mr. Jordan called the President and tells him personally. (Chart P)

After months of looking for a job -- since July according to the President's lawyers -- Vernon Jordan just so happens to make the call to a CEO the day after the false Affidavit is signed. If you think it is mere coincidence, consider this. Mr. Perelman testified that Mr. Jordan had never called him before about a job recommendation. Jordan on the other hand, said that he called Mr. Perelman to recommend for hiring: 1) Former Mayor Dinkins of New York; 2) a very talented attorney from Akin Gump; 3) a Harvard business school graduate; and 4) Monica Lewinsky. Even if Mr. Perelman's testimony is mistaken, Monica Lewinsky does not fit within the caliber of persons that would merit Mr. Jordan's direct recommendation to a CEO of a Fortune 500 company.

Mr. Jordan was well aware that people with whom Ms. Lewinsky worked at the White House did not like her and that she did not like her Pentagon job. Vernon Jordan was asked if at "any point during this process you wondered about her qualifications for employment?" He answered: "No, because that was not my judgment to make." Yet when he called Mr. Perelman the day after she signed the Affidavit, he referred to Monica as a bright young girl who is "terrific." Mr. Jordan said that she had been hounding him for a job and voicing unrealistic expectations concerning positions and salary. Moreover, she narrated a disturbing story about the President leaving the First Lady, and how the President was not spending enough time with her? Yet, none of that gave Mr. Jordan pause in making the recommendation. Do people like Vernon Jordan go to the wall for marginal employees? They do not unless there is a compelling reason. The compelling reason was that the President told him this was a top priority, especially after Monica was subpoenaed.

THE FILING OF THE FALSE AFFIDAVIT

Just how important was Monica Lewinsky's false Affidavit to the President's deposition? It enabled Mr. Clinton, through his attorneys, to assert at his January 17, 1998 deposition " . . . there is absolutely no sex of any kind in any manner, shape or form with President Clinton . . . ." When questioned by his own attorney in the deposition, the President stated specifically that the infamous paragraph 8 of Monica's Affidavit was "absolutely true." The President later affirmed the truth of that statement when testifying before the grand jury. Paragraph 8 of Ms. Lewinsky's Affidavit states:

> I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship.

Recall that Monica Lewinsky reviewed the draft Affidavit on January 6, and signed it on January 7 after deleting a reference to being alone with the President. She showed a copy of the signed Affidavit to Vernon Jordan, who called the President and told him that she signed it.

Getting the Affidavit signed was only half the battle. To have its full effect, it had to be filed with the Court and provided to the President's attorneys in time for his deposition on January 17. On January 14, the President's lawyers called Monica's lawyer and left a message, presumably to find out if he had filed the Affidavit with the Court.(Chart O) On January 15, the President's attorneys called her attorney twice. When they finally reached him, they requested a copy of the Affidavit, and asked him, "Are we still on time?" Ms. Lewinsky's lawyer faxed a copy on January 15. The President's counsel was aware of its contents, and as we will see, used it powerfully in the deposition.

Monica's lawyer called the Court in Arkansas twice on January 15 to ensure that the Affidavit could be filed on Saturday, January 17. (Exhibit 5) He finished the Motion to Quash Monica's deposition in the early morning hours of January 16, and mailed it to the Court with the false Affidavit attached, for Saturday delivery. The President's lawyers called him again on January 16, telling him, "You'll know what it's about." Obviously, the President needed that Affidavit to be filed with the Court to support his plans to mislead Ms. Jones' attorneys in the deposition.

On January 15, Michael Isikoff of Newsweek called Betty Currie and asked her about Monica sending gifts to her by courier. Ms. Currie then called Monica and told her about it. The President was out of town, so later, Betty Currie called Monica back, and asked for a ride to Mr. Jordan. Mr. Jordan advises her to speak with Bruce Lindsey and Mike McCurry. Ms. Currie testified that she spoke immediately to Mr. Lindsey about Isikoff's call.

CLINTON AND BENNETT AT DEPOSITION

The President also provided false and misleading testimony in the Grand Jury when he was asked about Mr. Bennett's representation to the Jones Court that the President is "fully aware" that Lewinsky filed an affidavit saying that "there is absolutely no sex of any kind in any manner, shape or form, with President Clinton...." Mr. Clinton was asked about this representation made by his lawyer in his presence, and whether he felt obligated to inform the federal judge of the true facts. The President answered that he was "not even sure I paid much attention to what [Mr. Bennett] was saying." When pressed further, he said that he didn't believe he "even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment, the whole argument just passed me by."

This last statement by the President is critical. First, he had planned his answer to the grand jurors. Of course he did. He spent literally days with his attorney, going over that deposition with a fine tooth comb and crafting answers in his own mind that wouldn't be too obviously false. Second, he knew that he could only avoid an admission that he allowed a false

Affidavit to be filed by convincing the grand jury that he hadn't been paying attention. Take a look at this tape and you decide 1) whether he was paying attention and 2) whether the President of the United States, a former Rhodes Scholar, could not follow his lawyer's argument.

[DEPOSITION TAPE #5]

Do you think for one moment, after watching that tape, that the President was not paying attention? They were talking about Monica Lewinsky, at the time the most dangerous person in the President's life. If the false Affidavit worked and Ms. Jones' lawyers were not permitted to question him about her, he was home free. Can anyone rationally argue, then, that the President wasn't vitally interested in what Mr. Bennett was saying? Nonetheless, when he was asked in the grand jury whether Mr. Bennett's statement was false, he still was unable to tell the truth -- even before a federal grand jury. He answered with the now famous sentence, "It depends on what the meaning of the word 'is' is."

That single declaration reveals more about the character of the President than perhaps anything else in this record. It points out his attitude and his conscious indifference and complete disregard for the concept of the truth. He picks out a single word and weaves from it a deceitful answer. "Is" doesn't mean "was" or "will be", so I can answer no. He also invents convoluted definitions of words or phrases in his own crafty mind. Of course, he will never seek to clarify a question, because that may trap him into a straight answer.

Can you imagine dealing with such a person in any important matter? You would never know his secret mental reservations or the unspoken redefinition of words. Even if you thought you had solved the enigma, it wouldn't matter -- he would just change the meaning to suit his purpose.

But the President reinforced Monica's lie. Mr. Bennett read to him the paragraph in Ms. Lewinsky's Affidavit where she denied a sexual relationship with the President.

[DEPOSITION TAPE #8]

Question: "Is that a true and accurate statement as far as you know it?"
The President answered: "That is absolutely true."
When asked about this in the grand jury and when questioned about it by this Committee, the President said that if Ms. Lewinsky believed it to be true, then it was a true statement. (Exhibit 18)

Well let's see: First, Monica admitted to the grand jury that the paragraph was false. Second, the President was not asked about Ms. Lewinsky's belief. He was asked quite clearly and directly by his own lawyer whether the statement was true. His answer was unequivocally, Yes. Even by the President's own tortured reading of the definition of sexual relations, that statement is false. To use the President's own definition, Lewinsky touched "one of the enumerated body parts." (Exhibit 13) Therefore she had sexual relations with him even as he defined it!

Lastly, the President wants us to believe that according to his reading of the deposition definition, he did not have sexual relations with Ms. Lewinsky. The definition was an afterthought conceived while preparing for his grand jury testimony. His explanation to the grand jury, then, was also false and misleading.

The President does not explain his denial of an affair or a sexual affair - he can't. Neither can he avoid his unequivocal denial in the answers to interrogatories in the Jones case. These interrogatories were answered before any narrow definition of sexual relations had been developed. But here, listen for yourself:

[DEPOSITION TAPE 4]

DEPOSITION AFTERMATH

By the time the President concluded his deposition, he knew that someone was talking about his relationship with Ms. Lewinsky. He knew that the only person who could be talking was Ms. Lewinsky herself. The cover story that he and Ms. Lewinsky created, and that he used liberally himself during the deposition, was now in jeopardy. It became imperative that he not only contact Ms. Lewinsky, but that he obtain corroboration from his trusted

secretary, Ms. Currie. At around 7 p.m. on the night of the deposition, the President called Ms. Currie and asked that she come in the following day, Sunday.
(Exhibit 6) Ms. Currie could not recall the President ever before calling her that late at home on a Saturday night.(Chart S) Sometime in the early morning hours of January 18, 1998, the President learned of the Drudge Report about Ms. Lewinsky released earlier that day.(Exhibit 14)

As the charts indicate, between 11:49 a.m. and 2:55 p.m., there were three phone calls between Mr. Jordan and the President. (Exhibit 7) At about 5 p.m., Ms. Currie met with the President. The President said that he had just been deposed and that the attorneys asked several questions about Monica Lewinsky. This, incidently, was a violation of Judge Wright's gag order prohibiting any discussions about the deposition testimony. He then made a series of statements to Ms. Currie: (Chart T)

(1) I was never really alone with Monica, right?

(2) You were always there when Monica was there, right?

(3) Monica came on to me, and I never touched her, right?

(4) You could see and hear everything, right?

(5) She wanted to have sex with me, and I cannot do that.

During Betty Currie's grand jury testimony, she was asked whether she believed that the President wished her to agree with the statement:

Q. Would it be fair to say, then - based on the way he stated [these five points] and the demeanor that he was using at the time that he stated it to you - that he wished you to agree with that statement?

A. I can't speak for him, but -

Q. How did you take it? Because you told us at these [previous] meetings in the last several days that that is how you took it.

A. (Nodding)

Q. And you're nodding you head, "yes", is that correct?

A. That's correct.

Q. Okay, with regard to the statement that the President made to you, "You remember I was never really alone with Monica, right, was that also a statement that, as far as

> you took, that he wished you to agree with that?
>
> A. Correct.

When the President testified in the August 17, 1998 Grand Jury, he was questioned about his intentions when he made those five statements to Ms. Currie in his office on that Sunday afternoon. The President stated:

> . . . I thought we were going to be deluged by the press comments. And I was trying to refresh my memory about what the facts were.
>
> And what I wanted to establish was that Betty was there at all other times in the complex, and I wanted to know what Betty's memory was about what she heard, what she could hear. And what I did not know was - I did not know that. And I was trying to figure out in a hurry because I knew something was up.
>
> So, I was not trying to get Betty Currie to say something that was untruthful. I was trying to get as much information as quickly as I could.

Though Ms. Currie would later intimate that she did not necessarily feel pressured by the President, she did state that she felt the President was seeking her agreement (or disagreement) with those statements.

Logic tells us that the President's plea that he was just trying to refresh his memory is contrived and false.

First consider the President's options after he left his deposition:

(1) He could abide by Judge Wright's Order to remain silent and not divulge any details of his deposition;

(2) He could choose to defy Judge Wright's Order, and call Betty on the phone and asked her open ended questions (i.e., "What do you remember about ...?"); or

(3) He could call Ms. Currie and arrange a Sunday afternoon meeting, at a time when the fewest distractions exist and the White House staff is at a minimum. The President chose the third option.

He made sure that this was a face-to-face meeting, not an impersonal telephone call. He made sure that no one else was present when he spoke to her. He made sure that he had the meeting in his office, an area where he was comfortable and could utilize its power and prestige to influence future testimony.

Once these controls were established, the President made short, clear, understandable, declarative statements <u>telling</u> Ms. Currie what his testimony was. He was not interested in what she knew. Why? Because he did not want to be contradicted by his personal secretary. The only way to ensure that was by telling her what to say, not asking her what she remembered. You do not refresh someone's memory by <u>telling</u> that person what he or she remembers. And you certainly do not make declarative statements to someone regarding factual scenarios of which the listener was unaware.

Betty Currie could not possibly have any personal knowledge of the facts that the President was asking. How could she know if they were ever alone, if they were, Ms. Currie wasn't there. So too, how would she know that the President never touched Monica? No, this wasn't any attempt by the President to refresh his recollection, it was witness tampering pure and simple.

The President essentially admitted to making these statements when he

knew they were not true. Consequently, he had painted himself into a legal corner. Understanding the seriousness of the President "coaching" Ms. Currie, his attorneys have argued that those statements to her could not constitute obstruction because she had not been subpoenaed, and the President did not know that she was a potential witness at the time. This argument is refuted by both the law and the facts.

The United States Court of Appeals rejected this argument, and stated,

> "[A] person may be convicted of obstructing justice if he urges or persuades a prospective witness to give false testimony. Neither must the target be scheduled to testify at the time of the offense, nor must he or she actually give testimony at a later time."

As discussed, the President and Ms. Lewinsky concocted a cover story that brought Ms. Currie into the fray as a corroborating witness. True to this scheme, the President, as previously noted, invoked Ms. Currie's name frequently as a witness who could corroborate his false and misleading testimony about the Lewinsky affair. For example, during his deposition, when asked whether he was alone with Ms. Lewinsky, the President said that he was not alone with her or that Betty Currie was there with Monica. When asked about the last time he saw Ms. Lewinsky, which was December 28, 1997, he falsely testified that he only recalled that she was there to see Betty. He also told the Jones lawyers to "ask Betty" whether Lewinsky was alone with him or with Betty in the White House between the hours of midnight and 6 a.m. Asked whether Ms. Lewinsky sent packages to him, he stated that Betty handled packages for him. Asked whether he may have assisted in any way with Ms. Lewinsky's job search, he stated that he thought Betty suggested Vernon Jordan talk to Ms. Lewinsky, and that Monica asked Betty to ask someone to talk to Ambassador Richardson about a job at the U.N.

Of course Ms. Currie was a prospective witness, and the President clearly wanted her to be deposed as a witness, as his "ask Betty" testimony demonstrates. The President claims that he called Ms. Currie into work on a Sunday night only to find out what she knew. But the President knew the truth about his relationship with Ms. Lewinsky, and if he had told the truth during his deposition the day before, then he would have no reason to worry about what Ms. Currie knew. More importantly, the President's demeanor, Ms. Currie's reaction to his demeanor and the suggested lies clearly prove that the President was not merely interviewing Ms. Currie. Rather, he was looking for corroboration for his false cover-up, and that is why he coached her.

Very soon after his Sunday meeting with Ms. Currie, at 5:12 p.m., the flurry of telephone calls began looking for Monica Lewinsky. (Chart S) Between 5:12 p.m. and 8:28 p.m., Ms. Currie paged Monica four times. "Kay" is a reference to a code name Ms. Lewinsky and Ms. Currie created when contacting one another. At 11:02 p.m., the President calls Ms. Currie at home to ask if she has reached Lewinsky.

The following morning, January 19, Currie continued to work diligently on behalf of the President. Between 7:02 a.m. and 8:41 a.m., she paged Ms. Lewinsky another five times. (Chart S)(Exhibit 8) After the 8:41 page, Betty called the President at 8:43 a.m. and said that she was unable to reach Monica. One minute later, at 8:44 a.m., she again paged Monica. This time Ms. Currie's page stated: "Family Emergency," apparently in an attempt to alarm Monica into calling back. That may have been the President's idea, since Betty had just spoken with him? The President was obviously quite concerned because he called Betty Currie only six minutes later, at 8:50 a.m. Immediately thereafter, at 8:51 a.m., Currie tries a different tact, sending the message: "Good news." Another one of the President's idea? If bad news does not get her to call, try good news. Ms. Currie said that she was trying to encourage Ms. Lewinsky to call, but there was no sense of "urgency." Ms. Currie's recollection of why she was calling was again amazingly fuzzy. She said at one point that she believes the President asked her to call Ms. Lewinsky, and she thought she was calling just to tell her that her name came

up in the deposition. Monica Lewinsky had been subpoenaed; of course her name came up in the deposition. There was obviously another and more important reason the President needed to get in touch with her.

At 8:56 a.m., the President telephoned Vernon Jordan, who then joined in the activity. Over a course of twenty-four minutes, from 10:29 to 10:53 a.m., Mr. Jordan called the White House three times, paged Ms. Lewinsky, and called Ms. Lewinsky's attorney, Frank Carter. Between 10:53 a.m. and 4:54 p.m., there are continued calls between Mr. Jordan, Ms. Lewinsky's attorney and individuals at the White House.

Later that afternoon, things really went downhill for the President. At 4:54 p.m., Mr. Jordan called Mr. Carter. Mr. Carter relayed that he had been told he no longer represented Ms. Lewinsky. Mr. Jordan then made feverish attempts to reach the President or someone at the White House to tell them the bad news, as represented by the six calls between 4:58 p.m. and 5:22 p.m. Vernon Jordan said that he tried to relay this information to the White House because "[t]he President asked me to get Monica Lewinsky a job," and he thought it was "information that they ought to have." (Chart Q) Mr. Jordan then called Mr. Carter back at 5:14 p.m. to "go over" what they had already talked about. Mr. Jordan finally reaches the President at 5:56 p.m., and tells him that Mr. Carter had been fired.

Why all this activity? It shows how important it was for the President of the United States to find Monica Lewinsky to learn to whom she was talking. Betty Currie was in charge of contacting Monica. The President had just completed a deposition in which he provided false and misleading testimony about his relationship with Ms. Lewinsky. She was a co-conspirator in hiding this relationship from the Jones attorneys, and he was losing control over her. The President never got complete control over her again, and that is why we are here today.

GRAND JURY TESTIMONY

On August 17, the last act of the tragedy took place. After six scorned invitations, the President of the United States appeared before a grand jury of his fellow citizens and took an oath to tell the truth. We all know what happened. The President equivocated and engaged in legalistic fencing, but he also lied. During the course of this presentation, I have discussed several of those lies specifically. Actually, the entire performance, and it was a performance, was calculated to mislead and deceive the grand jury and eventually the American people. The tone was set at the very beginning. Judge Starr testified that in a grand jury a witness can tell the truth, lie or assert his privileges against self incrimination. (Chart Y) President Clinton was given a fourth choice. The President was permitted to read a statement. Here it is. (Chart Z)

That statement itself is false in many particulars. President Clinton claims that he engaged in wrong conduct with Ms. Lewinsky "on certain occasions in early 1996 and once in 1997." Notice he didn't mention 1995. There was a reason. On the three "occasions" in 1995, Monica was a twenty-one year old intern. As for being alone on "certain occasions," the President was alone with Monica more than twenty times at least. (Chart A) The President also told the jurors that he "also had <u>occasional</u> telephone conversations with Ms. Lewinsky that included sexual banter." Occasional sounds like once every four months or so, doesn't it? Actually, the two had at least fifty-five phone conversations, many in the middle of the night and in seventeen of these calls, Monica and the President of the United States engaged in phone sex. (Chart B) I am not going into any details, but if what happened on these phone calls is banter, then Buckingham Palace is a house.

Here we are again with the President carefully crafting his statements to give the appearance of being candid, when actually his intent was the opposite. In addition, throughout the testimony whenever the President was asked a specific question that could not be answered directly without either admitting the truth or giving an easily provable false answer, he said, "I rely on my statement." Nineteen times he relied on this false and misleading statement; nineteen times, then, he repeated those lies. Let's watch one of them:

[GRAND JURY TAPE #2]

You will recall when Judge Starr was testifying he made reference to six occasions on which, faced with a choice, the President chose deception. Make it seven.

In an effort to avoid unnecessary work and to bring this inquiry to an expeditious end, this Committee submitted to the President eighty-one requests to admit or deny specific facts relevant to this investigation. (Exhibit 18) Although, for the most part, the questions could have been answered with a simple "admit" or "deny", the President elected to follow the pattern of selective memory, reference to other testimony, blatant untruths, artful distortions, outright lies and half truths - the blackest lie of all. When he did answer, he engaged in legalistic hair splitting in an obvious attempt to skirt the whole truth and to deceive this Committee.

Thus, on at least twenty-three questions, the President professed a lack of memory. This from a man who is renowned for his remarkable memory, for his amazing ability to recall details.

In at least fifteen answers, the President merely referred to "White House Records." He also referred to his own prior testimony and that of others. He answered several of the requests by merely restating the same deceptive answers that he gave to the grand jury. We have pointed out several false statements in this summation.

The answers are a gratuitous insult to your intelligence and common sense. The President, then, has lied under oath in a civil deposition and lied under oath in a criminal grand jury. He lied to the people, he lied to his Cabinet, he lied to his top aides and now he has lied under oath to the Congress of the United States. There is no one left to lie to.

In addition, the half-truths, legalistic parsings, evasive and misleading answers were obviously calculated to obstruct the efforts of this Committee. They have had the effect of seriously hampering this Committee's ability to inquire and to ascertain the truth. The President has, therefore, added obstruction of an inquiry and an investigation before the Legislative Branch to his obstructions of justice before the Judicial Branch of our constitutional system of government.

ABUSE OF POWER

As soon as Paula Jones filed her lawsuit, President Clinton, rather than confront the charges, tried to get it dismissed. To do so he used the power and dignity of the Office of President in an attempt to deny Ms. Jones her day in Court. He argued that, as President, he is immune from a lawsuit during his tenure in office. That is, that the President as president, is immune from the civil law of the land. As I recall a similar position was taken by King John just before the gathering at Runnymede when Magna Carta was signed. More interesting is the rationale given by the President for that immunity:

> The broad public and constitutional interests that would be placed at risk by litigating such claims against an incumbent President <u>far outweigh</u> the asserted <u>private interest</u> of a plaintiff who seeks civil damages for an alleged past injury.

There you have it. Sorry, Ms. Jones, because William Jefferson Clinton occupies the Office of President, your lawsuit against him, not as President, but personally must be set aside. The President's lawyers are referring to the most basic civil rights of an American citizen to due process of law and to the equal protection of the laws; those same rights that President Clinton had taken an oath to preserve and protect. Or is it that some people are more equal than others? Here is a clear example of the President abusing the power and majesty of his office to obtain a purely personal advantage over Ms. Jones and avoid having to pay damages. The case was, in fact, stalled for several years until the Supreme Court ruled. If there is one statement that might

qualify as the motto of this Presidency, it is that contained in one of the briefs filed on behalf of Mr. Clinton: "In a very real and significant way, the objectives of William J. Clinton, the person, and his Administration are one and the same."

The President was just getting started: He employed the power and prestige of his office and of his cabinet officers to mislead and to lie to the American people about the Jones case and the Monica Lewinsky matter. But more: throughout the grand jury investigation and various other investigations, the President has tried to extend the relatively narrow bounds of presidential privilege to unlimited, if not bizarre lengths. One witness, Bruce Lindsey, asserted executive privilege before the grand jury even after the claim was dropped by the President. I guess he didn't get the message. The plan was to delay, obstruct, and detour the investigations not to protect the presidency, but to protect the President personally. It is bad enough that the Office was abused for that purpose; but the infinite harm done to the Presidency by those frivolous and dilatory tactics is irreparable. With a single exception, every claim of immunity and privilege has been rejected by the courts. Future presidents will be forced to operate within these strictures because one person assumed that the Office put him above the law.

Furthermore, the power and prestige of the Office of President was marshaled to destroy the character and reputation of Monica Lewinsky, a young woman that had been ill used by the President. As soon as her name surfaced, the campaign began to muzzle any possible testimony, and to attack the credibility of witnesses, in a concerted effort to insulate the President from the lawsuit of one female citizen of Arkansas. It almost worked.

When the President testified at his deposition that he had no sexual relations, sexual affair or the like with Monica Lewinsky, he felt secure. Monica Lewinsky, the only other witness was in the bag. She had furnished a false Affidavit also denying everything. Later, when he realized from the January 18, 1998 Drudge Report, that there were taped conversations between Ms. Lewinsky and Linda Tripp, he had to come up with a new story, and he did. In addition, he recounted that story to White House aides who passed it on to the grand jury.

On Wednesday, January 21, 1998, the Washington Post published a story entitled "Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones' Lawyers." The White House learned the substance of the Post story on the evening of January 20, 1998.

After the President learned of the existence of that story, he made a series of telephone calls.

At 12:08 a.m. he called his attorney, Mr. Bennett, and they had a conversation. The next morning, Mr. Bennett was quoted in the Post stating: "The President adamantly denies he ever had a relationship with Ms. Lewinsky and she has confirmed the truth of that." He added, "This story seems ridiculous and I frankly smell a rat."

After that conversation, the President had a half hour conversation with White House counsel, Bruce Lindsey.

At 1:16 a.m., the President called Betty Currie and spoke to her for 20 minutes.

He then called Bruce Lindsey again.

At 6:30 a.m. the President called Vernon Jordan.

After that, the President again conversed with Bruce Lindsey.

This flurry of activity was a prelude to the stories which the President would soon inflict upon top White House aides and advisors.

II. The President's Statements to Staff

A. Erskine Bowles

On the morning of January 21, 1998, the President met with White House Chief of Staff, Erskine Bowles and his two deputies, John Podesta and Sylvia

Matthews.

Erskine Bowles recalled entering the President's office at 9:00 a.m. that morning. He then recounts the President's immediate words as he and two others entered the Oval Office:

> And he looked up at us and he said the same thing he said to the American people. He said, "I want you to know I did not have sexual relationships with this woman, Monica Lewinsky. I did not ask anybody to lie. And when the facts came out, you'll understand."

After the President made that blanket denial, Mr. Bowles responded:

> I said, "Mr. President, I don't know what the facts are. I don't know if they're good, bad, or indifferent. But whatever they are, you ought to get them out. And you ought to get them out right now."

When counsel asked whether the President responded to Bowles' suggestion that he tell the truth, Bowles responded:

> I don't think he made any response, but he didn't disagree with me.

B. John Podesta

Deputy Chief John Podesta also recalled a meeting with the President on the morning of January 21, 1998.

He testified before the grand jury as to what occurred in the Oval Office that morning:

A. And we started off meeting - we didn't - I don't think we said anything. And I think the President directed this specifically to Mr. Bowles. He said, "Erskine, I want you to know that this story is not true."

Q. What else did he say?
A. He said that - that he had not had a sexual relationship with her, and that he never asked anybody to lie.

Two days later on January 23, 1998, Mr. Podesta had another discussion with the President:

> I asked him how he was doing, and he said he was working on this draft and he said to me that he never had sex with her, and that -

and that he never asked - you know, he repeated the denial, but he was extremely explicit in saying he never had sex with her.

Then Podesta testified as follows:

Q. Okay. Not explicit, in the sense the he got more specific than sex, than the word "sex."

A. Yes, he was more specific than that.

Q. Okay, share that with us.

A. Well, I think he said - he said that - there was some spate. Of, you know, what sex acts were counted, and he said that he had never
had sex with her in any way whatsoever -

Q. Okay.

A. - That they had not had oral sex.

(Exhibit V)

C. Sidney Blumenthal

Later in the day on January 21, 1998, the President called Sydney Blumenthal to his office. It is interesting to note how the President's lies become more elaborate and pronounced when he has time to concoct his newest line of defense. Remember that when the President spoke to Mr. Bowles and Mr. Podesta, he simply denied the story. But, by the time he spoke to Mr. Blumenthal, the President has added three new angles to his defense strategy: (1) he now portrays Monica Lewinsky as the aggressor; (2) he launches an attack on her reputation by portraying her as a "stalker"; and (3) he presents himself as the innocent victim being attacked by the forces of evil.

Note well this recollection by Mr. Blumenthal in his June 4, 1998 testimony: (Chart U)

And it was at this point that he gave his account of what had happened to me and he said that Monica - and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, "I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again."

She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker anymore.

And then consider what the President told Mr. Blumenthal moments later:

And he said, "I feel like a

character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel Darkness at Noon."

And I said to him, "When this happened with Monica Lewinsky, were you alone?" He said, "Well, I was within eyesight or earshot of someone.

At one point, Mr. Blumenthal is asked by the grand jury to describe the President's manner and demeanor during the exchange.

Q. In response to my question how you responded to the President's story about a threat or discussion about a threat from Ms. Lewinsky, you mentioned you didn't recall specifically. Do you recall generally the nature of your response to the President?

A. It was generally sympathetic to the President. And I certainly believed his story. It was a very heartfelt story, he was pouring out his heart, and I believed him.

D. Betty Currie

When Betty Currie testified before the grand jury, she could not recall whether she had another one-on-one discussion with the President on Tuesday, January 20 or Wednesday, January 21. But she did state that on one of those days, the President summoned her back to his office. At that time, the President recapped their now-infamous Sunday afternoon post-deposition discussion in the Oval Office. I believe you all remember that meeting. That's when the President made a series of statements to Ms. Currie, some of which Ms. Currie could not possibly have known the answers. (e.g. "Monica came on to me and I never touched her, right?")

When he spoke to her on January 20 or 21, he spoke in the same tone and demeanor that he used in his January 18 Sunday session.

Ms. Currie stated that the President may have mentioned that she might be asked about Monica Lewinsky.

It is abundantly clear that the President's assertions to staff were designed for dissemination to the American people. But it is equally important to understand that the President intended his aides to relate that false story to investigators and grand jurors alike. We know that this is true for the following reasons: the Special Division had recently appointed the Office of Independent Counsel to investigate the Monica Lewinsky matter; the President realized that Jones' attorneys and investigators were investigating this matter; the Washington Post journalists and investigators were exposing the details of the Lewinsky affair; and, an investigation

relating to perjury charges based on Presidential activities in the Oval Office would certainly lead to interviews with West Wing employees and high level staffers. Because the President would not appear before the grand jury, his version of events would be supplied by those staffers to whom he had lied. The President actually acknowledged that he knew his aides might be called before the grand jury. In addition, Mr. Podesta testified that he knew that he was likely to be a witness in the ongoing grand jury criminal investigation. He said that he was "sensitive about not exchanging information because I knew I was a potential witness." He also recalled that the President volunteered to provide information about Ms. Lewinsky to him even though Mr. Podesta had not asked for these details.

In other words, the President's lies and deceptions to his White House aides, coupled with his steadfast refusal to testify had the effect of presenting a false account of events to investigators and grand jurors. The President's aides believed the President when he told them his contrived account. The aides' eventual testimony provided the President's calculated falsehoods to the grand jury which in turn, gave the jurors an inaccurate and misleading set of facts upon which to base any decisions.

IV. WIN, WIN, WIN

President Clinton also implemented a win-at-all-costs strategy. We know this because of testimony presented by Dick Morris to the federal grand jury.

Mr. Morris, a former presidential advisor, testified that on January 21, 1998, he met President Clinton and they discussed the turbulent events of the day. The President again denied the accusations against him. After further discussions, they decided to have an overnight poll taken to determine if the American people would forgive the President for adultery, perjury, and obstruction of justice. When Mr. Morris received the results, he called the President:

> And I said, "They're just too shocked by this. It's just too new, it's too raw." And I said, "And the problem is they're willing to forgive you for adultery, but not for perjury or obstruction of justice or the various other things."

Morris recalls the following exchange:

> Morris: And I said, "They're just not ready for it." meaning the voters.
>
> President: Well, we just have to win, then.

The President, of course, cannot recall this statement.

Worst of all, in order to win, it was necessary to convince the public, and hopefully the grand jurors who read the newspapers, that Monica Lewinsky was unworthy of belief. If the account given by Monica to Linda Tripp was believed, then there would emerge a tawdry affair in and near the Oval Office. Moreover, the President's own perjury and that of Monica Lewinsky would surface. How do you do this? Congressman Graham showed you. You employ the full power and credibility of the White House and its press corps to destroy the witness. Thus on January 19, 1998:

> Inside the White House, the debate goes on about the best way to destroy That Woman, as President Bill Clinton called Monica Lewinsky. Should they paint her as a friendly fantasist or a malicious

stalker?

Again:

> "That poor child has serious emotional problems," Rep. Charles Rangel, Democrat of New York, said Tuesday night before the State of the Union. "She's fantasizing. And I haven't heard that she played with a full deck in her other experiences."

Listen to Gene Lyons, an Arkansas columnist on

January 30:

> But it's also very easy to take a mirror's eye view of this thing, look at this thing from a completely different direction and take the same evidence and posit a totally innocent relationship in which the president was, in a sense, the victim of someone rather like the woman who followed David Letterman around.

From another "source" on February 1:

> Monica had become known at the White House, says one source, as "the stalker."

And on February 4:

> The media have reported that sources describe Lewinsky as "infatuated" with the president, "star struck" and even "a stalker."

Listen to this on January 31:

> One White House aide called reporters to offer information about Monica Lewinsky's past, her weight problems and what the aide said was her nickname - "The Stalker."
>
> Junior staff members, speaking on the condition that they not be identified, said she was known as a flirt, wore her skirts too short, and was "A little bit weird."
>
> Little by little, ever since allegations of an affair between U.S. President Bill Clinton and Lewinsky surfaced 10 days ago, White House sources have waged a behind-the-scenes campaign to portray her as an untrustworthy climber obsessed with the President.
>
> Just hours after the story broke, one White House source made unsolicited calls offering that Lewinsky was the "troubled" product of divorced parents and may have been following the footsteps of her mother, who wrote a tell-all book about the private lives of three

famous opera singers.

> One story had Lewinsky following former Clinton aide George Stephanopoulos to Starbucks. After observing what kind of coffee he ordered, she showed up the next day at his secretary's desk with a cup of the same coffee to "surprise him."

Sound familiar? It ought to because that is the exact tactic used to destroy Paula Jones. The difference is that these evil rumors were emanating from the White House, the Bastion of the free world. And to protect one man from being forced to answer for his deportment in the highest office in the land.

Now let's turn to President Clinton's Grand Jury appearance.

On August 16, 1998, the President's personal attorney, David Kendall provided the following statement:

> There is apparently an enormous amount of groundless speculation about the President's testimony tomorrow. <u>The truth is the truth. Period. And that's how the President will testify.</u>

On August 17, 1998, the President testified. He admitted to the grand jury that, after the allegations were publicly reported, that he made "misleading" statements to particular aides whom he knew would likely be called to testify before the Grand Jury:

Q. Do you recall denying any sexual relationship with Monica Lewinsky to the following people: Harry Thomasson, Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal, Mr. Jordan, Ms. Betty Currie? Do you recall denying any sexual relationship with Monica Lewinsky to those individuals?

WJC. I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe, sir, that - you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying.

Q. If they testified that you denied sexual relationship with Monica Lewinsky, or if they told us that you denied that, do you have any reason to doubt them, in the days after the story broke; do you have any reason to doubt them?

WJC. No.

The President then was specifically asked whether he knew that his aides were likely to be called before the grand jury.

Q. It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?

WJC. That's right. I think I was quite careful what I said after that. I may have said something to all these people to that effect, but I'll also - whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that would get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about it.

Q. If all of these people - let's leave Mrs. Currie for a minute. Vernon Jordan, Sid Blumenthal, John Podesta, Harold Ickes, Erskine Bowles, Harry Thomasson, after the story broke, after Judge Starr's involvement was known on January 21st, have said that you denied a sexual relationship with them. Are you denying that?

WJC. No.

Q. And you've told us that you —

WJC. I'm just telling you what I meant by it. I told you what I meant by it when they started this deposition.

Q. You've told us now that you were being careful, but that it might have been misleading. Is that correct?

WJC. It might have been *** So, what I was trying to do was to give them something they could - that would be true, even if misleading in the context of this deposition, and keep them out of trouble, and let's deal - and deal with what I thought was the almost ludicrous suggestion that I had urged someone to lie or tried to suborn perjury, in other words.

As the President testified before the grand jury, he maintained that he was being truthful with his aides:

[GRAND JURY TAPE #3]

He stated that when he spoke to his aides, he was very careful with his wording. The President stated that he wanted his statement regarding "sexual relations" to be literally true because he was only referring to intercourse.

However, recall that John Podesta said that the President denied sex "in any way whatsoever" "including oral sex."

The President told Mr. Podesta, Mr. Bowles, Ms. Williams, and Harold Ickes that he did not have a "sexual relationship" with that woman.

And also take note of this fact:

Seven days after the President's grand jury appearance, the White House issued a document entitled, "Talking Points January 24, 1998." (Chart W; Exhibit 16) This "Talking Points" document outlines proposed questions that the President may be asked. It also outlines suggested answers to those questions. The "Talking Points" purport to state the President's view of sexual relations and his view of the relationship with Monica Lewinsky. (Exhibit 17)

The "Talking Points" state as follows:

Q. <u>What acts does the President believe constitute a sexual relationship?</u>

A. I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.

Q. <u>Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?</u>

A. Of course it would.

Based upon the foregoing, the President's own talking points refute the President's "literal truth" argument.

I would like to take a few moments to address some of the matters that have been put before you by the President's defenders over the past few days.

Ever since this inquiry began, we have heard the complaint that no factual witnesses were being called by the Majority. Actually, there are many factual witnesses: Monica Lewinsky, Vernon Jordan, Betty Currie, Sidney Blumenthal, Erskine Bowles, John Podesta; all of whom have testified one or more times under oath either in a formal deposition or before a grand jury. With minimal exceptions, I have avoided reference to interviews and the like. Interviewees are not under oath and usually the report does not reflect the exact words of the witness. I note, though, that the President did rely on unsworn interviews and produced no factual witnesses whatsoever.

Some Members have suggested that none of those witnesses have been subjected to cross-examination. The answer is twofold:

First, this is not a trial, it is in the nature of an inquest. Any witness whose testimony is referred to in this proceeding, will be subjected to full cross-examination if a trial results in the Senate. That is the time to test credibility. As it stands, all of the factual witnesses are uncontradicted and amply corroborated.

Second, if any Member or the President's counsel had specific questions for any of these witnesses, he or she was free to bring that witness in to

testify in this proceeding.

Although the President's lawyers admit that his actions in the Jones case and in the Lewinsky matter were immoral and I think they said maddening, acts, they argue that they do not rise to the level of criminal activity and certainly not to the level of impeachable offenses. They produced another gaggle of witnesses to testify that this really is not so bad, it's only lying about sex, that only private conduct is involved and really the Congress should just close up the book, slap the President on the hand, and well, just get on with politics as usual. Some even suggested that prosecutors would not even consider an indictment based upon the evidence available here. That remains to be seen. I doubt if any of those experts have read all the evidence I have read. We know that prosecutors are in possession of this evidence and perhaps much more. Whether to indict is their decision. And whether the offenses of President Clinton are criminally chargeable is of no moment. This is not a criminal trial, nor is it a criminal inquiry. It is a fundamental precept that an impeachable offense need not be a criminal act.

Concerning the perjury issue:

It is noteworthy that the President's argument is focused on only one aspect of his testimony - that regarding whether he had sexual relations. He glosses over or ignores the perjury claims premised on his denial of being alone with Ms. Lewinsky, his denial of any involvement in obtaining a job for her in his January 17 deposition, his falsely minimizing the number of occasions on which he had encounters with Ms. Lewinsky and his lies regarding gifts to and from Ms. Lewinsky.

They also argue that because the President "believed" that he was telling the truth and there is no proof that he did not so believe, then he is not guilty of perjury. That totally misstates the law of perjury. They assert that under the law, the subjective belief of the defendant is what controls. In fact, however, the question of perjury is judged by an objective standard as to what is "reasonable" under the circumstances, not the nebulous subjective standard advanced by the President's counsel.

The President's subjective belief is not sufficient. He admits that he is an attorney and at the time of his deposition, was represented by Mr. Bennett as well as Mr. Ruff. He had an independent duty to review the definition of sexual relations and to determine whether in fact his conduct fell within that definition. He cannot rely on his attorney who was not in possession of all the facts to divorce himself from a determination of the truth. He cannot rely on what his attorney "thinks" when he, the President, is the only person who knows the relevant facts and is able to determine whether his conduct fell within the definition. In other words, there must be a reasonable basis for the President's subjective belief, to have any merit. There was no reasonable basis.

Similarly, the argument that there is "no proof" that the President did not believe he was telling the truth as to whether he engaged in "sexual relations" under the Jones definition, ignores the record. The proof that the President's "subjective belief" is contradicted by the evidence is overwhelming and has been addressed in detail. For the President now to advance the assertion that he had a subjective belief that his conduct did not constitute "sexual relations" continues the subterfuge and obstruction begun in the Jones case, continued in the grand jury and presented here before Congress.

Materiality

Another argument propounded by those who oppose impeachment is that the President's lies were not material to the Jones case. That is, the Lewinsky information was private and irrelevant. That argument, though, was disposed of by Judge Susan Webber Wright in her order of December 11, 1997. She said:

> The Court finds, therefore, that the plaintiff is entitled to information regarding any

> individuals with whom the President had sexual relations or proposed or sought to have sexual relations and who were during the relevant time frame [five years prior to May 8, 1991, to the present] state or federal employees. Plaintiff is also entitled to information regarding every person whom the President asked, during the relevant time frame, to arrange a private meeting between himself and any female state of federal employee which was attended by no one else and was held at any location other than his office [footnote omitted]. The Court cannot say that such information is not reasonably calculated to lead to the discovery of admissible evidence.

More than a month before the President's deposition, and six days before the President suggested that Monica Lewinsky could sign an affidavit to avoid testifying, the Judge had clearly concluded that the subject matter was neither private nor irrelevant. So much for the materiality issue. If the President's testimony concerning Monica Lewinsky was not material, the Judge who was physically present during the deposition would never have allowed it.

Judge Wright's Order is not the only decision on the materiality questions. A recently unsealed opinion from the United States Court of Appeals for the District of Columbia Circuit conclusively decided the issue.

In the opinion, filed under seal on May 26, 1998, the court addressed Ms. Lewinsky's argument that she could not have committed perjury or obstruction of justice because her false affidavit did not involve facts material to the Jones case. In a three to zero decision, the Court of Appeals rejected that argument. Citing Supreme Court precedent, the court examined "whether the misrepresentation or concealment was predictably capable of affecting, *i.e.*, had a natural tendency to affect, the official decision." The judges unanimously concluded:

> "There can be no doubt that Lewinsky's statements in her affidavit were -- in the words of Kungys v. United States -- 'predictably capable of affecting' this decision. She executed and filed her affidavit for this very purpose."

Of course, if Ms. Lewinsky's relationship with President Clinton was a material issue when she signed her affidavit, it certainly was a material issue when the President testified at a deposition. And just as those lies could support perjury and obstruction of justice charges against Ms. Lewinsky, they support perjury and obstruction of charges against the President. Both Ms. Lewinsky and the President are subject to the same criminal code.

However, even if the three judges on the D.C. Court of Appeals were wrong, and if for some hypothetical reason, the President's relationship with Ms. Lewinsky was not material in the Jones case, there can be no doubt in the President's or anyone else's mind, that the relationship was absolutely material when he lied to the grand jury and lied to this Committee in his written responses about that relationship.

UNFAIRNESS

Perhaps the most strident complaint from the President's supporters is what they perceive as the "fundamental unfairness" of this process. They have, however, been hard put to point with any degree of specificity to any unfair actions.

First, with reference to the Office of the Independent Counsel, did they treat the President unfairly? They invited him to testify before the grand

jury on six occasions before issuing a subpoena. Even then, they withdrew the subpoena and allowed Mr. Clinton the dignity of appearing voluntarily. During his grand jury testimony, which, by the way, was given in the White House and not the District Court, the President was permitted to have his lawyers present at all times. The prosecutors allowed him to read a statement into the record and to rely on that statement in lieu of an answer some nineteen times. Finally, the time allotted for questioning the President was limited. Not one of these courtesies is afforded any other witness before a grand jury.

Second, in the dealings with this Committee the President has been treated with extraordinary courtesy and fairness. Examples abound:

1. The Rodino Watergate format was adopted giving the White House the privilege of:
   a. Responding to evidence received and testimony adduced,
   b. Suggesting additional testimony or other evidence to make a complete record,
   c. Attending all executive or open hearings at which witnesses are called; and
   d. Questioning witnesses before the Committee
2. The President's counsel was permitted to cross examine Judge Starr for a full hour.
3. A complete hearing was held, in part because of a White House request, concerning standards for impeachment.
4. The President's counsel was allowed access to the secure room to assist in preparing his defense.
5. The Committee afforded the President thirty hours, or the equivalent of four days, to present witnesses or other defense evidence.
6. The staff met with White House counsel to try working out a method of cooperation, and
7. The Chairman repeatedly asked the White House to submit any exculpatory evidence.

Despite all of these efforts, the Chairman continues to suffer from accusations of unfairness. What more do they want?

On the other hand how fair have the President and his supporters been?

Was it fair to procure and produce false affidavits from prospective witnesses in the Jones case and thus subject those witnesses to prosecution for perjury? How about employing every conceivable means, including perjury and obstruction, to defeat the legal rights of a single woman who claimed that she had been wronged? How fair was it to stand by and allow his friends to attack that woman's character with remarks like "drag a $10.00 bill through a trailer camp and you never know what will turn up?" Was it fair to Monica Lewinsky to construct an elaborate lie that made it appear that she was a predator who threatened to lie about a sexual encounter if the President didn't succumb to her advances. By the way, if the dress had not turned up that story would have been President Clinton's defense. The stage had already been set, the scenery was in place and the actors had been given their lines.

Was it fair for the President to coach Betty Currie knowing that she would likely testify under oath and expose her to possible criminal charges? And how about the constant trashing of anyone who had the courage to criticize, or to refuse to go along with the game plan? Is it fair to make misstatements about the Independent Counsel's Referral and then use those misstatements as a basis to attack Judge Starr's credibility?

As to the last, my staff and I have had the unenviable task of reviewing the President's latest submission consisting of almost two hundred pages. For the most part there was nothing new. It had all been presented to you in one form or another by the experts brought in by the Minority and President which, by the way, far outnumbered those produced by the Republican Members. Most of

the arguments have been dealt with in my presentation, but a few points should be highlighted.

In paragraph 2 of the Preface the statement is made, "he did not want anyone to know about his personal wrongdoing." That personal wrongdoing includes perjury, obstruction and the like. Of course he did not want anyone to know, and he lied and had others lie to conceal it.

The introduction contains this statement: "He repeatedly has acknowledged that what he did was wrong, he has apologized, and he has sought forgiveness." We all know that he has only admitted what he could not deny, and has continued to play games about the rest.

Stripped to its basic elements, the President's submission merely states:

That the President lied. That it was okay to lie to the people, because it was nobody's business but his own; that his conduct is not a "high crime or misdemeanor"; that he would never be convicted of perjury or obstruction in a court of law; that the Jones suit was bogus, therefore, his testimony did not matter (do you settle bogus suits for $700,000 after you have won?); Judge Starr was a prosecutor most foul; Judge Starr purposely failed to include relevant exculpatory evidence; and finally, impeachment is such a big step that this Committee should not put the country through it. By the way, who put the country through this? The President, by his actions.

The Submission is the ultimate use of the: "Legal Technicality Concept."

We have heard all this before. This Submission is a last ditch effort of a president caught in his own legacy of lies, scandal, and abuse of the highest office in the land. The American people deserve better. They do not deserve legal hair splitting, prevarication and dissembling.

Most disturbing to me was the series of misrepresentations regarding the Referral and the material produced to support it. Let me give you a few salient examples:

* Regarding the President's and Ms. Lewinsky's testimony the Submission omits a key passage of a quotation in the following testimony. They say:

> For example, the President answered "yes" to the question "your testimony is that it was possible, then, that you were alone with her ...?"

The full testimony includes another clause and a longer answer from the President:

> Q. So I understand, your testimony is that it was possible, then, that you were alone with her, but you have no specific recollection of that ever happening?
>
> A. Yes, that's correct. It's possible that she, in, while she was working there, brought something to me and that at the time she brought it to me, she was the only one there. That's possible.

The President thus testified that despite the theoretical possibility that he was alone with Ms. Lewinsky, he had no recollection of it - and even that possibility was limited to while she worked at the White House and when she was delivering papers. Given that the President and Ms. Lewinsky had been alone less than three weeks earlier, as well as numerous other times over a span of over two years, there is reason to doubt the truthfulness of his answer.

* The President was asked in the deposition, "Did anyone other than your attorneys ever tell you that Monica Lewinsky had been served with a subpoena in this case?" According to the White House, when the President responded negatively - "I don't think so" - he meant something other than the words he uttered: "Plainly, the President was not testifying that no one other than his attorneys had told him that Ms. Lewinsky had been subpoenaed." Now they are trying to tell you that "No" means "Yes."
* The White House submission notes that Ms. Lewinsky stated that no one asked her to lie. The Referral makes this very point. Rather, the President suggested false and misleading cover stories that Ms. Lewinsky could include in a false affidavit designed to keep her from testifying. Ms. Lewinsky has since testified that the affidavit was false and misleading. Moreover, the President's attorney used this false affidavit during the President's deposition in an attempt to cut off questioning about Ms. Lewinsky. In criminal law terms, this activity was a conspiracy to lie or to obstruct justice, as is explained in the Referral.
* Concerning evidence regarding the transfer of gifts, the White House contends that the Referral omits a "fundamental and important fact" - that it was Ms. Lewinsky who, in her December 28 conversation with the President, first mentioned Ms. Currie as a possible holder of the gifts. In fact, the Referral <u>twice</u> quotes Ms. Lewinsky's testimony that she asked the President if "I should put the gifts outside my house somewhere or give them to someone, maybe Betty."
* The White House submission contends that "a wealth of information contradict[s]" the allegation that the President obstructed justice with regard to gifts he had given Ms. Lewinsky. As the most dramatic contradiction, highlighted as the epigraph to the section, the Submission juxtaposes (i) the Independent Counsel's statement that "[t]he President and Ms. Lewinsky met and discussed what should be done with the gifts subpoenaed from Ms. Lewinsky," and (ii) Ms. Lewinsky's statement in the Grand Jury that "he really didn't - he really didn't discuss it." In truth, "he really didn't discuss it" came in response to a second, more specific question, <u>after</u> Ms. Lewinsky had spent several hundred words recounting her conversation with the President about the gifts. The White House's quotation is so brazenly misleading that I will quote the full excerpt:

Juror	[R]etell for me the conversation you had with the President about the gifts.
Witness (Ms. Lewinsky)	Okay. It was December 28 and I was there to get my Christmas gifts from him ... And we spent maybe about five minutes or so, not very long, talking about the case. And I said to him, "Well, do you think -" What I mentioned - I said to him that it had really alarmed me about the hat pin being in the subpoena and I think he said something like, "Oh," you know, "that sort of bothered me, too," you know, "That bothers me." Something like that. And at one point, I said, "Well, do you think I should -" I don't

think I said "get rid of, " I said, "But do you think I should put away or maybe give to Betty or give to someone the gifts?"

And he - I don't remember his response. I think it was something like, "I don't know," or "Hmm" or - there really was no response.

I know that I didn't leave the White House with any notion of what I should do with them, that I should do anything different than that they were sitting in my house. And then later I got the call from Betty.

Juror: Now, did you bring up Betty's name or did the President bring up Betty's name?

Witness: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't - he didn't discuss it, so either I brought up Betty's name, which I think is probably what happened, because I remember not being too, too shocked when Betty called.

(Emphasis added)

* As an omission characterized as "very cautious," "insidious," "extraordinary," and "wholly unfair," - there's that word again - the Submission charges that the Referral never attempts to rebut Ms. Currie's assertion that Ms. Lewinsky wanted to get rid of the gifts because, in Ms. Currie's words, "people were asking questions about the stuff he had gotten." In fact, the Referral outlines Ms. Currie's understanding of these "questions" and points out contradictory evidence.
* The White House alleges that "no mention is made in the Referral of the fact that the OIC and the grand jurors regarded it as 'odd' that there was a gift-giving on the same day the President allegedly caused the gifts to be recovered." In fact, the Referral not only acknowledges this apparent anomaly, but uses the same term: "When Ms. Lewinsky was asked whether she thought it odd for the President to give her gifts under the circumstances (with a subpoena requiring the production of all his gifts), she testified that she did not think of it at the time, but she did note some hesitancy on the President's part."
* According to the White House, the Referral omits "important testimony" from Ms. Currie to the effect that Ms. Lewinsky asked her to pick up the box of gifts. In fact, the Referral includes Ms. Currie's recollection three times.
* The White House contends that the Referral inaccurately indicates that Ms. Currie said that the gift transfer occurred on December 28. In fact, the Referral says that "Ms. Currie stated, at various times, that the transfer occurred sometime in late December 1997 or early January 1998."
* The White House alleges that the Referral ignores conflicting evidence regarding the transfer of gifts. In truth, the Referral forthrightly states

that "[t]he testimony conflicts as to what happened when Ms. Lewinsky raised the subject of gifts with the President and what happened later that day." The Referral then outlines various possible scenarios and the possible interpretations of the evidence.

* The White House Submission contends that the gift-concealment allegation is "undermine[d]" by the fact that the President gave Ms. Lewinsky additional gifts on December 28. It quotes Ms. Lewinsky as essentially bolstering this theory, in a footnote which we reprint in the White House's ellipsis:

> Ms. Lewinsky replies, "You know, I have come recently to look at that as sort of a strange situation ...

Ms. Lewinsky's full response tells a far different story:

> You know, I have come recently to look at that as sort of a strange situation, I think, in the course of the past few weeks, but at the time, I was - you know, I was in love with him, I was elated to get these presents and - at the same time that I was so scared about the Paula Jones thing, I was happy to be with him and - I - I didn't think about that.
>
> He had - he had hesitated very briefly right before I left that day in kind of packaging - he packaged all my stuff backup and I just sort of - you know, remember him kind of hesitating and thinking to myself - I don't think he said anything that indicated this to me, but I thought to myself, "I wonder if he's thinking he shouldn't give these to me to take out." But he did.

Then there are the misrepresentation regarding litigation issues:

* The White House alleges that the OIC waited "two full months to question Nancy Hernreich after the withdrawal of executive privilege, thus showing that meritless assertions of executive privilege did not delay the OIC investigation. In fact, Ms. Hernreich testified nine days after the White House withdrew the privilege claim.

And misrepresentation regarding Ms. Lewinsky's job search:

* The White House Submission argues that the Grounds Section of the Referral does not include all of the minutiae related to the job search. But the Referral specifically states in the Grounds Section that "[t]he entire saga of Ms. Lewinsky's job search and the President's assistance in that search is discussed in detail in the Narrative Section of the Referral. We summarize and analyze the key events and dates here." And in fact, the Narrative of the Referral includes all pertinent facts discussed in the White House Submission.

Misrepresentations regarding law and history

* The White House Submission heavily stresses the two-witness rule in perjury cases, but Congress and the courts have limited the applicability of the rule. The rule does not apply to false statements about one's memory,

such as an "I don't recall" response when the witness in fact does recall. In addition, the two-witness rule does not apply to prosecutions under Section 1623(c) of Title 18.

* The Submission cites Raoul Berger's authoritative history Impeachment: The Constitutional Problems (1973), but fails to note Professor Berger's analysis of the precise question at issue here - whether private misconduct, including perjury, may lead to impeachment:

> To conclude that the Founders would have impeached a judge who accepted a bribe of $100, but would shield one who forged a note for $10,000 or who filed a perjured affidavit in a private transaction, would attribute to them a thralldom to concepts from which they were far removed.

Does it ever stop? Didn't they think that we would read their Submission before addressing it. This again proves the arrogance of the White House and its disdain for the intellect of the American people.

Some of the experts that have testified have questioned whether the President's deportment affects his office, the government of the United States or the dignity and honor of the country. We should take a few moments to examine those questions.

Our founders decided in the Constitutional Convention that one of the duties imposed upon the President is to "take care that the laws be faithfully executed." Furthermore, he is required to take an oath to "Preserve, protect and defend the Constitution of the United States." Twice this President stood on the steps of the Capitol, raised his right hand to God and repeated that oath.

The Fifth Amendment to the Constitution of the United States provides that no persona shall "be deprived of life, liberty or property without due process of law."

The Seventh Amendment insures that in civil suits "the right of trial by jury shall be preserved."

Finally, the Fourteenth Amendment guarantees due process of law and the equal protection of the laws.

Shall we examine the concepts of due process, equal protection and the right to trial by jury as practiced by the President to determine whether he has kept his oath to preserve, protect and defend?

Paula Jones is an American citizen, just a single citizen who felt that she had suffered a legal wrong.

More important, that legal wrong was based upon the Constitution of the United States. She claimed essentially that she was subjected to sexual harassment, which, in turn, constitutes discrimination on the basis of gender. The case was not brought against just any citizen, but against the President of the United States, who was under a legal and moral obligation to preserve and protect Ms. Jones' rights. It is relatively simple to mouth high minded platitudes and to prosecute vigorously rights violations by someone else. It is, however, a test of courage, honor and integrity to enforce those rights against yourself. The President failed that test. As a citizen, Ms. Jones enjoyed an absolute constitutional right to petition the Judicial Branch of government to redress that wrong by filing a lawsuit in the United States District Court, which she did. At this point she became entitled to a trial by jury if she chose, due process of law and the equal protection of the laws no matter who the defendant was in her suit. Due process contemplates the right to a full and fair trail, which, in turn, means the right to call and question witnesses, to cross examine adverse witnesses and to have her case

decided by an unbiased and fully informed jury. What did she actually get? None of the above.

On May 27, 1997, the United States Supreme Court ruled in a nine to zero decision that, "like every other citizen," Paula Jones "has a right to an orderly disposition of her claims." In accordance with the Supreme Court's decision, United States District Judge Susan Webber Wright ruled on December 11, 1997, that Ms. Jones was entitled to information regarding state or federal employees with whom the President had sexual relations from May, 1986 to the present. Judge Wright had determined that the information was reasonably calculated to lead to the discovery of admissible evidence. Six days after this ruling, the President filed an answer to Ms. Jones' Amended Complaint. The President's Answer stated: "President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman."

Ms. Jones' right to call and depose witnesses was thwarted by perjurious and misleading affidavits and motions; her right to elicit testimony from adverse witnesses was compromised by perjury and false and misleading statements under oath, and, as a result, had a jury tried the case, it would have been deprived of critical information.

That result is bad enough in itself, but it reaches constitutional proportions when denial of the civil rights is directed by the President of the United States who twice took an oath to preserve, protect and defend those rights. But we now know what the "sanctity of an oath" means to the President.

Moreover, the President is the spokesman for the government and the people of the United States concerning both domestic and foreign matters. His honesty and integrity, therefore, directly influence the credibility of this country. When, as here, that spokesman is guilty of a continuing pattern of lies, misleading statements and deceits over a long period of time, the believability of any of his pronouncements is seriously called into question. Indeed, how can anyone in or out of our country any longer believe anything he says? And what does that do to confidence in the honor and integrity of the United States?

Just a few brief quotations:

"The President must be permitted to respond to allegations . . . not only to defend his own personal integrity, but the integrity of the Office of the Presidency itself."

That is because:

"The President, for all practical purposes . . . affords the only means through which we can act as a Nation."

Finally,

"A President needs to maintain prestige as an element of Presidential influence in order to carry out his duties effectively. In particular, a President must inspire confidence in his <u>integrity</u>, compassion, competency and capacity to take charge in any conceivable situation. Indeed, it is scarcely possible to govern well in the absence of such confidence."

I am not quoting from some law book or from an esoteric treatise on government. Those quotations are taken directly from pleadings and briefs filed in the Jones case on behalf of William Jefferson Clinton.

Make no mistake, the conduct of the President is inextricably bound to the welfare of the people of the United States. Not only does it affect economic and national defense, but even more directly, it affects the moral and law abiding fibre of the commonwealth, without which no nation can survive. When, as here, that conduct involves a pattern of abuses of power, of perjury, of deceit, of obstruction of justice and of the Congress and of other illegal activities; the resulting damage to the honor and respect due to the United States is, of necessity, devastating.

Again: there is no such thing as non-serious lying under oath. Every time a witness lies, that witness chips a stone from the foundation of our

entire legal system. Likewise, every act of obstruction of justice, of witness tampering or of perjury adversely affects the judicial branch of government like a pebble tossed into a lake. You may not notice the effect at once, but you can be certain that the tranquility of that lake has been disturbed. And if enough pebbles are thrown into the water, the lake itself may disappear. So too with the truth seeking process of the courts. Every unanswered and unpunished assault upon it has its lasting effect and given enough of them, the system itself will implode.

That is why those two women who testified before you had been indicted, convicted and punished severely for false statements under oath in civil cases. And that is why only a few days ago a federal grand jury in Chicago indicted four former college football players because they gave false testimony under oath to a grand jury. Nobody suggested that they should not be charged because their motives may have been to protect their careers and family. And nobody has suggested that the perjury was non-serious because it involved only lies about sports; betting on college football games.

Apart from all else, the President's illegal actions constitute an attack upon and utter disregard for the truth, and for the rule of law. Much worse, they manifest an arrogant disdain not only for the rights of his fellow citizens, but also for the functions and the integrity of the other two co-equal branches of our constitutional system. One of the witnesses that appeared earlier likened the government of the United States to a three legged stool. The analysis is apt; because the entire structure of our country rests upon three equal supports; the Legislative, the Judicial and the Executive. Remove one of those supports, and the State will totter. Remove two and the structure will either collapse altogether or will rest upon a single branch of government. Another name for that is tyranny.

The President mounted a direct assault upon the truth seeking process which is the very essence and foundation of the Judicial Branch. Not content with that, though, Mr. Clinton renewed his lies, half truths and obstruction to this Congress when he filed his answers to simple requests to admit or deny. In so doing, he also demonstrated his lack of respect for the constitutional functions of the Legislative Branch.

Actions do not lose their public character merely because they may not directly affect the domestic and foreign functioning of the Executive Branch. Their significance must be examined for their effect on the functioning of the entire system of government. Viewed in that manner, the President's actions were both public and extremely destructive.

The apples and oranges method employed to defend the President is well illustrated in the matter of President Nixon's tax returns. Thus, they argue from the fact that Mr. Nixon was not impeached for lying on a tax return, that perjury is not an impeachable offense. But President Nixon avoided that charge only because there was not enough evidence to prove deliberate lying. That is like arguing that because Lizzie Borden was acquitted of killing her mother with an ax, it is not a crime to kill one's mother with an ax.

Today, our country is at a crossroad from which two paths branch off. One leads to the principles - at once familiar and immortal - contained in the Declaration of Independence and the Constitution. These are principles that for over Two Hundred Years have so affected our actions as to earn the admiration of the world and to gain for the United States the MORAL leadership among nations. There was a time not so very long ago when a policy decision by the President of the United States was saluted as "the most unsordid act in the history of mankind."

The other path leads to expediency, temerity, self interest, cynicism and a disdain for the welfare of others and the common good. That road will inevitably end in iniquity, dishonor and abandonment of the high principles that we, as a people, rely upon for our safety and happiness. There is no third road.

This is a defining moment both for the Presidency and especially for the Members of this Committee.

For the Presidency as an institution because if you don't impeach as a consequence of the conduct that I have just portrayed, then no House of Representatives will ever be able to impeach again. The bar will be so high that only a convicted felon or a traitor will need to be concerned.

Remember experts came up before you and pointed to the fact that the House refused to impeach President Nixon for lying on an income tax return. Can you imagine a future President, faced with possible impeachment, pointing to the perjuries, lies, obstructions, tamperings, and abuses of power by the current occupant of the office as not rising to the level of high crimes and misdemeanors? If this isn't enough, what is? How far can the standard be lowered without completely compromising the credibility of the office for all time?

It is likewise a defining moment for you, the Members of the Judiciary Committee.

The roster of this Committee over the years has contained the names of several great Americans:
Peter Rodino, Emmanuel Celler, Tom Railsbach, Bill McCulloch and Barbara Jordan.

These very walls are infused with the honor and integrity that has always prevailed in this Chamber. Now it is your turn to add to or subtract from that Honor and Integrity.

You have heard the evidence, you have read the law, you have listened to the experts, and you have heard all the arguments.

What I say here will be forgotten in a few days; but what you do here will be incised in the history of the United States for all time to come. Unborn generations - assuming those generations are still free and are still permitted to read true history - will learn of these proceedings and will most certainly judge this Committee's actions. What will be their verdict? Will it be that you rose above party and faction, and reestablished Justice, Decency, Honor and Truth as the standard by which even the highest office in the land must be evaluated? Or will it be that you announced that there is no abiding standard and that public officials are answerable only to politics, polls and propaganda. God forbid that that will be your legacy.

The choice, though, is yours.

On Tuesday one of the witnesses referred to our country as the Ship of State. The allusion is to the poem "The Building of the Ship" by Longfellow. Permit me to quote the stanza:

> Sail on, O Ship of State!
> Sail on, Oh Union, strong and great!
> Humanity with all its fears,
> With all the hopes of future years,
> Is hanging breathless on thy fate!

How sublime, poignant and uplifting; yet how profound and sobering are those words at this moment in history. You now are confronted with the monumental responsibility of deciding whether William Jefferson Clinton is fit to remain at the helm of that Ship.

Thank you, Mr. Chairman.

Chairman HYDE. Thank you very much, Mr. Schippers, for a wonderful presentation, very instructive.

The committee will stand—yes, the gentleman from Michigan.

Mr. CONYERS. If you please, Mr. Chairman, I would like to compliment Attorney Schippers. It has been a long day. He has put a great deal of effort into his presentation, and I would like to give him our commendations for that effort.

Mr. SCHIPPERS. Thank you, Mr. Conyers.

Mr. CONYERS. You're welcome.

Chairman HYDE. That is very nice of you, Mr. Conyers.

The committee will take about a 10-minute recess, and then we will come back for introduction of the Articles and opening statements. We will go fairly long tonight, but we will kind of play it by ear.

[Whereupon, at 5:10 p.m., the committee proceeded to other business.]

A P P E N D I X

THE PRESIDENT'S CONTACTS ALONE WITH LEWINSKY

Lewinsky White House Employee (7/95-4/96)

1995

11/15/95 (Wed)	**The President meets alone twice with Lewinsky in Oval Office study and hallway outside the Oval Office. (Sexual Encounter)**
11/17/95 (Fri)	**The President meets alone twice with Lewinsky in The President's private bathroom outside the Oval Office study. (Sexual Encounter)**
12/5/95 (Tues)	**The President meets alone with Lewinsky in the Oval Office and study. (No Sexual Encounter)**
12/31/95 (Sun)	**The President meets alone with Lewinsky in the Oval Office and Oval Office study. (Sexual Encounter)**

Chart A

THE PRESIDENT'S CONTACTS ALONE WITH LEWINSKY

Lewinsky White House Employee (7/95-4/96)

1996

1/7/96 (Sun)	**The President meets alone with Lewinsky in the bathroom outside the Oval Office study. (Sexual Encounter)**
1/21/96 (Sun)	**The President meets alone with Lewinsky in the hallway outside the Oval Office study. (Sexual Encounter)**
2/4/96 (Sun)	**The President meets alone with Lewinsky in the Oval Office study and in the adjacent hallway. (Sexual Encounter)**
2/19/96 (Mon)	**The President meets alone with Lewinsky in the Oval Office. (No Sexual Encounter)**
3/31/96 (Sun)	**The President meets alone with Lewinsky in hallway outside the Oval Office. (Sexual Encounter)**
4/7/96 (Sun)	**The President meets alone with Lewinsky in the hallway outside the Oval Office study and in the Oval Office study. (Sexual Encounter)**

Chart A

THE PRESIDENT'S CONTACTS ALONE WITH LEWINSKY

Lewinsky Employed at the Pentagon (4/96-)

1997

2/28/97 (Fri)	The President meets alone with Lewinsky in the Oval Office private bathroom. (Sexual Encounter)
3/29/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (Sexual Encounter)
5/24/97 (Sat)	The President meets alone with Lewinsky in the Oval Office dining room, study and hallway. (No Sexual Encounter)
7/4/97 (Fri)	The President meets alone with Lewinsky in the Oval Office study and hallway. (No Sexual Encounter)
7/14/97 (Mon)	The President meets alone with Lewinsky in Heinreich's office. (No Sexual Encounter)
7/24/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)
8/16/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (Sexual Encounter)
10/11/97 (Sat)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)
11/13/97 (Thurs)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)
12/6/97 (Sat)	The President meets alone with Lewinsky in the Oval Office area. (No Sexual Encounter)
12/28/97 (Sun)	The President meets alone with Lewinsky in the Oval Office study. (No Sexual Encounter)

Chart A

Chart B

THE PRESIDENT'S TELEPHONE CONTACTS WITH LEWINSKY

1/7/96 (Sun)	Conversation - first call to ML's home.
1/7/96 (Sun)	Conversation - ML at office.
1/15 or 1/16/96 (Mon or Tue)	Conversation, approx. 12:30 a.m. - ML at home.*
Approx. 1/28/96 (Sun)	Caller ID on ML's office phone indicated POTUS call.
1/30/96 (Tues)	Conversation - during middle of workday at ML's office.
2/4/96 (Sun)	Conversations - ML at office - multiple calls.
2/7 or 2/8/96 (Wed or Thur)	Conversation - ML at home.
2/8/ or 2/9/96 (Thur or Fri)	Conversation - ML at home.*
2/19/96 (Mon)	Conversation - ML at home.
Approx. 2/28 2/28 or 3/5/9	Conversation - approx. 20 min. - after chance meeting in hallway - ML at home.
3/26/96 (Tues)	Conversation - approx. 11 a.m. - ML at office.

Chart B

3/29/96	Conversation - ML at office - approx. 8 p.m. - invitation to movie.
3/31/96	Conversation - ML at office - approx. 1 p.m. - Pres. ill.
4/7/96 (Easter Sunday)	Conversation - ML at home.
4/7/96 (Easter Sunday)	Conversation - ML at home - why ML left.
4/12/96 (Fri)	Conversation - ML at home - daytime.
4/12 or 4/13/96 (Fri or Sat)	Conversation - ML at home - after midnight.
4/22/96 (Mon)	Conversations - job talk - ML at home.
4/29 or 4/30/96 (Mon or Tues)	Message - after 6:30 a.m.
5/2/96 (Thur)	Conversation - ML at home.*
5/6/96 (Mon)	Possible phone call.
5/16/96 (Thur)	Conversation - ML at home.
5/21/96 (Tues)	Conversation - ML at home.*
5/31/96 (Fri)	Message.
6/5/96 (Wed)	Conversation - ML at home - early evening.
6/23/96 (Sun)	Conversation - ML at home.*
7/5 or 7/6/96 (Fri or Sat)	Conversation - ML at home.*
7/19/96 (Fri)	Conversation - 6:30 a.m. - ML at home.*

Chart B

7/28/96 (Sun)	Conversation - ML at home.
8/4/96 (Sun)	Conversation - ML at home.*
8/24/96 (Sat)	Conversation - ML at home.*
9/5/96 (Thur)	Conversation - Pres. In Fla - ML at home.*
9/10/96 (Tues)	Message.
9/30/96 (Mon)	Conversation.*
10/22/96 (Tues)	Conversation - ML at home.*
10/23 or 10/24/96 (early am)	Conversation - ML at home.
12/2/96 (Mon)	Conversation - approx. 10-15 min. - ML at home.
12/2/96 (Mon)	Conversation - later that evening - ML at home - approx. 10:30 p.m. - Pres fell asleep.*
12/18/96 (Wed)	Conversation - approx. 5 min. - 10:30 p.m. - ML at home.
12/30/96 (Mon)	Message.
1/12/97 (Sun)	Conversation - job talk - ML at home.*
2/8/97 (Sat)	Conversation - ML at home - mid-day - 11:30-12:00.
2/8/97 (Sat)	Conversation - job talk - 1:30 or 2:00 p.m. - ML at home.*
3/12/97 (Wed)	Conversation - three minutes - ML at work.
4/26/97 (Sat)	Conversation - late afternoon - 20 min. - ML at home.
5/17/97 (Sat)	Conversations - multiple calls.

Chart B

5/18/97 (Sun)	**Conversations - multiple calls.**
7/15/97 (Tues)	**Conversation - ML at home.**
8/1/97 (Fri)	**Conversation.**
9/30/97 (Tues)	**Conversation.***
10/9 or 10/10/97 (Thur or Fri)	**Conversation - long, from 2 or 2:30 a.m. until 3:30 or 4:00 a.m. - job talk - argument - ML at home.**
10/23/97 (Thur)	**Conversation - ML at home - end b/c HRC.**
10/30/97 (Thur)	**Conversation - ML at home - interview prep.**
11/12/97 (Wed)	**Conversation - discuss re: ML visit.***
12/6/97 (Sat)	**Conversation - approx. 30 min - ML at home.**
12/17 or 12/18/97 (Wed or Thur)	**Conversation - b/t 2:00 a.m. and 3:00 a.m. - ML at home - witness list.**
1/5/98 (Mon)	**Conversation.**

*** Conversation that involved and may have involved phone sex.**

LEWINSKY GIFTS TO THE PRESIDENT

10/24/95	**Lewinsky (before the sexual relationship began) gives her first gift to The President of a matted poem given by her and other White House interns to commemorate "National Boss' Day". It is the only gift The President sent to the archives instead of keeping.**
11/20/95	**Lewinsky gives The President a Zegna necktie.**
3/31/96	**Lewinsky gives The President a Hugo Boss Tie.**
Christmas 1996	**Lewinsky gives The President a Sherlock Holmes game and a glow in the dark frog.**
Before 8/16/96	**Lewinsky gives The President a Zegna necktie and a t-shirt from Bosnia.**
Early 1997	**Lewinsky gives The President *Oy Va*, a small golf book, golf balls, golf tees, and a plastic pocket frog.**
3/97	**Lewinsky gives The President a care package after he injured his leg including a metal magnet with The Presidential seal for his crutches, a license plate with "Bill" for his wheelchair, and knee pads with The Presidential seal.**
3/29/97	**Lewinsky gives The President her personal copy of *Vox*, a book about phone sex, a penny medallion with the heart cut out, a framed Valentine's Day ad, and a replacement for the Hugo Boss tie that had the bottom cut off.**
5/24/97	**Lewinsky gives The President a Banana Republic casual shirt and a puzzle on gold mysteries.**

Chart C

7/14/97	**Lewinsky gives The President a wooden B with a frog in it from Budapest.**
Before 8/16/97	**Lewinsky gives The President *The Notebook*.**
8/16/97	**Lewinsky gives The President an antique book on *Peter the Great*, the card game "Royalty", and a book, *Disease and Misrepresentation*.**
10/21/97 or 10/22/97	**Lewinsky gives The President a Calvin Klein tie, and pair of sunglasses.**
10/97	**Lewinsky gives The President a package Before filled with Halloween-related items, such as a Halloween pumpkin lapel pin, a wooden letter opener with a frog on the handle, and a plastic pumpkin filled with candy.**
11/13/97	**Lewinsky gives The President an antique paperweight that depicted the White House .**
12/6/97	**Lewinsky gives The President *Our Patriotic President: His Life in Pictures, Anecdotes, Sayings, Principles and Biography*; an antique standing cigar holder; a Starbucks Santa Monica mug; a Hugs and Kisses box; and a tie from London.**
12/28/97	**Lewinsky gives The President a hand-painted Easter Egg and "gummy boobs" from Urban Outfitters.**
1/4/98	**Lewinsky gives Currie a package with her final gift to The President containing a book entitled *The Presidents of the United States* and a love note inspired by the movie Titanic.**

Chart C

THE PRESIDENT'S GIFTS TO LEWINSKY

12/5/95	**The President gives Lewinsky an autographed photo of himself wearing the Zegna necktie she gave him.***
2/4/96	**The President gives Lewinsky a signed "State of the Union" Address.***
3/31/96	**The President gives Lewinsky cigars.**
2/28/97	**The President gives Lewinsky a hat pin*, "Davidoff" cigars, and the book the *Leaves of Grass* by Walt Whitman as belated Christmas gifts.**
	The President gives Lewinsky a gold brooch.*
	The President gives Lewinsky an Annie Lennox compact disk.
	The President gives Lewinsky a cigar.
7/24/97	**The President gives Lewinsky an antique flower pin in a wooden box, a porcelain object d'art, and a signed photograph of the President and Lewinsky.***
Early 9/97	**The President brings Lewinsky several Black Dog items, including a baseball cap*, 2 T-shirts*, a hat and a dress.***
12/28/97	**The President gives Lewinsky the largest number of gifts including:**

1. **a large Rockettes blanket*,**
2. **a pin of the New York skyline*,**
3. **a marblelike bear's head from Vancouver*,**
4. **a pair of sunglasses*,**
5. **a small box of cherry chocolates,**
6. **a canvas bag from the Black Dog*,**
7. **a stuffed animal wearing a T-shirt from the Black Dog.***

(*denotes those items Lewinsky produced to the OIC on 7/29/98).

Chart D

JUL. -14' 98(TUE) 14:02 RADER, CAMPBELL TEL:214 630 9996

DEC. -05' 97(FRI) 16:57 RADER, CAMPBELL TEL:214 630 9996 P 001

TRANSACTION REPORT

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NO.	TX DATE/TIME	DESTINATION	DURATION	PGS.	RESULT	MODE
797	DEC. 5 16:40	202 393 5760	0° 03' 20"	019	OK	# ECM
	16:44	[redacted]	0° 03' 30"	019	OK	# ECM
	16:49	[redacted]	0° 04' 30"	019	OK	# ECM
	16:53	[redacted]	0° 04' 24"	019	OK	# ECM

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TO: Robert S. Bennett, Esq. TELECOPY NO. (202) 393-5760
Kathlyn Graves, Esq. TELECOPY NO. [redacted]
Stephen Engstrom, Esq. TELECOPY NO. [redacted]
Bill W. Bristow, Esq. TELECOPY NO. [redacted]

FROM ATTORNEY/SENDER: T. Wesley Holmes 1408-DC-00000005

COMMENTS:

Chart E

Chart F

Lewinsky Subpoena

Jones v. Clinton

December 19, 1997

The *Jones v. Clinton* subpoena to Lewinsky called for:

1) **Her testimony on January 23, 1998 at 9:30 a.m.;**

2) **Production of "each and every gift including but not limited to, any and all dresses, accessories, and jewelry, and/or hat pins given to you by, or on behalf of, Defendant Clinton;" and**

3) **"Every document constituting or containing communications between you and Defendant Clinton, including letters, cards, notes, memoranda and all telephone records."**

December 19, 1997
(Friday)

LEWINSKY IS SERVED WITH A SUBPOENA IN *Jones v. Clinton*

1:47 p.m.-1:48 p.m.	Lewinsky telephones Jordan's office.
3:00 p.m.-4:00 p.m.	Lewinsky is served with a subpoena in *Jones v. Clinton*.
—	Lewinsky telephones Jordan immediately about subpoena.
3:51 p.m.-3:52 p.m.	Jordan telephones The President and talks to Debra Schiff.
4:17 p.m.-4:20 p.m.	Jordan telephones White House Social Office.
4:47 p.m.	Lewinsky meets Jordan and requests that Jordan notify The President about her subpoena.
5:01p.m.-5:05 p.m.	The President telephones Jordan; Jordan notifies The President about Lewinsky's subpoena.
5:06 p.m.	Jordan telephones attorney Carter to represent Lewinsky.
Later that Evening	The President meets alone with Jordan at the White House.

Chart G

DECEMBER 23, 1997

Jones v. Clinton INTERROGATORY NO. 10

INTERROGATORY NO. 10: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you had sexual relations when you held any of the following positions:

a. Attorney General of the State of Arkansas;

b. Governor of the State of Arkansas;

c. President of the United States.

(Court modifies scope to incidents from May 8, 1986 to the present involving state or federal employees.)

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 10 (as modified by direction of the Court): None.

DECEMBER 23, 1997

Jones v. Clinton INTERROGATORY NO. 11

INTERRORGATORY NO. 11: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you sought to have sexual relations, when you held any of the following positions:

a. Attorney General of the State of Arkansas;

b. Governor of the State of Arkansas;

c. President of the United States.

(Court modifies scope to incidents from May 8, 1986 to the present involving state or federal employees.)

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 11 (as modified by direction of the Court): None.

DECEMBER 28, 1997
(Sunday)
THE PRESIDENT'S FINAL MEETING WITH LEWINSKY
AND
THE CONCEALMENT OF THE GIFTS TO LEWINSKY

8:16 a.m. **Lewinsky meets The President at the White House at Currie's direction.**

- **The President gives Lewinsky numerous gifts.**
- **The President and Lewinsky discuss the subpoena, calling for, among other things, the hat pin. The President acknowledges "that sort of bothered [him] too."**
- **Lewinsky states to The President: "Maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty [Currie]."**

3:32 p.m. **Currie telephones Lewinsky at home from Currie's cell phone.**

"I understand you have something to give me."
Or
"The President said you have something to give me."

Later that Day **Currie picks up gifts from Lewinsky.**

Chart J

Chart K

CUSTOMER ACCOUNT NO: 001423615-00001
MOBILE TELEPHONE NO: 202-395-1831

INVOICE NO: 0152183136
INVOICE DATE: JANUARY 01, 1998

USAGE DETAILS FOR 202 395-1831 ON ACTION 88PLAN 0938:
LONG DISTANCE SERVICE PROVIDED BY: WAM

PHONE USER NAME: . .

DATE	TIME	ORIG BAND	ORIGINATING LOCATION	CALLS TO	TELEPHONE NUMBER	AIRTIME RATE	AIRTIME MIN	AIRTIME AMOUNT	LANDLINE RATE	LANDLINE TYPE	LANDLINE AMOUNT	TOTAL CHARGES
12/11												
					*	*	*					
12/25	09:41 AM	1	WASHINGTON DC	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	09:42 AM	1	ARLINGTON VA	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	09:43 AM	1	ARLINGTON VA	WASHINGTON DC	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/27	11:35 AM	1	WASHINGTON DC	MOBILE CL	[redacted]	OFFPK	1	0.10				0.10
12/27	11:37 AM	1	WASHINGTON DC	INCOMING CL	[redacted]	OFFPK	2	0.20				0.20
12/28	03:32 PM	1	ARLINGTON VA	WASHINGTON DC	202 965-5355	OFFPK	1	0.10		LCL	0.10	0.20
12/31	06:59 PM	1	WASHINGTON DC	ARLINGTON VA	[redacted]	PEAK	4	1.20		LCL	0.10	1.30
12/31	09:55 PM	1	ARLINGTON VA	INCOMING CL	[redacted]	OFFPK	1	0.10				0.10
12/31	09:56 PM	1	ARLINGTON VA	ARLINGTON VA	[redacted]	OFFPK	1	0.10		LCL	0.10	0.20
12/31	09:58 PM	1	ARLINGTON VA	INCOMING CL	[redacted]	OFFPK	2	0.20				0.20

TOTAL AIRTIME FOR 202 395-1831 ON ACTION 88PLAN 0938:
LONG DISTANCE SERVICE PROVIDED BY: WAM

PHONE USER NAME: . .

BAND 1 ALL W/B CELLS	CALLS	MINUTES USED	AIRTIME AMOUNT

1070-DC-00000007

THE PRESIDENT'S STATEMENTS ABOUT CONCEALING GIFTS 12/28/97

"[Lewinsky]: ....And then at some point I said to him [The President], 'Well, you know, should I--maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said--I think he responded, 'I don't know' or 'Let me think about that.' And left that topic."

(Lewinsky Grand Jury 8/6/98 Tr. 152)

Chart L

GOVERNMENT EXHIBIT
ML-3

DRAFT

AFFIDAVIT OF JANE DOE #

1. My name is Jane Doe # . I am 24 year old and I currently reside at 700 New Hampshire Avenue, N.W., Washington, D.C. 20037.

2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.

3. I can not fathom any reason that the plaintiff would seek information from me for her case.

4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.

5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 2[illegible], 1997. I am currently unemployed but seeking a new job.

6. In the course of my employment at the White House, I met President Clinton on several occasions. I do not recall ever being alone with the President, although it is possible that while working in the White House Office of Legislative Affairs I may have presented him with a letter for his signature while no one else was present. This would have lasted only a matter of minutes. ~~and would not have been a private meeting, that is not behind closed doors.~~ ?

7. I have the utmost respect for the President who has always behaved appropriately in my presence.

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual

Chart M

DRAFT

relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President, with crowds of other people, after I left my employment at the White House in April, 1996 related to official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on all of these occasions.

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my deposition in this matter would cause unwarranted attorney's fees and costs, disruption to my life, especially since I am looking for employment, and constitute an invasion of my right to privacy.

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

MONICA S. LEWINSKY

* * * * * * * * * * *

DRAFT

DISTRICT OF COLUMBIA, ss:

MONICA S. LEWINSKY, being first duly sworn on oath according to law, deposes and says that she has read the foregoing AFFIDAVIT OF JANE DOE # by her subscribed, that the matters stated herein are true to the best of her information, knowledge and belief.

_____
MONICA S. LEWINSKY

SUBSCRIBED AND SWORN to before me this _____ day of _____, 1998.

_____
NOTARY PUBLIC, D.C.
My Commission expires:_____

Final Affidavit of Jane Doe #6 [Lewinsky]
1/7/98

***

8. I have never had a sexual relationship with The President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any other person who had a sexual relationship with The President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw The President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

***

Chart O

LEWINSKY'S AFFIDAVIT GETS FILED

(1/14/98 - 1/17/98)

	January 14, 1998 (Wednesday)
7:45 p.m.	Bennett's firm (Sexton) leaves Carter telephone message.
—	Carter faxes signed affidavit to Bennett's firm.
	January 15, 1998 (Thursday)
9:17 a.m.	Sexton leaves Carter telephone message.
12:59 p.m.	Sexton leaves Carter telephone message.
—	Currie called by Newsweek.
—	Lewinsky drives Currie to meet Jordan.
—	Sexton telephones Carter: "STILL ON TIME?"
—	Carter telephones Court Clerk for Saturday (1/17/98) Filing of Affidavit and motion to quash.
	January 16, 1998 (Friday)
2 a.m. (Approx.)	Carter completes motion to quash Lewinsky's deposition.
	Carter sends by overnight mail motion to quash and affidavit to Bennett's firm and to the Court.
11:30 a.m.	Sexton message to Carter: "Please call."
	January 17, 1998 (Saturday)
—	Lewinsky Affidavit is submitted to the Court.
—	The President is deposed.

MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)

The President
Vernon Jordan
Betty Currie

January 5, 1998

Lewinsky meets with attorney Carter for an hour; Carter drafts an Affidavit for Lewinsky in an attempt to avert her deposition testimony in *Jones v. Clinton* scheduled for January 23, 1998.

Lewinsky telephones Currie stating that she needs to speak to The President about an important matter; specifically that she was anxious about something she needed to sign- an Affidavit.

The President returns Lewinsky's call; Lewinsky mentions the Affidavit she'd be signing; Lewinsky offers to show the Affidavit to The President who states that he doesn't need to see it because he has already seen about fifteen others.

Chart P

MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)
January 6, 1998

•The President
•Vernon Jordan
•Betty Currie

11:32 a.m.	**Carter pages Lewinsky: "Please call Frank Carter."**
	Lewinsky meets Carter and receives draft Affidavit.
2:08 p.m.-2:10 p.m.	**Jordan calls Lewinsky. Lewinsky delivers draft Affidavit to Jordan.**
3:14 p.m.	**Carter again pages Lewinsky: "Frank Carter at [telephone number] will see you tomorrow morning at 10:00 in my office."**
3:26 p.m.-3:32 p.m.	**Jordan telephones Carter.**
3:38 p.m.	**Jordan telephones Nancy Hernreich, Deputy Assistant to The President.**
3:48 p.m.	**Jordan telephones Lewinsky.**
3:49 p.m.	**Jordan telephones Lewinsky to discusses draft Affidavit. Both agree to delete implication that she had been alone with The President.**
4:19 p.m.-4:32 p.m.	**The President telephones Jordan.**
4:32 p.m.	**Jordan telephones Carter.**
4:34 p.m.-4:37 p.m.	**Jordan again telephones Carter.**
5:15 p.m.-5:19 p.m.	**Jordan telephones White House.**

Chart P

MISSION ACCOMPLISHED: LEWINSKY SIGNS AFFIDAVIT AND GETS A NEW YORK JOB (1/5/98 - 1/9/98)

January 7, 1998

9:26 a.m.- 9:29 a.m.	Jordan telephones Carter.
10:00 a.m.	Lewinsky signs false Affidavit at Carter's Office.
—	Lewinsky delivers signed Affidavit to Jordan.
11:58 a.m.- 12:09 p.m.	Jordan telephones the White House.
5:46 p.m.- 5:56 p.m.	Jordan telephones the White House (Hernreich's Office).
6:50 p.m.- 6:54 p.m.	Jordan telephones the White House and tells The President that Lewinsky signed an Affidavit.

Chart P

MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
(1/5/98 - 1/9/98)
January 8, 1998

9:21 a.m.	Jordan telephones the White House Counsel's Office.
9:21 a.m.	Jordan telephones the White House.
—	Lewinsky interviews in New York at MacAndrews & Forbes Holdings, Inc. (MFH)
11:50 a.m.-11:51a.m.	Lewinsky telephones Jordan.
3:09 p.m.-3:10 p.m.	Lewinsky telephones Jordan.
4:48 p.m.-4:53 p.m.	Lewinsky telephones Jordan and advises that the New York MFH interview went "Very Poorly."
4:54 p.m.	Jordan telephones Ronald Perelman in New York, CEO of Revlon (subsidiary of MFH) "to make things happen...if they could happen."
4:56 p.m.	Jordan telephones Lewinsky stating "I'm doing the best I can to help you out."
6:39 p.m.	Jordan telephones White House Counsel's Office (Cheryl Mills), possibly about Lewinsky.
Evening	Revlon in New York telephones Lewinsky to set up a follow-up interview.
9:02 p.m.-9:03 p.m.	Lewinsky telephones Jordan about Revlon interview in New York.

Chart P

MISSION ACCOMPLISHED:
LEWINSKY SIGNS AFFIDAVIT
AND
GETS A NEW YORK JOB
January 9, 1998

—	Lewinsky interviews in New York with Senior V.P. Seidman of MacAndrews &Forbes and two Revlon individuals.
	Lewinsky offered Revlon job in New York and accepts.
1:29 p.m.	Lewinsky telephones Jordan.
1:29 p.m.	Lewinsky telephones Jordan.
4:14 p.m.-	Lewinsky telephones Jordan to say that Revlon offered her a job in New York.
	Jordan notifies Currie: "Mission Accomplished" and requests she tell The President.
	Jordan notifies The President of Lewinsky's New York job offer. The President replies "Thank you very much."
4:37 p.m.	Lewinsky telephones Carter.
5:04 p.m.	Lewinsky telephones Jordan.
5:05 p.m.	Lewinsky telephones Currie.
5:08 p.m.	The President telephones Currie.
5:09 p.m.- 5:11 p.m.	Lewinsky telephones Jordan.
5:12 p.m.	Currie telephones The President.
5:18 p.m.- 5:20 p.m.	Jordan telephones Lewinsky.
5:21 p.m.- 5:26 p.m.	Lewinsky telephones Currie.

Chart P

THE PRESIDENT'S INVOLVEMENT WITH LEWINSKY JOB SEARCH

"Q Why are you trying to tell someone at the White House that this has happened [Carter had been fired]?

[Jordan]: Thought they had a right to know.

Q Why?

[Jordan]: The President asked me to get Monica Lewinsky a job. I got her a lawyer. The Drudge Report is out and she has new counsel. I thought that was information that they ought to have...."

(Jordan Grand Jury 6/9/98 Tr. 45-46)

"Q Why did you think the President needed to know that Frank Carter had been replaced?

[Jordan]: Information. He knew that I had gotten her a job, he knew that I had gotten her a lawyer. Information. He was interested in this matter. He is the source of it coming to my attention in the first place...."

(Jordan Grand Jury 6/9/98 Tr. 58-59)

Chart R

JORDAN'S PRE-WITNESS LIST

JOB SEARCH EFFORTS

"[Jordan]: I have no recollection of an early November meeting with Ms. Monica Lewinsky. I have absolutely no recollection of it and I have no record of it." (Jordan Grand Jury 3/3/98 Tr. 50)

***

"Q Is it fair to say that back in November getting Monica Lewinsky a job on any fast pace was not any priority of yours?

[Jordan]: I think that's fair to say." (Jordan Grand Jury 5/5/98 Tr. 76)

***

"[Lewinsky]: [Referring to 12/6/97 meeting with the President]. I think I said that ... I was suppose to get in touch with Mr. Jordan the previous week and that things did not work out and that nothing had really happened yet [on the job front].

Q Did the President say what he was going to do?

[Lewinsky]: I think he said he would--you know, this was sort of typical of him, to sort of say, 'Oh, I'll talk to him. I'll get on it.'" (Lewinsky Grand Jury 8/6/98 Tr. 115-116)

***

"Q But what is also clear is that as of this date, December 11th, you are clear that at that point you had made a decision that you would try to make some calls to help get her a job.

[Jordan]: There is no question about that." (Jordan Grand Jury 5/5/98 Tr. 95)

January 17, 1998
Saturday

- The President
- Vernon Jordan
- Betty Currie

Chart S

- **4:00 p.m. (approx.) THE PRESIDENT finishes testifying under oath in *Jones v. Clinton, et al.***
- **5:19 p.m. Jordan telephones White House.**
- **5:38 p.m. THE PRESIDENT telephones Jordan at home.**
- **7:02 p.m. THE PRESIDENT telephones Currie at home but does not speak with her.**
- **7:02 p.m. THE PRESIDENT places a call to Jordan's office.**
- **7:13 p.m. THE PRESIDENT telephones Currie at home and asks her to meet with him on Sunday.**

January 18, 1998
Sunday

- The President
- Vernon Jordan
- Betty Currie

Chart S

6:11 a.m.	**Drudge Report Released.**
-----	**The President learns of the Drudge Report and [Tripp] tapes.**
11:49 a.m.	**Jordan telephones the White House.**
12:30 p.m.	**Jordan has lunch with Bruce Lindsey. Lindsey informs Jordan about the Drudge Report and [Tripp] tapes.**
12:50 p.m.	**THE PRESIDENT telephones Jordan at home.**
1:11 p.m.	**THE PRESIDENT telephones Currie at home.**
2:15 p.m.	**Jordan telephones the White House.**
2:55 p.m.	**Jordan telephones THE PRESIDENT.**
5:00 p.m.	**THE PRESIDENT meets with Currie, concerning his contacts with Lewinsky.**
5:12 p.m.	**Currie pages Lewinsky: "Please call Kay at home."**

- **6:22 p.m.** **Currie pages Lewinsky: "Please call Kay at home."**
- **7:06 p.m.** **Currie pages Lewinsky: "Please call Kay at home."**
- **7:19 p.m.** **Jordan telephones Cheryl Mills, White House Counsel's Office.**
- **8:28 p.m.** **Currie pages Lewinsky: "Call Kay."**
- **10:09 p.m.** **Lewinsky telephones Currie at home.**
- **11:02 p.m.** **THE PRESIDENT telephones Currie at home and asks if she reached Lewinsky.**

Chart S

- **4:54 p.m.** **Jordan telephones Carter at his office. Carter informs Jordan that Lewinsky has replaced Carter with a new attorney.**
- **4:58 p.m.** **Jordan telephones Lindsey, White House Counsel's Office.**
- **4:59 p.m.** **Jordan telephones Mills, White House Counsel's Office.**
- **5:00 p.m.** **Jordan telephones Lindsey, White House Counsel's Office.**
- **5:00 p.m.** **Jordan telephones Ruff, White House Counsel's Office.**
- **5:05 p.m.** **Jordan telephones Lindsey, White House Counsel's Office.**
- **5:05 p.m.** **Jordan again telephones Lindsey, White House Counsel's Office.**
- **5:05 p.m.** **Jordan telephones the White House.**
- **5:09 p.m.** **Jordan telephones Mills, White House Counsel's Office.**
- **5:14 p.m.** **Jordan telephones Carter concerning his termination as Lewinsky's attorney.**
- **5:22 p.m.** **Jordan telephones Lindsey, White House Counsel's Office.**
- **5:22 p.m.** **Jordan telephones Mills, White House Counsel's Office.**
- **5:55 p.m.** **Jordan telephones Currie at home.**
- **5:56 p.m.** **THE PRESIDENT telephones Jordan at his office; Jordan informs The President that Carter was fired.**
- **6:04 p.m.** **Jordan telephones Currie at home.**
- **6:26 p.m.** **Jordan telephones Stephen Goodin, an aide to THE PRESIDENT.**

• 10:36 a.m.	Jordan pages Lewinsky: "Please call Mr. Jordan at [number redacted]."
• 10:44 a.m.	Jordan telephones Erskine Bowles at the White House.
• 10:53 a.m.	Jordan telephones Carter.
• 10:58 a.m.	THE PRESIDENT telephones Jordan at his office.
• 11:04 a.m.	Jordan telephones Bruce Lindsey at the White House.
• 11:16 a.m.	Jordan pages Lewinsky: "Please call Mr. Jordan at [number redacted]."
• 11:17 a.m.	Jordan telephones Lindsey at the White House.
• 12:31 p.m.	Jordan telephones the White House from a cellular phone.
• —	Jordan lunches with Carter.
• 1:45 p.m.	THE PRESIDENT telephones Currie at home.
• 2:29 p.m.	Jordan telephones the White House from a cellular phone.
• 2:44 p.m.	Jordan enters the White House and over the course of an hour meets with THE PRESIDENT, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, Rahm Emanuel and others.
• 2:46 p.m.	Carter pages Lewinsky: "Please call Frank Carter at [number redacted]."
• 4:51 p.m.	Jordan telephones Currie at home.
• 4:53 p.m.	Jordan telephones Carter at home.

January 19, 1998
Monday-Martin Luther King Day

- The President
- Vernon Jordan
- Betty Currie

Chart S

- **7:02 a.m.** **Currie pages Lewinsky: "Please call Kay at home at 8:00 this morning."**
- **8:08 a.m.** **Currie pages Lewinsky: "Please call Kay."**
- **8:33 a.m.** **Currie pages Lewinsky: "Please call Kay at home."**
- **8:37 a.m.** **Currie pages Lewinsky: "Please call Kay at home. It's a social call. Thank you."**
- **8:41 a.m.** **Currie pages Lewinsky: "Kay is at home. Please call."**
- **8:43 a.m.** **Currie telephones The President from home to say she has been unable to reach Lewinsky.**
- **8:44 a.m.** **Currie pages Lewinsky: "Please call Kate re: family emergency."**
- **8:50 a.m.** **THE PRESIDENT telephones Currie at home.**
- **8:51 a.m.** **Currie pages Lewinsky: "Msg. From Kay. Please call, have good news."**
- **8:56 a.m.** **THE PRESIDENT telephones Jordan at home.**
- **10:29 a.m.** **Jordan telephones the White House from his office.**
- **10:35 a.m.** **Jordan telephones Nancy Hernreich at the White House.**

THE PRESIDENT'S POST-DEPOSITION STATEMENTS TO CURRIE

1/18/98

- "I was never really alone with Monica, right?"
- "You were always there when Monica was there, right?"
- "Monica came on to me, and I never touched her, right?"
- "You could see and hear everything, right?"
- "She wanted to have sex with me, and I cannot do that."

(Currie Grand Jury 7/22/98 Tr. 6-7;
Currie Grand Jury 1/27/98 Tr. 70-75)

THE PRESIDENT'S DENIALS

1/21/98

"And it was at that point that he gave his account of what had happened to me [sic] and he said that Monica - and it came very fast. He said, 'Monica Lewinsky came at me and made a sexual demand on me.' He rebuffed her. He said, 'I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again.'

She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker any more."

(Blumenthal Grand Jury 6/4/98 Tr. 49)

***

"And he said, 'I feel like a character in a novel. I feel like somebody who is surrounded by an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel Darkness at Noon.'

And I said to him, I said, 'When this happened with Monica Lewinsky, were you alone?' He said, 'Well, I was within eyesight or earshot of someone.'"

(Blumenthal Grand Jury 6/4/98 Tr. 50)

"Q Okay. Share that with us.

A Well, I think he said - he said that - there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever -

Q Okay.

A - that they had not had oral sex"

(John Podesta Grand Jury 6/16/98 Tr. 92)

***

"And I said, 'They're just too shocked by this. It's just too new, it's too raw.' And I said, 'And the problem is they're willing to forgive you [The President] for adultery, but not for perjury or obstruction of justice or the various other things.'"

(Dick Morris Grand Jury 8/18/98 Tr. 10, 12, 20)

***

"And I said, 'They're just not ready for it,' meaning the voters.'

And he [The President] said, 'Well, we just have to win, then.'"

(Dick Morris Grand Jury 8/18/98 Tr. 30)

"TALKING POINTS"*

January 24, 1998

***

"Q: Well, for example, Ms. Lewinsky is on tape indicating that the Pesident does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?"

"A: Of course it would."

***

---

*Produced by the White House pursuant to OIC Subpoena

Chart XYZ

THE PRESIDENT CLAIMS

HE WAS TRUTHFUL WITH AIDES

[President]: And so I said to them things that were true about this relationship. That I used – in the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter further. So I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

(The President Grand Jury 8/17/98 Tr. 106)

Chart XYZ

GRAND JURY WITNESSES

A person testifying before a federal grand jury has three options under the law:

1) **To obey the oath and testify to the truth, the whole truth and nothing but the truth;**
2) **To lie;**
3) **To assert the Fifth Amendment or another legally recognized privilege.**

Chart XYX

PRESIDENT'S STATEMENT
GRAND JURY TESTIMONY

"When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.

While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term 'sexual relations', as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses. That, Mr. Bittman, is my statement."

Exhibits

Telephone records

1) Summary chart, 12/19/97

2) Currie Cell phone records, 12/28/97

3) Summary chart, 1/6/98

4) Summary chart, 1/7/98

5) Summary chart, 1/15/98-1/16/98

6) Summary chart, 1/17/98

7) Summary chart, 1/18/98

8) Summary chart, 1/19/98

Court Documents

9) Jones v. Clinton, Jan. 29, 1998 District Court Order regarding discovery

10) President Clinton's Answer to First Amended Complaint, Jones v. Clinton

11) In re: Sealed Case, Nos. 98-3053 & 3059, U.S. Court of Appeals, District of Columbia

12) Jane Doe #6 (Lewinsky) Affidavit filed in Jones v. Clinton

13) "Sexual Relations" definition

Miscellaneous

14) 1/18/98 Drudge Report

15) Jones' attorneys fax cover sheet of witness list to Bennett

16) White House "Talking Points," January 24, 1998

17) LA Times 1/25/98 Article regarding White House "Talking Points"

18) Response of William J. Clinton to Judiciary Committee Questions

Testimony

19) President Clinton GJ Tr. 138 L. 16-23 (From GJ Tape 2)

20) President Clinton GJ Tr. 100 L. 20-25, 105 L. 19-25, 106 L.1-2 (From GJ Tape 3)

21) President Clinton Dep. Tr. 75 L. 2-8, 76 L. 24-25, 77 L. 1-2, 62 L. 6-18, (From Dep. Tape 1)

22) President Clinton Deposition Tr. 52 L. 18-25, 53 L. 1-18, 58 L. 22-25, 59 L. 1-20 (From Dep. Tape 3)

23) President Clinton Deposition Tr. 78 L. 4-23 (From Dep. Tape 4)

24) President Clinton Deposition Tr. 53 L. 22-25, 54 L. 1-25, 55 L. 1-3 (From Dep.Tape 5)

25) President Clinton Deposition Tr.204 L. 5-19 (From Dep. Tape 8)

26) President Clinton GJ Tr. 9-11

THE WHITE HOUSE
WASHINGTON

PRESIDENTIAL CALL LOG

DECEMBER 27, 19 97

TIME PLACED	TIME DISC	NAME	ACTION

REDACTED

V006-DC-00002063

OUT	AM 11:33		MS. BETTY W. CURRIE CELLULAR PHONE 202-395-1831	TLKD-OK 11:29 A.M.
IN	11:27 AM			

EXHIBIT 2

HB 003062

MCI

MARCIA LEWIS
Acct 202 965 6353 340 55

May 4 1996

Long Distance continued
Calls from 202-965-6353:

Amount	Place	Number	Date	Time	Rate	Min
$ .81	FF W ANGEL CA	[redacted]	Apr 3	8:03P	*E	7
.11	SAN FRAN CA		6	12:49P	*N	1
.11	PORTLAND OR		6	3:42P	*N	1
.11	SAN FRAN CA		6	6:41P	*N	1
.11	PORTLAND OR		6	6:42P	*N	1
.11	SAN FRAN CA		6	9:10P	*N	1
2.33	FF W ANGEL CA		7	5:08P	*E	20
1.67	THE PLAI VA		7	9:18P	*E	14
.47	THE PLAI VA		7	9:49P	*E	4
.12	BEVERLYH CA		7	9:53P	*E	1
.12	BEVERLYH CA		7	9:58P	*E	1
3.09	KINEI HI		7	9:59P	*E	18
.16	KINEI HI		7	10:17P	*E	1
1.54	KINEI HI		7	10:18P	*E	9

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MCI

MARCIA LEWIS
Acct 202 965 6353 340 55

May 4 1996

Long Distance continued
Calls from 202-965-6353:

Amount	Place	Number	Date	Time	Rate	Min
$ 1.00	THE PLAI VA	[redacted]	Apr 8	4:53P	*D	5
.12	PORTLAND OR		8	5:01P	*E	1
.12	PORTLAND OR		8	5:01P	*E	1
.12	CANBY OR		8	5:02P	*E	1
2.01	PORTLAND OR		8	5:03P	*E	15
.12	PORTLAND OR		8	5:48P	*E	1
.12	SAN FRAN CA		8	6:32P	*E	1
.12	PORTLAND OR		8	6:38P	*E	1
1.98	FF W ANGEL CA		8	9:45P	*E	17
1.61	PORTLAND OR		8	10:00P	*E	12
3.09	SAN FRAN CA		8	10:17P	*E	23
.63	DIR ASST NY		9	2:17P	*D	1
3.45	FF NEW YOR NY		9	2:18P	*D	19
.20	NEW YORK NY		9	4:36P	*D	1

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EXHIBIT
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Telephone Calls

TABLE 35

January 6, 1998

No.	Time	Call from	Call to	Length of call
1	11:32 AM	Mr. Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANK CARTER @ [redacted]"	N/A
2	2:08 PM	Mr. Jordan's office, [redacted]	Ms. Lewinsky's residence, [redacted]	1:48
3	3:14 PM	Mr. Carter	Ms. Lewinsky's pager; message reads: "FRANK CARTER AT [redacted] I WILL SEE YOU TOMORROW MORNING AT 10:00 IN MY OFFICE."	N/A
4	3:26 PM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	6:42
5	3:38 PM	Mr. Jordan's office, [redacted]	Ms. Hernreich, White House, [redacted]	2:12
6	3:48 PM	Mr. Jordan's office, [redacted]	Ms. Lewinsky's residence, [redacted]	0:24
7	3:49 PM	Mr. Jordan's office, [redacted]	Ms. Lewinsky at Ms. Finerman's residence, [redacted]	5:54
8	4:19 PM	President Clinton	Mr. Jordan's office, [redacted]	13:00
9	4:32 PM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	1:06
10	4:34 PM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	2:30
11	5:15 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	4:06

Source Documents

Calls 1 and 3: 831-DC-00000010 (Pagemart; all times have been adjusted from Pacific to Eastern Standard Time)

Calls 2, 4, 5, 6, 7, 9, 10, and 11: V004-DC-00000158 (Akin, Gump, Strauss, Hauer & Feld call log)

Call 8: 1178-DC-00000016 (Presidential call log)

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Telephone Calls

TABLE 36

January 7, 1998

No.	Time	Call from	Call to	Length of call
1	9:26 AM	Mr. Jordan's office, [redacted]	Mr. Carter, [redacted]	3:30
2	11:58 AM	Mr. Jordan's office, [redacted]	White House, [redacted]	11:30
3	5:46 PM	Mr. Jordan's office, [redacted]	Ms. Hernreich, White House, [redacted]	10:48
4	6:50 PM	Mr. Jordan's limousine, [redacted]	White House, [redacted]	4:00

Source Documents

Call 1: V004-DC-00000158 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 2 and 3: V004-DC-00000159 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 4: 1033-DC-00000115 (Bell Atlantic Mobile toll records)

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Telephone Calls

TABLE 44

January 15, 1998

No.	Time	Call from	Call to	Length of call
1	unknown	Mr. Jordan at St. Regis Hotel, New York, NY	White House, [redacted]	unknown
2	unknown	Ms. Currie's office, [redacted]	Vernon Jordan's office; message reads:"Betty- POTUS, [redacted] KIND OF IMPORTANT"	N/A
3	10:22 AM	Mr. Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANCIS CARTER @ [redacted]	N/A
4	12:31 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY."	N/A
5	1:08 PM	Mr. Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANK CARTER AT [redacted]	N/A
6	3:02 PM	Mr. Jordan's office, [redacted]	Ms. Hernreich, White House, [redacted]	1:30
7	3:04 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	1:54
8	5:16 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	2:48
9	5:22 PM	Ms. Currie	Ms. Lewinsky's pager; message reads:"PLEASE CALL KAY ASAP."	N/A
10	6:45 PM	Mr. Jordan's office, [redacted]	Ms. Currie's residence, [redacted]	0:12

Source Documents

Call 1: 1065-DC-00000006 (St. Regis Hotel receipt)

Call 2: V005-DC-00000058 (Vernon Jordan's message log)

Calls 3, 4, 5 and 9: 831-DC-00000008 (Pagemart)

Calls 6, 7, 8 and 10: V004-DC-00000164 (Akin, Gump, Strauss, Hauer & Feld call logs)

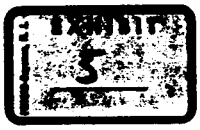

TABLE 45

January 16, 1998

No.	Time	Call from	Call to	Length of call
1	11:17 AM	Mr. Jordan's office, [redacted]	Ms Currie, White House [redacted]	1:24
2	9:41 PM	Mr. Jordan's residence, [redacted]	President Clinton	5:00

Source Documents

Call 1: V004-DC-00000164 (Akin, Gump, Strauss, Hauer & Feld call logs)

Call 2: 1178-DC-00000018 (Presidential call log)

Telephone Calls

TABLE 46

January 17, 1998

No.	Time	Call from	Call to	Length of call
1	5:19 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	1:00
2	5:38 PM	President Clinton	Mr. Jordan's residence, [redacted]	2:00
3	7:02 PM	President Clinton	Mr. Jordan's office, [redacted]	2:00
4	7:13 PM	President Clinton	Ms. Currie's residence, [redacted]	1:00

Source Documents

Call 1: 1033-DC-00000033 (Bell Atlantic Mobile toll records)

Call 2: 1178-DC-00000019 (Presidential call log)

Call 3: 1178-DC-00000020 (Presidential call log)

Call 4: V006-DC-00002066 (Presidential call log)

Telephone Calls

TABLE 47

January 18, 1998

No.	Time	Call From	Call To	Length of Call
1	11:49 AM	Mr. Jordan's office, [redacted]	White House, [redacted]	1:12
2	12:50 PM	President Clinton	Mr. Jordan's residence, [redacted]	2:00
3	1:11 PM	President Clinton	Ms. Currie's residence, [redacted]	3:00
4	2:15 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	4:00
5	2:55 PM	Mr. Jordan's residence, [redacted]	President Clinton "hold per PRESUS, 9:20 PM"	N/A
6	5:12 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
7	6:22 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
8	7:06 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
9	7:19 PM	Mr. Jordan's office [redacted]	Cheryl Mills, White House Counsel's Office, [redacted]	1:06
10	8:28 PM	Ms. Currie	Ms. Lewinsky's pager; message reads: "CALL KAY"	N/A
11	11:02 PM	President Clinton	Ms. Currie's residence, [redacted]	1:00

Source Documents

Calls 1 and 9:	V004-DC-00000165 (Akin, Gump, Strauss, Hauer & Feld call logs)
Call 2:	1178-DC-00000021 (Presidential call log)
Call 3:	V006-DC-00002067 (Presidential call log)
Call 4:	1033-DC-00000034 (Bell Atlantic Mobile toll records)
Call 5:	1248-DC-00000312 (Presidential call log)
Calls 6, 7, 8, and 10:	831-DC-00000008 (Pagemart)

TABLE 47 continued

Call 11	V006-DC-00002068 (Presidential call log)

Telephone Calls

TABLE 48

January 19, 1998

No.	Time	Call From	Call To	Length of Call
1	7:02 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME AT 8:00 THIS MORNING."	N/A
2	8:08 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY."	N/A
3	8:33 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME."	N/A
4	8:37 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KAY AT HOME. IT'S A SOCIAL CALL. THANK YOU"	N/A
5	8:41 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "KAY IS AT HOME. PLEASE CALL."	N/A
6	8:43 AM	Ms. Currie's residence, [redacted]	President Clinton	1:00
7	8:44 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "PLEASE CALL KATE RE: FAMILY EMERGENCY."	N/A
8	8:50 AM	President Clinton	Ms. Currie's residence, [redacted]	1:00
9	8:51 AM	Ms. Currie	Ms. Lewinsky's pager; message reads: "MSG. FROM KAY. PLEASE CALL. HAVE GOOD NEWS."	N/A
10	8:56 AM	President Clinton	Mr. Jordan's residence, [redacted]	9:00
11	10:29 AM	Mr. Jordan's office, [redacted]	White House, [redacted]	3:42
12	10:36 AM	Mr. Jordan's office, [redacted]	Ms. Lewinsky's pager; message reads: "PLEASE CALL MR. JORDAN AT [redacted]	N/A
13	10:35 AM	Mr. Jordan's office, [redacted]	Nancy Hernreich, White House, [redacted]	1:12
14	10:44 AM	Mr. Jordan's office, [redacted]	Erskine Bowles, White House, [redacted]	1:00

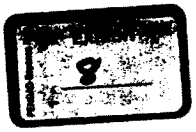

TABLE 48 continued

No.	Time	Call From	Call To	Length of Call
15	10:53 AM	Mr. Jordan's office, [redacted]	Frank Carter's office, [redacted]	0:36
16	10:58 AM	President Clinton	Mr. Jordan's office, [redacted]	1:00
17	11:04 AM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:24
18	11:16 AM	Mr. Jordan	Ms. Lewinsky's pager; message reads: "PLEASE CALL MR. JORDAN AT [redacted]"	0:36
19	11:17 AM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	1:36
20	12:31 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	3:00
21	1:45 PM	President Clinton	Ms. Currie's residence, [redacted]	2:00
22	2:29 PM	Mr. Jordan's mobile phone, [redacted]	White House, [redacted]	2:00
23	2:46 PM	Frank Carter	Ms. Lewinsky's pager; message reads: "PLEASE CALL FRANK CARTER AT [redacted]"	N/A
24	4:31 PM	Mr. Jordan's office [redacted]	Ms. Currie's residence, [redacted]	1:42
25	4:53 PM	Mr. Jordan's office [redacted]	Frank Carter's residence, [redacted]	0:24
26	4:54 PM	Mr. Jordan's office, [redacted]	Frank Carter's office, [redacted]	4:00
27	4:58 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:12
28	4:59 PM	Mr. Jordan's office, [redacted]	Cheryl Mills, White House Counsel's office, [redacted]	0:42
29	5:00 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:18
30	5:00 PM	Mr. Jordan's office, [redacted]	Charles Ruff, White House Counsel, [redacted]	0:24
31	5:05 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:06

EXHIBIT
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TABLE 48 continued

No.	Time	Call From	Call To	Length of Call
32	5:05 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:18
33	5:05 PM	Mr. Jordan's office, [redacted]	White House, [redacted]	2:12
34	5:09 PM	Mr. Jordan's office, [redacted]	Cheryl Mills, White House Counsel's office, [redacted]	1:06
35	5:14 PM	Mr. Jordan's office, [redacted]	Frank Carter's office, [redacted]	8:24
36	5:22 PM	Mr. Jordan's office, [redacted]	Bruce Lindsey, White House, [redacted]	0:06
37	5:22 PM	Mr. Jordan's office, [redacted]	Cheryl Mills, White House Counsel's office, [redacted]	0:18
38	5:55 PM	Mr. Jordan's office, [redacted]	Ms. Currie's residence, [redacted]	0:24
39	5:56 PM	President Clinton	Mr. Jordan's office, [redacted]	7:00
40	6:04 PM	Mr. Jordan's office, [redacted]	Ms. Currie's residence, [redacted]	3:00
41	6:26 PM	Mr. Jordan's office, [redacted]	Stephen Goodin, White House, [redacted]	0:42

Source Documents

Calls 1, 2, 3, 4, 5, 7, 9, 12, 18, and 23:	831-DC-00000009 (Pagemart)
Calls 6 and 8:	V006-DC-00002069 (Presidential call log)
Call 10:	1178-DC-00000023 (Presidential call log)
Calls 11, 12, 13, 14, 15, 17, 19, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37:	V004-DC-00000165 (Akin, Gump, Strauss, Hauer & Feld call log)
Call 16, 39:	1248-DC-00000319 (Presidential call log)
Calls 20 and 22:	1033-DC-00000035 (Bell Atlantic Mobile toll records)

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
JAN 29 1998
JAMES W. McCORMACK, CLERK
By: DEP CLERK

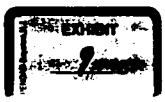
IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

PAULA CORBIN JONES, Plaintiff,	*	
vs.	*	No. LR-C-94-290
WILLIAM JEFFERSON CLINTON and DANNY FERGUSON, Defendants.	*	

ORDER

Before the Court is a motion by the United States, through the Office of the Independent Counsel ("OIC"), for limited intervention and a stay of discovery in the case of *Jones v. Clinton*, No. LR-C-94-290 (E.D.Ark.). The Court held a telephone conference on this motion on the morning of January 29, 1998, during which the views of counsel for the plaintiff, counsel for the defendants, and the OIC were expressed. Having considered the matter, the Court hereby grants in part and denies in part OIC's motion.

In seeking limited intervention and a stay of discovery, OIC states that counsel for the plaintiff, in a deliberate and calculated manner, are shadowing the grand jury's investigation of the Monica Lewinsky matter. Motion of OIC, at 2. OIC states that "the pending criminal investigation is of such gravity and paramount importance that this Court would do a disservice to the Nation if it were to permit the unfettered – and extraordinarily aggressive – discovery



efforts currently underway to proceed unabated." *Id.* at 3.[1] OIC's motion comes with less than 48 hours left in the period for conducting discovery, the cutoff date being January 30, 1998. Given the timing of OIC's motion and the possible impact that this motion could have on the proceedings in this matter, the Court is required to rule at this time on the admissibility at trial of evidence concerning Monica Lewinsky.

Rule 403 of the Federal Rules of Evidence provides that evidence, although relevant, "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." This weighing process compels the conclusion that evidence concerning Monica Lewinsky should be excluded from the trial of this matter.

The Court acknowledges that evidence concerning Monica Lewinsky might be relevant to the issues in this case. This Court would await resolution of the criminal investigation currently underway if the Lewinsky evidence were essential to the plaintiff's case. The Court determines, however, that it is not essential to the core issues in this case. In fact, some of this evidence might even be inadmissable as extrinsic evidence under Rule 608(b) of the Federal Rules of Evidence. Admitting <u>any</u> evidence of the Lewinsky matter would frustrate the timely resolution of this case and would undoubtedly cause undue expense and delay.

This Court's ruling today does not preclude admission of any other evidence of alleged improper conduct occurring in the White House.

---

[1] For the record, counsel for the plaintiff take great issue with OIC's characterization of their discovery efforts.

In addition, and perhaps more importantly, the substantial interests of the Presidency militate against any undue delay in this matter that would be occasioned by allowing plaintiff to pursue the Monica Lewinsky matter. Under the Supreme Court's ruling in *Clinton v. Jones*, 117 S.Ct. 1636, 1651 (1997), "[t]he high respect that is owed to the Office of the Chief Executive ... is a matter that should inform the conduct of the entire proceeding, including the timing and scope of discovery." There can be no doubt that a speedy resolution of this case is in everyone's best interests, including that of the Office of the President, and the Court will therefore direct that the case stay on course.

One final basis for the Court's ruling is the integrity of the criminal investigation. This Court must consider the fact that the government's proceedings could be impaired and prejudiced were the Court to permit inquiry into the Lewinsky matter by the parties in this civil case. *See, e.g., Arden Way Associates v. Ivan F. Boesky*, 660 F.Supp. 1494 (S.D.N.Y. 1987). In that regard, it would not be proper for this Court, given that it must generally yield to the interests of an ongoing grand jury investigation, to give counsel for the plaintiff or the defendants access to witnesses' statements in the government's criminal investigation. *See* Fed.R.Crim.P. 16(a)(2), which generally prohibits the discovery of government witnesses. That being so, and because this case can in any event proceed without evidence concerning Monica Lewinsky, the Court will exclude evidence concerning her from the trial of this matter.

In sum, the plaintiff and defendants may not continue with discovery of those matters that concern Monica Lewinsky. In that regard, OIC's motion for limited intervention and stay of discovery is granted. Further, any evidence concerning Ms. Lewinsky shall be excluded

from the trial of this matter. With respect to matters that do not involve Monica Lewinsky, OIC's motion is denied and the parties may continue with discovery. Because the telephone conference underlying today's ruling involved a discussion of discovery matters, the transcript of the conference shall remain under seal in accordance with the Court's Confidentiality Order on Consent of all Parties.

IT IS SO ORDERED this 29th day of January 1998.

UNITED STATES DISTRICT JUDGE

THIS DOCUMENT ENTERED ON DOCKET SHEET IN COMPLIANCE WITH RULE 58 AND/OR 79(a) FRCP
ON 1/29/98 BY

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
DEC 17 1997
JAMES W. McCORMACK, CLERK
By _____ DEP CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

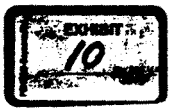
PAULA CORBIN JONES,	:	
Plaintiff,	:	CIVIL ACTION NO. LR-C-94-290
v.	:	Judge Susan Webber Wright
WILLIAM JEFFERSON CLINTON	:	(JURY TRIAL DEMANDED)
and	:	
DANNY FERGUSON,	:	
Defendants.	:	

ANSWER OF PRESIDENT WILLIAM JEFFERSON CLINTON TO THE FIRST AMENDED COMPLAINT

President William Jefferson Clinton, through his undersigned attorneys, answers the First Amended Complaint ("Amended Complaint") in the above-captioned matter as follows:

GENERAL DENIAL

The President adamantly denies the false allegations advanced in the Amended Complaint. Specifically, at no time did the President make sexual advances toward the plaintiff, or otherwise act improperly in her presence. At no time did the President threaten or intimidate the plaintiff. At no time did the President conspire to or sexually harass the plaintiff. At no time did the President conspire to or deprive the plaintiff of her constitutional rights. And at no time did the President act in a manner intended to, or which could, inflict emotional distress upon the plaintiff.



As Governor of Arkansas, Mr. Clinton never took any action or made any request of any state employee to interfere with or otherwise detract from plaintiff's advancement, promotion or job responsibilities. President Clinton also adamantly denies plaintiff's baseless allegations that he engaged in any pattern or practice of granting governmental or employment benefits to women in exchange for sexual favors. Such allegations are false, and have no relevance whatsoever to Plaintiff's claims concerning her alleged encounter with Governor Clinton. Plaintiff's Amended Complaint thus is simply a groundless attempt by Paula Jones and those who are financially supporting her to use the judicial system improperly to try to humiliate and embarrass the President.

SPECIFIC DENIALS

JURISDICTION

1. Paragraph 1 of the Amended Complaint states legal conclusions as to which no response is required.

VENUE

2. Paragraph 2 of the Amended Complaint states legal conclusions as to which no response is required.

THE PARTIES

3. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3, and therefore denies the same.

4. President Clinton admits he is a resident of Arkansas.

5. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5, and therefore denies the same.

FACTS

6. President Clinton admits that the Governor of Arkansas serves in the executive branch. Based on information and belief, he also admits that at some point in time plaintiff was an employee of the Arkansas Industrial Development Commission. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 6, and therefore denies the same.

7. Admitted.

8. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8, and therefore denies the same.

9. Based on information and belief, President Clinton admits that Danny Ferguson was a state trooper assigned to the Governor's security detail on or about May 8, 1991. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 9, and therefore denies the same.

10. President Clinton denies the allegations set forth in paragraph 10 to the extent they purport to allege that he requested to meet plaintiff in a suite at the Excelsior Hotel. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 10, and therefore denies the same.

11. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11, and therefore denies the same.

12. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12, and therefore denies the same.

13. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13, and therefore denies the same.

14. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 14.

15. While it was the usual practice to have a business suite available for the purpose of making calls and receiving visitors, President Clinton has no recollection of meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 15.

16. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 16.

17. President Clinton denies each and every allegation set forth in paragraph 17, except he admits that on or about May 8, 1991, David Harrington was Director of the Arkansas Industrial Development Commission, having been elevated to that position by Governor Clinton.

18. President Clinton denies each and every allegation set forth in paragraph 18.

19. President Clinton denies each and every allegation set forth in paragraph 19.

20. President Clinton denies each and every allegation set forth in paragraph 20.

21. President Clinton denies each and every allegation set forth in paragraph 21.

22. President Clinton denies each and every allegation set forth in paragraph 22.

23. President Clinton denies each and every allegation set forth in paragraph 23.

24. President Clinton denies each and every allegation set forth in paragraph 24.

25. President Clinton denies each and every allegation set forth in paragraph 25.

26. President Clinton denies each and every allegation set forth in paragraph 26.

27. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 27, and therefore denies the same.

28. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 28, and therefore denies the same.

29. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29, and therefore denies the same.

30. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He also denies making the statement attributed to him in paragraph 30. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 30, and therefore denies the same.

31. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 31, and therefore denies the same.

32. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 32, and therefore denies the same.

33. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 33, and therefore denies the same.

34. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 34 and therefore denies the same.

35. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 35, and therefore denies the same.

36. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36, and therefore denies the same.

37. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37, and therefore denies the same.

38. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. President Clinton does not recall ever meeting plaintiff, and therefore denies each and every allegation set forth in paragraph 38.

39. President Clinton denies that he engaged in any improper conduct with respect to plaintiff or any other woman. President Clinton further denies that he took any action against plaintiff to chill or squelch her communications in any way. President Clinton further denies that he discriminated against plaintiff or had a custom, habit, pattern or practice of improper conduct with respect to any other women. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 39, and therefore denies the same.

40. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 40, and therefore denies the same.

41. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41, and therefore denies the same.

42. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. To the extent the allegations set forth in paragraph 42 merely refer to or quote from the article in the American Spectator, attached as exhibit A to the Amended Complaint, no response is required.

43. President Clinton denies that he engaged in any improper conduct with respect to plaintiff or others. President Clinton further denies that the American Spectator article is accurate. To the extent the allegations set forth in paragraph 43 merely refer to or quote from the article in the American Spectator, attached as exhibit A to the Amended Complaint, no response is required.

44. President Clinton denies each and every allegation set forth in paragraph 44.

45. President Clinton denies that he engaged in any improper conduct with respect to plaintiff. He is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 45, and therefore denies the same.

46. President Clinton denies that he made sexual advances toward plaintiff. He also denies the quote attributed to him in paragraph 46. President Clinton is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 46, and therefore denies the same.

47. President Clinton denies each and every allegation in paragraph 47, except that he admits that a false article was published in the American Spectator, that plaintiff spoke publicly on February 11, 1994, and that representatives of plaintiff asked the President to acknowledge certain things which were untrue.

48. Based on information and belief, President Clinton admits that he and those acting on his behalf have denied plaintiff's allegations. Each and every other allegation set forth in paragraph 48 is denied.

49. Based on information and belief, President Clinton admits that his legal counsel made the statements set forth in paragraph 49. Each and every other allegation set forth in paragraph 49 is denied.

50. Based on information and belief, President Clinton admits that White House spokeswoman Dee Dee Meyers made the statement set forth in paragraph 50. Each and every other allegation set forth in paragraph 50 is denied. To the extent paragraph 50 states legal conclusions, no response is required.

51. President Clinton denies each and every allegation set forth in paragraph 51.

52. President Clinton admits that the general public reposes trust and confidence in the integrity of the holder of the office of the Presidency. Each and every other allegation set forth in paragraph 52 is denied.

53. President Clinton denies each and every allegation set forth in paragraph 53, except that he admits he was a member of the Arkansas State Bar on or about May 8, 1991. President Clinton also denies he was a partner at Wright, Lindsey & Jennings, but admits he formerly was Of Counsel to that firm. To the extent paragraph 53 states legal conclusions, no response is required.

54. President Clinton denies each and every allegation set forth in paragraph 54. To the extent paragraph 54 states legal conclusions, no response is required.

55. President Clinton denies each and every allegation set forth in paragraph 55. To the extent paragraph 55 states legal conclusions, no response is required.

56. President Clinton denies each and every allegation set forth in paragraph 56. To the extent paragraph 56 states legal conclusions, no response is required.

57. President Clinton denies each and every allegation set forth in paragraph 57.

Count I: Deprivation of Constitutional Rights and Privileges (42 U.S.C. § 1983)

58. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-57 as if fully set forth herein. President Clinton denies that he engaged in any improper conduct or deprived plaintiff of any constitutional right or privilege protected under 42 U.S.C. § 1983, and therefore denies each and every allegation set forth in paragraphs 58, 59, 60, 61, 62, 63, 64 and 65. To the extent plain-

tiff alleges due process violations, these claims were dismissed by the Court's Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent plaintiff alleges additional grounds for recovery, e.g., an alleged quid pro quo third party favoritism claim, an alleged hostile environment third party favoritism claim or a First Amendment claim, the Court rejected any separate cause of action for any such claims by Order dated November 24, 1997. Therefore, no response is required. To the extent paragraphs 58-65 state legal conclusions, no response is required.

Count II: Conspiracy To Deprive Persons of Equal Protection of the Laws (42 U.S.C. § 1985(3))

59. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-65 as if fully set forth herein. President Clinton denies that he engaged in a conspiracy to deprive plaintiff of any constitutionally protected right, and therefore denies the allegations set forth in paragraphs 66, 67, 68 and 69. To the extent plaintiff alleges due process violations, these claims were dismissed by the Court's Orders dated August 22, 1997 and November 24, 1997. Therefore, no response is required. To the extent paragraphs 66-69 state legal conclusions, no response is required.

Count III: Intentional Infliction of Emotional Distress and Outrage

60. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-69 as if fully set forth herein. President Clinton denies that he engaged

in any improper conduct with respect to plaintiff or any conduct intended to or which he knew was likely to inflict emotional distress upon plaintiff, and therefore denies the allegation of paragraphs 70, 71, 72, 73 and 74. To the extent paragraphs 70-74 state legal conclusions, no response is required.

Count IV: Declaratory Judgment

61. President Clinton repeats and realleges his answers to the allegations appearing in paragraphs 1-74 as if fully set forth herein. President Clinton denies all of the claims asserted in Counts I-III, and therefore denies the allegations appearing in paragraphs 75, 76 and 77(a)-(m). To the extent plaintiff seeks relief in the form of declaratory judgment, the Court by Order dated November 24, 1997 held that such request for relief shall have no effect. Therefore, no response is required. Moreover, to the extent plaintiff seeks declaratory judgment for alleged First Amendment violations, or for alleged violations of the Equal Protection Clause based on alleged quid pro quo third party favoritism or hostile environment third party favoritism, such claims have been rejected as separate causes of action by Order dated November 24, 1997. Therefore, no response is required. To the extent plaintiff seeks a declaratory judgment for alleged due process violations, such claims were dismissed by Orders dated August 22, 1997 and November 24 1997. Therefore, no response is required. To the extent plaintiff seeks a declaratory judgment for alleged violations of "28 U.S.C. § 1983" or "28 U.S.C. § 1985(3)," (paragraphs 77(c) & (g)) no

such provisions exist, and therefore no response is required. To the extent paragraphs 75-77(a)-(m) state legal conclusions, no response is required.

62. To the extent any allegation set forth in the Amended Complaint is not specifically answered above, it is hereby denied.

AS TO PLAINTIFF'S REQUEST FOR RELIEF

63. President Clinton denies that plaintiff is entitled to any relief whatsoever in connection with the Amended Complaint. To the extent plaintiff seeks to recover costs and attorney's fees and expenses "under 28 U.S.C. § 1988" this request must be rejected as no such provision awarding fees and costs exists.

AFFIRMATIVE DEFENSES

President Clinton alleges the following affirmative defenses to the allegations that he engaged in conduct violative of federal or state law.

FIRST AFFIRMATIVE DEFENSE

64. The Amended Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

65. Plaintiff's cause of action for intentional infliction of emotional distress is time-barred.

THIRD AFFIRMATIVE DEFENSE

66. Plaintiff's claims are barred because she did not incur any injury or damages cognizable at law.

FOURTH AFFIRMATIVE DEFENSE

67. Plaintiff's injuries and damages, if any, were caused by the acts of third persons, for which the President is not responsible.

FIFTH AFFIRMATIVE DEFENSE

68. Plaintiff's injuries and damages, if any, were caused by the acts of plaintiff and her representatives, for which the President is not responsible.

SIXTH AFFIRMATIVE DEFENSE

69. Plaintiff is not entitled to punitive damages under the applicable law.

* * *

Wherefore, President Clinton respectfully requests that the Amended Complaint be dismissed with prejudice and that this Court enter judgment in his favor and grant such other relief as the Court deems just and proper.

Respectfully submitted,

Robert S. Bennett, Esq.
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(501) 375-6453

Counsel to
President William J. Clinton

Dated: December 12, 1997

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of December, 1997, a true and correct copy of President Clinton's Answer to the First Amended Complaint was served via Federal Express and first class United States Mail postage prepaid to:

Bill W. Bristow, Esq.
216 East Washington
Jonesboro, Arkansas 72401

Donovan Campbell, Jr., Esq.
Rader, Campbell, Fisher & Pyke
Stemmons Place, Suite 1080
2777 Stemmons Freeway
Dallas, Texas 75207

Kathlyn Graves, Esq.

UNDER SEAL - RETURN TO VAULT

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNDER SEAL

Filed May 26, 1998

No. 98-3052

IN RE: SEALED CASE

Consolidated with
Nos. 98-3053 & 98-3059

Appeals from the United States District Court
for the District of Columbia
(98ms00068)

Nathaniel H. Speights filed the briefs for appellant Monica Lewinsky.

Charles J. Ogletree, Jr. filed the briefs for appellant Francis D. Carter, Esq.

Robert J. Bittman, Deputy Independent Counsel, filed the briefs for cross-appellant the United States.

Before: GINSBURG, RANDOLPH, and TATEL, *Circuit Judges*.

Opinion for the Court filed by *Circuit Judge* RANDOLPH.

RANDOLPH, *Circuit Judge*: In 1997, Monica S. Lewinsky, a former White House intern, received a subpoena to produce items and to testify in *Paula Jones v. William Jefferson Clinton*, a civil matter then pending in the United States District

Court for the Eastern District of Arkansas. The subpoena requested, among other things, documents relating to an alleged relationship between President Clinton and Lewinsky and any gifts the President may have given her. Lewinsky retained Francis D. Carter, Esq., to represent her regarding the subpoena.

Carter drafted an affidavit for Lewinsky, which she signed under penalty of perjury. The affidavit, submitted to the Arkansas district court as an exhibit to Lewinsky's motion to quash the subpoena, states in relevant part:

> I have never had a sexual relationship with the President, [and] he did not propose that we have a sexual relationship . . .. The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

On January 16, 1998, at the request of the Attorney General, a Special Division of this Court expanded the jurisdiction of the Office of Independent Counsel to include "authority to investigate . . . whether Monica Lewinsky or others suborned perjury, obstructed justice, intimidated witnesses, or otherwise violated federal law . . . in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case *Jones v. Clinton*." Order of the Special Division, Jan. 16, 1998. On February 2 and 9, 1998, as part of that investigation, a grand jury issued subpoenas to Carter, the first for documents and other items, the second for his testimony. Carter

moved to quash the subpoenas, contending, *inter alia*, that the documents, testimony, and other items sought were protected from disclosure by the attorney-client privilege, the work-product privilege, and Lewinsky's Fifth Amendment privilege against self-incrimination. Lewinsky, as the real-party-in-interest, filed a response in support of Carter's motion. The United States opposed the motion, arguing among other things that the crime-fraud exception vitiated any claims of attorney-client or work-product privilege and that the Fifth Amendment did not bar production of the requested materials. The district court ordered Carter to comply with the two grand jury subpoenas except to the extent that compliance would "call for him to disclose materials in his possession that may not be revealed without violating Monica S. Lewinsky's Fifth Amendment rights."

Carter and Lewinsky argue in separate appeals that the district court erred in rejecting their motions to quash the grand jury subpoenas in their entirety. In its cross-appeal, the United States, through the Office of Independent Counsel, claims that the Fifth Amendment does not bar production of any of the materials the grand jury subpoenaed from Carter.

We dismiss Carter's appeal for want of jurisdiction. Well-settled law dictates that "one to whom a subpoena is directed may not appeal the denial of a motion to quash that subpoena but must either obey its commands or refuse to do so and contest

the validity of the subpoena if he is subsequently cited for contempt on account of his failure to obey." *United States v. Ryan*, 402 U.S. 530, 532 (1971); *see Cobbledick v. United States*, 309 U.S. 323, 328 (1940); *In re Sealed Case*, 107 F.3d 46, 48 n.1 (D.C. Cir. 1997). Rather than risking contempt, Carter has sworn that he will comply with the subpoenas if ordered to do so.[1]

Our jurisdiction over Lewinsky's appeal is another matter. Lewinsky is the holder of the privilege. Given Carter's sworn declaration that he will give testimony if ordered, she is entitled to appeal the district court's ruling rejecting Carter's assertion of the privilege. *See In re Sealed Case*, 107 F.3d at 48 n.1.

The district court held that the crime-fraud exception to the attorney-client privilege applied. After reviewing the government's *in camera* submission, the court found that "Ms. Lewinsky consulted Mr. Carter for the purpose of committing perjury and obstructing justice and used the material he prepared for her for the purpose of committing perjury and obstructing justice."[2] Lewinsky tells us she could not have

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[1] In addition to adopting Lewinsky's arguments regarding the crime-fraud exception, Carter claims that the subpoenas are overbroad, unreasonable, and oppressive and that the district court's reliance on the Independent Counsel's *ex parte* submissions in enforcing the subpoenas violated due process. Contrary to Carter's contention, the issues he seeks to present are thus neither "virtually identical" to, nor "inextricably intertwined" with, those Lewinsky raises.

[2] The district court did not find, nor did the Independent Counsel suggest, any impropriety by Carter.

committed either crime: the government could not establish perjury because her denial of having had a "sexual relationship" with President Clinton was not "material" to the Arkansas proceedings within the meaning of 18 U.S.C. § 1623(a); and her affidavit containing this denial could not have constituted a "corrupt[] . . . endeavor[] to influence" the Arkansas district court within the meaning of 18 U.S.C. § 1503. Both of Lewinsky's propositions rely on the Arkansas district court's ruling on January 30, 1998, after Lewinsky had filed her affidavit, that although evidence concerning Lewinsky might be relevant, it would be excluded from the civil case under FED. R. EVID. 403 as unduly prejudicial, "not essential to the core issues in th[e] case," and to prevent undue delay resulting from the Independent Counsel's investigation.[3]

A statement is "material" if it "has a natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a [particular] determination." *United States v. Barrett*, 111 F.3d 947, 953 (D.C. Cir.), *cert. denied*, 118 S. Ct. 176 (1997). The "central object" of any materiality inquiry is "whether the misrepresentation or concealment was predictably capable of affecting, *i.e.*, had a

[3] Lewinsky does not appear to contest directly the district court's finding that she made one or more false statements in her sworn affidavit. Even so, we have independently reviewed the *in camera* materials considered by the district court and conclude that sufficient evidence existed to support the court's finding.

natural tendency to affect, the official decision." *Kungys v. United States*, 485 U.S. 759, 771 (1988). Lewinsky used the statement in her affidavit, quoted above, to support her motion to quash the subpoena issued in the discovery phase of the Arkansas litigation. District courts faced with such motions must decide whether the testimony or material sought is reasonably calculated to lead to admissible evidence and, if so, whether the need for the testimony, its probative value, the nature and importance of the litigation, and similar factors outweigh any burden enforcement of the subpoena might impose. *See* FED. R. CIV. P. 26(b)(1), 45(c)(3)(A)(iv); *Linder v. Department of Defense*, 133 F.3d 17, 24 (D.C. Cir. 1998); *see generally* 9A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2459 (2d ed. 1995). There can be no doubt that Lewinsky's statements in her affidavit were -- in the words of *Kungys v. United States* -- "predictably capable of affecting" this decision. She executed and filed her affidavit for this very purpose.

As to obstruction of justice, 18 U.S.C. § 1503 is satisfied whenever a person, with the "intent to influence judicial or grand jury proceedings," takes actions having the "natural and probable effect" of doing so. *United States v. Aguilar*, 515 U.S. 593, 600 (1995) (citations and quotation marks omitted); *see United States v. Russo*, 104 F.3d 431, 435-36 (D.C. Cir. 1997). Our review of the *in camera* materials on which the district court based its decision convinces us that the government sufficiently

established the elements of a violation of § 1503. That is, the government offered "evidence that if believed by the trier of fact would establish the elements of" the crime of obstruction of justice. *In re Sealed Case*, 107 F.3d at 50 (citation and quotation marks omitted); *see In re Sealed Case*, 754 F.2d 395, 399-400 (D.C. Cir. 1985) (same).

Lewinsky maintains that the district court erred in treating, as admissible for *in camera* review, transcripts of taped conversations between Lewinsky and Linda Tripp. She relies on the following statement in *United States v. Zolin*, 491 U.S. 554, 575 (1989): "the threshold showing to obtain *in camera* review may be met by using any relevant evidence, lawfully obtained, that has not been adjudicated to be privileged." *Zolin*, and the statement just quoted, dealt with a rather different problem than the one presented here. Sometimes a party seeking to overcome the privilege by invoking the crime-fraud exception asks the district court to examine *in camera* the privileged material to determine whether it provides evidence of a crime. The issue *Zolin* addressed is under what circumstances a district court should undertake such *in camera* review. *Zolin's* answer, as the quotation indicates, was that the court should do so only when there has been a threshold showing through evidence lawfully obtained. *See In re Grand Jury Proceedings*, 33 F.3d 342, 350 (4th Cir. 1994). In this case, the district court reviewed *in camera* not the allegedly

privileged material, but other evidence intended to establish that the crime-fraud exception applied. In any event, even if *Zolin* applied, Lewinsky gains nothing from the decision. She maintains that the Tripp tapes were not "lawfully obtained" and therefore should not have been considered *in camera*. But the government satisfied its burden wholly apart from the Tripp tapes. Other government evidence -- consisting of grand jury testimony and documents -- established that the crime-fraud exception applied. Because that other evidence, if believed by the trier of fact, combined with the circumstances under which Lewinsky retained Carter, would establish the elements of the crime-fraud exception, there is no reason for us to consider her arguments about the tapes.[4]

Lewinsky raises other objections to the district court's decision, including the argument that production of the subpoenaed materials would violate her Fifth Amendment privilege against self-incrimination. Our resolution of the cross-appeal,

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[4] Lewinsky's brief suggests, in a short passage, that other evidence obtained by the grand jury is tainted by the alleged illegality of the Tripp tapes. *United States v. Calandra*, 414 U.S. 338 (1974), refused to extend the exclusionary rule -- and hence doctrines such as the fruit-of-the-poisonous-tree -- to grand jury proceedings. No grand jury witness may refuse to answer questions on the ground that the questions are based on illegally obtained evidence. *See* 414 U.S. at 353-55. It follows that regardless of the legality of the Tripp tapes, the grand jury did not unlawfully obtain the other evidence presented to the district court *in camera*.

discussed next, disposes of that claim. As to the remainder of Lewinsky's arguments, we have accorded each of them full consideration and conclude that none has merit.[5]

This brings us to the Independent Counsel's cross-appeal. The district court ruled that compelling Carter to produce materials his client gave him would violate Lewinsky's Fifth Amendment privilege because it would compel her to admit the materials exist and had been in her possession. The Supreme Court foreclosed that line of reasoning in *Fisher v. United States*, 425 U.S. 391 (1976). Documents transferred from the accused to his attorney are "obtainable without personal compulsion on the accused," and hence the accused's "Fifth Amendment privilege is . . . not violated by enforcement of the [subpoena] directed toward [his] attorneys. This is true whether or not the Amendment would have barred a subpoena directing the [accused] to produce the documents while they were in his hands." *Id.* at 398, 397; *see also Couch v. United States*, 409 U.S. 322, 328 (1973).

Regardless whether Lewinsky herself would have been able to invoke her Fifth Amendment privilege, *but see Andresen v. Maryland*, 427 U.S. 463, 473-74 (1976), the district court's refusal to order full compliance with the subpoenas could be

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[5] In her reply brief, Lewinsky argues for first time that the district court should have permitted her to examine the material the court reviewed *in camera*. This argument comes too late to be considered. *See Rollins Envtl. Servs. (NJ) Inc. v. EPA*, 937 F.2d 649, 652 n.2 (D.C. Cir. 1991).

sustained only if the materials sought fell under a valid claim of attorney-client privilege. *See Fisher*, 425 U.S. at 403-05; *see also In re Feldberg*, 862 F.2d 622, 629 (7th Cir. 1988). But the district court held, correctly, that no valid attorney-client privilege existed. Under *Fisher*, the district court therefore should have denied the motions to quash in their entirety.[6]

Accordingly, we affirm in part and reverse in part the order of the district court and remand the case for proceedings consistent with this opinion. No. 98-3053 is dismissed. The mandate shall issue seven days after the date of this opinion. *See* FED. R. APP. P. 41(a); D.C. CIR. R. 41(a)(1); *Johnson v. Bechtel Assocs. Prof'l. Corp.*, 801 F.2d 412, 415 (D.C. Cir. 1986); *Public Citizen Health Research Group v. Auchter*, 702 F.2d 1150, 1159 n.31 (D.C. Cir. 1983).

So ordered.

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[6] As respondent in the cross-appeal, Carter makes additional arguments against the applicability of the crime-fraud exception. But because the only issue in the cross-appeal is the applicability of the Fifth Amendment, Carter may not use the cross-appeal to press arguments we will not consider in his direct appeal. *See Grimes v. District of Columbia*, 836 F.2d 647, 651-52 (D.C. Cir. 1988).

UNDER SEAL - RETURN TO VAULT

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

ATTACHED: Warning Order, Motion, Order on Costs

No. 98-3052 September Term, 1997

98ms00068

In re: Sealed Case, No. 98-3052

Consolidated with 98-3053, 98-3059

UNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT
FILED
MAY 26 1998
CLERK

BEFORE: Ginsburg, Randolph and Tatel, *Circuit Judges*

JUDGMENT

These causes came on to be heard on the record on appeal from the United States District Court for the District of Columbia and were argued by counsel. On consideration thereof, it is

ORDERED and **ADJUDGED**, by the Court, that the judgment of the District Court appealed from in these causes is hereby affirmed in part and reversed in part in Nos. 98-3052 and 98-3059, and the cases are remanded, and No. 98-3053 is dismissed, all in accordance with the opinion for the Court filed herein this date.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Linda Jones
Deputy Clerk

Date: May 26, 1998
Opinion for the Court filed by Circuit Judge Randolph.

AFFIDAVIT OF JANE DOE # 6

1. My name is Jane Doe #6 . I am 24 years old and currently reside at 700 New Hampshire Avenue, N.W., Washington D.C. 20037.

2. On December 19, 1997, I was served with a subpoena from the plaintiff to give a deposition and to produce documents in the lawsuit filed by Paula Corbin Jones against President William Jefferson Clinton and Danny Ferguson.

3. I can not fathom any reason that the plaintiff would seek information from me for her case.

4. I have never met Ms. Jones, nor do I have any information regarding the events she alleges occurred at the Excelsior Hotel on May 8, 1991 or any other information concerning any of the allegations in her case.

5. I worked at the White House in the summer of 1995 as a White House intern. Beginning in December, 1995, I worked in the Office of Legislative Affairs as a staff assistant for correspondence. In April, 1996, I accepted a job as assistant to the Assistant Secretary for Public Affairs at the U.S. Department of Defense. I maintained that job until December 26, 1997. I am currently unemployed but seeking a new job.

6. In the course of my employment at the White House I met President Clinton several times. I also saw the President at a number of social functions held at the White House. When I worked as an intern, he appeared at occasional functions attended by me and several other interns. The correspondence I drafted while I worked at the Office of Legislative Affairs was seen and edited by supervisors who either had the President's signature affixed by mechanism or, I believe, had the President sign the correspondence itself.

7. I have the utmost respect for the President who has always behaved appropriately in my presence.

8. I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship. I do not know of any

other person who had a sexual relationship with the President, was offered employment or other benefits in exchange for a sexual relationship, or was denied employment or other benefits for rejecting a sexual relationship. The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions.

9. Since I do not possess any information that could possibly be relevant to the allegations made by Paula Jones or lead to admissible evidence in this case, I asked my attorney to provide this affidavit to plaintiff's counsel. Requiring my deposition in this matter would cause disruption to my life, especially since I am looking for employment, unwarranted attorney's fees and costs, and constitute an invasion of my right to privacy.

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

Monica S. Lewinsky

MONICA S. LEWINSKY

849-DC-00000635

EXHIBIT 12

DISTRICT OF COLUMBIA, ss:

MONICA S. LEWINSKY, being first duly sworn on oath according to law, deposes and says that she has read the foregoing AFFIDAVIT OF JANE DOE # 6 by her subscribed, that the matters stated herein are true to the best of her information, knowledge and belief.

Monica S Lewinsky
MONICA S. LEWINSKY

SUBSCRIBED AND SWORN to before me this 7th day of January, 1998.

Kathleen M. Grimes
NOTARY PUBLIC, D.C.
My Commission expires: My commission expires August 31, 2008

849-DC-00000636

EXHIBIT 12

Paula Jones v. William Jefferson Clinton and Danny Ferguson
No. LR-C-94-290 (E.D. Ark.)

DEPOSITION OF WILLIAM JEFFERSON CLINTON

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -

(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;

(2) contact between any part of the person's body or an object and the genitals or anus of another person; or

(3) contact between the genitals or anus of the person and any part of another person's body.

"Contact" means intentional touching, either directly or through clothing.

849-DC-00000586

DEPOSITION EXHIBIT 1 Clinton HM

EXHIBIT 13

3-20

Andrew J. Scott
01/20/98 10:55:10 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: adam.carstens@mail.house.gov
Subject: DRUDGE-REPORT-EXCLUSIVE 1/18/98

SEX ---- LIES ---- Videotape?

At some point, whether now or after the historians get to him, this guy is going down.

---------- Forwarded by Andrew J. Scott/OMB/EOP on 01/20/98 10:54 AM ----------

drudge@drudgereport.com
01/17/98 11:27:00 PM

Record Type: Record

To: Andrew J. Scott@EOP
cc:
Subject: DRUDGE-REPORT-EXCLUSIVE 1/18/98

XXXXX DRUDGE REPORT XXXXX 06:11 UTC SUN JAN 18 1998 XXXXX

NEWSWEEK KILLS STORY ON WHITE HOUSE INTERN

BLOCKBUSTER REPORT: 23-YEAR OLD, FORMER WHITE HOUSE INTERN, SEX RELATIONSHIP WITH PRESIDENT

V006-DC-00003772

World Exclusive
Must Credit the DRUDGE REPORT

At the last minute, at 6 p.m. on Saturday evening, NEWSWEEK magazine killed a story that was destined to shake official Washington to its foundation: A White House intern carried on a sexual affair with the President of the United States!

The DRUDGE REPORT has learned that reporter Michael Isikoff developed the story of his career, only to have it spiked by top NEWSWEEK suits hours before publication. A young woman, 23, sexually involved with the love of her life, the President of the United States, since she was a 21-year-old intern at the White House. She was a frequent visitor to a small study just off the Oval Office where she claims to have indulged the president's sexual preference. Reports of the relationship spread in White House quarters and she was moved to a job at the Pentagon, where she worked until last week.

HB 004684

EXHIBIT
19

The young intern wrote long love letters to President Clinton, which she delivered through a delivery service. She was a frequent visitor at the White House after midnight, where she checked in the WAVE logs as visiting a secretary named Betty Curry, 57.

The DRUDGE REPORT has learned that tapes of intimate phone conversations exist.

The relationship between the president and the young woman become strained when the president believed that the young woman was bragging to others about the affair.

NEWSWEEK and Isikoff were planning to name the woman. Word of the story's impeding release caused blind chaos in media circles; TIME magazine spent Saturday scrambling for its own version of the story, the DRUDGE REPORT has learned. The NEW YORK POST on Sunday was set to front the young intern's affair, but was forced to fall back on the dated ABC NEWS Kathleen Willey break.

The story was set to break just hours after President Clinton testified in the Paula Jones sexual harassment case.

Ironically, several years ago, it was Isikoff that found himself in a shouting match with editors who were refusing to publish even a portion of his meticulously researched investigative report that was to break Paula Jones. Isikoff worked for the WASHINGTON POST at the time, and left shortly after the incident to build them for the paper's sister magazine, NEWSWEEK.

Michael Isikoff was not available for comment late Saturday. NEWSWEEK was on voice mail.

The White House was busy checking the DRUDGE REPORT for details.

Developing...

Filed by Matt Drudge
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FROM ATTORNEY/SENDER: T. Wesley Holmes 1408-DC-00000005

COMMENTS:

EXHIBIT
15

THE WHITE HOUSE
WASHINGTON

September 4, 1998

Via Hand Delivery

Julie Corcoran, Esq.
Office of the Independent Counsel
Suite 490 North
1001 Pennsylvania Ave, N.W.
Washington, D.C. 20004

Dear Julie:

I am enclosing additional documents from the Counsel's Office that are responsive to your Subpoena D1512. These documents bear bates numbers S 020780 – S020799. As you and Mr. Crane know, a number of the individuals who may have responsive documents are on vacation or are travelling with the President. I will attempt to gather and produce any remaining documents responsive to this request early next week. Mr. Crane asked specifically about documents from Ms. Lewis. She is out of the Office, but her staff has indicated she has no responsive documents. I will confirm this with her when she returns.

I trust that your office will treat the enclosed information as confidential and entitled to all protection accorded by law, including Federal Rule of Criminal Procedure 6(e), to documents subpoenaed by a federal grand jury. If you have any questions, I can be reached at (202) 456-7804.

Sincerely,

Michelle Peterson
Associate Counsel to the President

Enclosures

1512-DC-00000018

Talking Points
January 24, 1998

Q: Given all the events of the last week, don't you believe the President owes the American people an explanation of his relationship and activities with respect to Ms. Lewinsky?

A: The President has given the American people the answer to the most important questions: he did not have a sexual relationship with Ms. Lewinsky and he never asked anyone to do anything but tell the truth. There is an investigation on-going and the President is cooperating with that investigation. However, given the climate and types of investigative techniques being used, it is only when the investigation has concluded and the President has been exonerated, that he can address the specific questions you may have.

Q: There are reports that Ms. Lewinsky has been granted full immunity by Mr. Starr in exchange for testimony that she had oral sex with the President, but that he did not tell her to lie or try to suborn perjury. Does the President deny her testimony?

A: If those reports are true, then he certainly denies that he ever had oral sex with Ms. Lewinsky.

Q: What acts does the President believe constitute a sexual relationship?

A: I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.

Q: Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?

A: Of course it would.

Q: Would touching designed to bring about an orgasm constitute a sexual relationship?

A: Look, I'm not going down this road because soon you'll be asking me whether hugging someone is constitutes sex and the President will be having sex with everyone in America.

Q: When do you expect the President to explain or at least describe the nature of his relationship with Ms. Lewinsky?

A: I don't know, but let's remember: the President has answered the important questions about Ms. Lewinsky -- that he did not have a sexual relationship with her and that he did not ask her to lie. And, he will cooperate with the on-going investigation as it moves forward.

1512-DC-00000037

S 02079

Q: In light of the gifts they reportedly exchanged with one another, and reports of telephone calls and letters, would you at least describe the President's relationship with Ms. Lewinsky as a friendship?

A: I'm sure they had a friendly relationship.

Q: What was the nature of Ms. Lewinsky's relationship with Ms. Currie and how frequently did she see her?

A: We're not going to get in the business of addressing some but not other questions. There is an on-going investigation and given the types of investigative techniques, we simply will not be in a position to address these questions until it is complete.

REDACTED

1512-DC-00000038

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Los Angeles Times
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Sunday, January 25, 1998

National Desk

CLINTON UNDER FIRE Clinton Enlists Kantor, Offers Specific Denial

ELIZABETH SHOGREN; RICHARD A. SERRANO; DAVID WILLMAN
TIMES STAFF WRITERS

WASHINGTON -- President Clinton stepped up his defense against allegations of sexual misconduct, recruiting veteran political warrior and longtime advisor Mickey Kantor to become his personal counsel and signing off Saturday on a set of "talking points" for aides that significantly amplify his denial of a sexual relationship with a White House intern.

The president "certainly denies that he ever had oral sex" with 24-year-old former intern Monica S. Lewinsky, according to the memo to be used by his defenders. Lewinsky herself, in a sworn statement, has denied having a sexual relationship with Clinton. In telephone conversations secretly tape-recorded by a friend, however, Lewinsky reportedly said they had oral sex. The president's previous denials were viewed by some as being worded artfully so that they might exclude oral sex.

Approval of the talking points may be an early sign of the counterattack that some Clinton advisors hope Kantor will help the White House launch after a week of near-paralysis.

Kantor, who began helping the White House late Friday and continued to meet with aides there on Saturday, played a key role in devising the response that saved Clinton's 1992 bid for the presidency when nightclub singer Gennifer Flowers accused the then-Arkansas governor of sexual impropriety. And it is Kantor's political savvy, more than his legal expertise, that will be tested now.

In the tumultuous week since independent counsel Kenneth W. Starr began investigating claims that Lewinsky was involved sexually with Clinton, the White House has seen its position steadily erode. Aides, hobbled by legal concerns and unsure about the facts, have been unable to counterattack.

And, as senior administration officials noted bitterly on Saturday, efforts to persuade congressional or other prominent Democrats to speak out for Clinton have almost uniformly failed.

Indeed, Clinton's own former chief of staff, Leon E. Panetta, publicly suggested it might be best for Vice President Al Gore to take over if the allegations prove true.

What Other Developments Disclose

Against this darkening background, there were these other developments:

* Lewinsky's lawyer, William Ginsburg, said negotiations with Starr's office are at a standstill. Ginsburg demanded "complete immunity" from prosecution before Lewinsky will cooperate with the investigation into possible perjury, obstruction of justice or other criminal wrongdoing by Clinton.

"That's my line in the sand," he said.

* New excerpts of Linda Tripp's tapes of Lewinsky, released by Newsweek magazine, show the two women discussing Lewinsky's plan to lie about her relations with Clinton, as well as pressures she was under to cover it up.

* Television film was unearthed showing Clinton surrounded by voters at an outdoor rally in November 1996, with a broadly smiling Lewinsky standing right in front of him and then leaning forward for a presidential embrace.

* After a debate over tactics, the White House decided not to avoid today's television talk shows but instead to send three politically oriented aides, Rahm Emanuel, Paul Begala and Ann Lewis, before the cameras to defend the president.

The decision to bring Kantor onto the team reflected a realization by Clinton and his inner circle that events, and with them public opinion, were outrunning their efforts to protect themselves.

Not only was almost no prominent figure rising vigorously to the president's defense, but the torrent of leaks about the supposed nature of Clinton's alleged relationship with Lewinsky was so shocking that by Saturday, talk of impeachment and resignation was commonplace. "There's nobody for him," one veteran Democratic operative said, reflecting the pervasive gloom. "Even Nixon had a few people for him at the end."

Tacitly acknowledging the downward slide and the difficulty in arresting it, Rep. Charles B. Rangel (D-N.Y.) said: "When the president has not more vigorously challenged those who make these allegations but speaks in terms of legal jargon, it creates a bad situation."

Said a senior administration official: "We are dealing with a rapidly moving legal situation caused by an extremely aggressive independent counsel. To some extent, the press is moving this

story faster than it is possible for us to respond to."

It was not just the speed of press revelations that hampered the White House.

While his lawyers urged caution from the beginning, Clinton's political advisors, at first, argued for prompt disclosure of all the facts--taking it for granted that Clinton, as he had so often in the past, could make his case successfully to the public.

Only gradually have some senior aides come to realize that such a press conference or other public appearance might not be feasible.

"The political people are catching up with the legal people about the facts, and they recognize that the facts may be such that it would be better to wait and see what develops before he goes out" in public, one senior official said later Saturday.

The talking points represented a middle ground.

Members of the White House staff had been working for several days to draft the detailed set of authorized answers administration officials and other defenders could give to questions about the matter

In general, they affirm the president's contention that "there was no improper relationship" with Lewinsky. But they deal specifically with oral sex because some skeptics have suggested Clinton, in effect, had his fingers crossed in his earlier denials because--it was suggested--he does not believe having oral sex constitutes a sexual relationship.

Bringing Kantor aboard, as Clinton did with a face-to-face appeal at the White House, is seen by some aides as an even more important sign that the White House is finally beginning to marshal its resources.

"They trust and like him on a personal level and know that he is savvy. He's been there for the president for most of his political life," a knowledgeable official said.

Moreover, making Kantor a personal lawyer instead of a White House aide helps the Clintons deal with another problem: Legally, members of the White House staff can be compelled to reveal what they have heard from the president, even if the aides are lawyers.

Thus, at least some senior aides have been reluctant to talk candidly with Clinton for fear they might be subpoenaed by Starr. And Clinton's legal team, though protected by lawyer-client privilege, lacks the political experience to advise him on that aspect of the issue.

EXHIBIT 72

Kantor, as a private lawyer with years of political experience, can bridge the gap.

Whether Kantor can find a rabbit in the hat again remains to be seen, but by Saturday night the mood inside the White House was more hopeful.

"I've had a lot of experience with these kinds of things, and this is one of the nastiest " an advisor said, but "I think we're going forward now, and forward direction is a lot better."

Talks Stalled, Lawyer for Lewinsky Says

Ginsburg, Lewinsky's lawyer said negotiations with the independent counsel's office are stalled, though he has continued to seek ways to restart the talks.

If his client does not receive "complete immunity," he said, she will exercise her 5th Amendment protection against self-incrimination if called before a federal grand jury Tuesday, as she is scheduled to do.

"The clock is ticking," Ginsburg said. " . . . But I need a promise not to prosecute."

For his part, the independent counsel appeared unwilling to yield on his demand that Lewinsky submit a detailed proffer, summarizing what she is willing to say under oath before immunity is promised.

"There has been no deal," said one source. We're not on the same page."

Ginsburg said he believes Starr's office is hesitant about granting her immunity because of earlier problems with potential prosecution witnesses in the past.

Ginsburg pointed to former Department of Justice official and Clinton confidant Webster L. Hubbell and former Whitewater real estate partner Susan McDougal, both of whom initially agreed to help Starr's office, but in the end did not present damaging testimony against Clinton.

"Starr and his office are afraid that they will be burned thrice," Ginsburg said. "Webb Hubbell and Susan McDougal went south, or sour, on him and did not participate. So he is concerned that he will get burned again."

Attorney Describes Apartment Search

Ginsburg described in detail a search and seizure of Lewinsky's property from her Watergate apartment on Thursday. He said the search, to which Lewinsky voluntarily consented, lasted two hours. Lewinsky and her mother were both present.

"The federal agents knocked on the door and the girls said, 'Good morning,' and they had coffee and cakes laid out," he said. "They [the agents] were very courteous. They went room by room, and they didn't tear anything apart."

Taken were her computer, several dresses and at least one dark-colored pantsuit. Also seized were gifts Lewinsky allegedly had received from the president and other White House staffers, such as a T-shirt, a hatpin and a book of Walt Whitman poetry. s Regarding the dresses, Ginsburg said he assumed that agents were looking for any signs of Clinton's semen. There has been speculation that semen on Lewinsky's clothing could be used to establish a DNA link to Clinton.

Ginsburg said he had no knowledge of any stained dresses.

"I'm not aware of it," he said. "And if such a thing existed, you wouldn't think my client would have had her dress cleaned after she had sex?"

The lawyer also sharply denied reports that he and Lewinsky turned down an offer of immunity from Starr's office shortly after she was confronted with the tape-recordings at a meeting at the Ritz-Carlton hotel in Arlington, Va.

Meanwhile, Ginsburg said Lewinsky continues to be racked by the allegations surrounding her, and that she also feels betrayed by Tripp, the friend who made the tape recordings.

"Monica's agenda is to unruin her life, to bring it into equilibrium and balance again, and to avoid a felony conviction and avoid jail."

Regarding Tripp, Ginsburg said: "Monica is angry. She feels betrayed. She doesn't understand, nor do I. What did Linda Tripp get? What's her motive?"

*

Times staff writers Jack Nelson, Jonathan Peterson, Alan C. Miller, Jane Hall and Richard T. Cooper contributed to this story.

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

PHOTO: President Clinton hugs a woman identified as Monica S. Lewinsky during a rally in November 1996.; PHOTOGRAPHER: CNN

---- INDEX REFERENCES ----

KEY WORDS: CLINTON, BILL; LEWINSKY, MONICA S; KANTOR, MICKEY; PRESIDENT (U.S.); GOVERNMENT MISCONDUCT; UNITED STATES -- GOVERNMENT OFFICIALS; UNITED STATES -- GOVERNMENT EMPLOYEES;

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DAVID E. KENDALL
(202) 434-5145

November 27, 1998

The Honorable Henry J. Hyde
Chairman, Committee on the Judiciary
United States House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

By Hand

Dear Chairman Hyde:

We submit herewith responses by the President to the 81 requests for admission that we received on November 5, 1998.

In an effort to be of assistance to the Committee and to provide as much information as possible, we have treated your requests as questions and responded accordingly.

As you know, the President has answered a great many of these questions previously. Where that is the case, we have simply referenced the answers that have been previously given and, in some instances, supplemented those answers.

I want to emphasize again the point I made in the Preliminary Memorandum we submitted to the Committee more than two months ago: the President did not commit or suborn perjury, tamper with witnesses, obstruct justice or abuse power. As you know, we made two formal submissions to the Committee in September and one in October. We will be submitting a further memorandum on behalf of the President in the near future.

WILLIAMS & CONNOLLY

The Honorable Henry J. Hyde
November 27, 1998
Page 2

I will forward to you a sworn original of the responses before the end of the day.

Sincerely,

David E. Kendall

cc: The Honorable John Conyers, Jr.

RESPONSE OF WILLIAM J. CLINTON, PRESIDENT OF THE UNITED STATES, TO QUESTIONS SUBMITTED BY CONGRESSMAN HENRY HYDE, CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE

INTRODUCTORY STATEMENT

Set forth below are answers to the questions that you have asked me.

I would like to repeat, at the outset, something that I have said before about my approach to these proceedings. I have asked my attorneys to participate actively, but the fact that there is a legal defense to the various allegations cannot obscure the hard truth, as I have said repeatedly, that my conduct was wrong. It was also wrong to mislead people about what happened, and I deeply regret that.

For me, this long ago ceased to be primarily a legal or political issue and became instead a painful personal one, demanding atonement and daily work toward reconciliation and restoration of trust with my family, my friends, my Administration and the American people. I hope these answers will contribute to a speedy and fair resolution of this matter.

1. **Do you admit or deny that you are the chief law enforcement officer of the United States of America?**

Response to Request No. 1:

The President is frequently referred to as the chief law enforcement officer, although nothing in the Constitution specifically designates the President as such. Article II, Section 1 of the United States Constitution states that "[t]he executive Power shall be vested in a President of the United States of America," and the law enforcement function is a component of the executive power.

2. **Do you admit or deny that upon taking your oath of office that you swore you would faithfully execute the office of President of the United States, and would to the best of your ability, preserve, protect and defend the Constitution of the United States?**

Response to Request No. 2:

At my Inaugurations in 1993 and 1997, I took the following oath: "I do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

3. **Do you admit or deny that, pursuant to Article II, section 2 of the Constitution, you have a duty to "take care that the laws be faithfully executed?"**

Response to Request No. 3:

Article II, Section 3 (not Section 2), of the Constitution states that the President "shall take Care that the Laws be faithfully executed." and that is a Presidential obligation.

4. **Do you admit or deny that you are a member of the bar and officer of the court of a state of the United States, subject to the rules of professional responsibility and ethics applicable to the bar of that state?**

Response to Request No. 4:

I have an active license to practice law (inactive for continuing legal education purposes) issued by the Supreme Court of Arkansas. The license, No. 73017, was issued in 1973.

5. **Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, in a deposition conducted as part of a judicial proceeding in the case of *Jones v. Clinton* on January 17, 1998?**

Response to Request No. 5:

I took an oath to tell the truth on January 17, 1998, before my deposition in the Jones v. Clinton case. While I do not recall the precise wording of that oath, as I previously stated in my grand jury testimony on August 17, 1998, in taking the oath "I believed then that I had to answer the questions truthfully." App. at 458.[1]

6. Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, before a grand jury empanelled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit on August 17, 1998?

Response to Request No. 6:

As the August 17, 1998, videotape reflects, I was asked "Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?." and I answered, "I do."

7. Do you admit or deny that on or about October 7, 1997, you received a letter composed by Monica Lewinsky in which she expressed dissatisfaction with her search for a job in New York?

Response to Request No. 7:

At some point I learned of Ms. Lewinsky's decision to seek suitable employment in New York. I do not recall receiving a letter in which she expressed dissatisfaction about her New York job search. I understand Ms. Lewinsky has stated that she sent a note indicating her decision to seek employment in New York, but I do not believe she has said the note expressed dissatisfaction about her search for a job there. App. at 822-23 (grand jury testimony of Ms. Lewinsky).

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[1] Citations to "App." refer to the Appendices to the Office of Independent Counsel Referral to the United States House of Representatives, as published by the House Judiciary Committee. Citations to "Supp." refer to the Supplemental Materials to the Office of Independent Counsel Referral, as published by the House Judiciary Committee. Citations to "Dep." refer to my January 17, 1998, deposition testimony in the civil case, Jones v. Clinton, No. LR-C-94-290 (E.D. Ark.).

8. **Do you admit or deny that you telephoned Monica Lewinsky early in the morning on October 10, 1997, and offered to assist her in finding a job in New York?**

Response to Request No. 8:

I understand that Ms. Lewinsky testified that I called her on the 9th of October, 1997. App. at 823 (grand jury testimony of Ms. Lewinsky). I do not recall that particular telephone call.

9. **Do you admit or deny that on or about October 11, 1997, you met with Monica Lewinsky in or about the Oval Office dining room?**

10. **Do you admit or deny that on or about October 11, 1997, Monica Lewinsky furnished to you, in or about the Oval Office dining room, a list of jobs in New York in which she was interested?**

11. **Do you admit or deny that on or about October 11, 1997, you suggested to Monica Lewinsky that Vernon Jordan may be able to assist her in her job search?**

12. **Do you admit or deny that on or about October 11, 1997, after meeting with Monica Lewinsky and discussing her search for a job in New York, you telephoned Vernon Jordan?**

Response to Request Nos. 9, 10, 11 and 12:

At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997. Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1997, App. at 2594, and I may have seen her on that day.

I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).

I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified

that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).

13. **Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, a plan in which she would pretend to bring you papers with a work-related purpose, when in fact such papers had no work-related purpose, in order to conceal your relationship?**

14. **Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that Betty Currie should be the one to clear Ms. Lewinsky in to see you so that Ms. Lewinsky could say that she was visiting with Ms. Currie instead of with you?**

15. **Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that if either of you were questioned about the existence of your relationship you would deny its existence?**

19. **Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that she could say to anyone inquiring about her relationship with you that her visits to the Oval Office were for the purpose of visiting with Betty Currie or to deliver papers to you?**

Response to Request Nos. 13, 14, 15, and 19:

I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That continues to be my recollection today -- that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.

16. **Do you admit or deny that on or about December 6, 1997, you learned that Monica Lewinsky's name was on a witness list in the case of *Jones v. Clinton*?**

Response to Request No. 16:

As I stated in my August 17th grand jury testimony, I believe that I found out that Ms. Lewinsky's name was on a witness list in the Jones v. Clinton case late in the afternoon on the 6th of December, 1997. App. at 535.

17. Do you admit or deny that on or about December 17, 1997, you told Monica Lewinsky that her name was on the witness list in the case of *Jones v. Clinton*?

18. Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that the submission of an affidavit in the case of *Jones v. Clinton* might suffice to prevent her from having to testify personally in that case?

Response to Requests Nos. 17 and 18:

As I previously testified, I recall telephoning Ms. Lewinsky to tell her Ms. Currie's brother had died, and that call was in the middle of December. App. at 567. I do not recall other particulars of such a call, including whether we discussed the fact that her name was on the Jones v. Clinton witness list. As I stated in my August 17th grand jury testimony in response to essentially the same questions, it is "quite possible that that happened . . . . I don't have any memory of it, but I certainly wouldn't dispute that I might have said that [she was on the witness list]." App. at 567.

I recall that Ms. Lewinsky asked me at some time in December whether she might be able to get out of testifying in the Jones v. Clinton case because she knew nothing about Ms. Jones or the case. I told her I believed other witnesses had executed affidavits, and there was a chance they would not have to testify. As I stated in my August 17th grand jury testimony, "I felt strongly that . . . [Ms. Lewinsky] could execute an affidavit that would be factually truthful, that might get her out of having to testify." App. at 571. I never asked or encouraged Ms. Lewinsky to lie in her affidavit, as Ms. Lewinsky herself has confirmed. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).

19. For the Response to Request No. 19, see Response to Request No. 13 et al., supra.

20. Do you admit or deny that you gave false and misleading testimony under oath when you stated during your deposition in the case of *Jones v. Clinton* on January 17, 1998, that you did not know if Monica Lewinsky had been subpoenaed to testify in that case?

Response to Request No. 20:

It is evident from my testimony on pages 69 to 70 of the deposition that I did know on January 17, 1998, that Ms. Lewinsky had been subpoenaed in the Jones v. Clinton case. Ms. Jones' lawyer's question, "Did you talk to Mr. Lindsey about what action, if any, should be taken as a result of her being served with a subpoena?", and my response, "No," id. at 70, reflected my understanding that Ms. Lewinsky had been subpoenaed. That testimony was not false and misleading.

21. Do you admit or deny that you gave false and misleading testimony under oath when you stated before the grand jury on August 17, 1998, that you did know prior to January 17, 1998, that Monica Lewinsky had been subpoenaed to testify in the case of *Jones v. Clinton*?

Response to Request No. 21:

As my testimony on January 17 reflected, and as I testified on August 17, 1998, I knew prior to January 17, 1998, that Ms. Lewinsky had been subpoenaed to testify in Jones v. Clinton. App. at 487. That testimony was not false and misleading.

22. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding her moving to New York?

Response to Request No. 22:

When I met with Ms. Lewinsky on December 28, 1997, I knew she was planning to move to New York, and we discussed her move.

23. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House in which you suggested to her that she move to New York soon because by moving to New York, the lawyers representing Paula Jones in the case of *Jones v. Clinton* may not contact her?

Response to Request No. 23:

Ms. Lewinsky had decided to move to New York well before the end of December 1997. By December 28, Ms. Lewinsky had been subpoenaed. I did not suggest that she could avoid testifying in the Jones v. Clinton case by moving to New York.

24. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding gifts you had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*?

25. Do you admit or deny that on or about December 28, 1997, you expressed concern to Monica Lewinsky about a hatpin you had given to her as a gift which had been subpoenaed in the case of *Jones v. Clinton*?

Response to Request Nos. 24 and 25:

As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. at 495, but I do not know whether that conversation occurred on December 28, 1997, or earlier. Ibid. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had . . . ." App. at 495. I simply was not concerned about the fact that I had given her gifts. See App. at 495-98. Indeed, I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her. App. at 496.

26. Do you admit or deny that on or about December 28, 1997, you discussed with Betty Currie gifts previously given by you to Monica Lewinsky?

27. Do you admit or deny that on or about December 28, 1998, you requested, instructed, suggested to or otherwise discussed with Betty Currie that she take possession of gifts previously given to Monica Lewinsky by you?

Response to Request Nos. 26 and 27:

I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms.

Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. at 531.

28. Do you admit or deny that you had a telephone conversation on January 6, 1998, with Vernon Jordan during which you discussed Monica Lewinsky's affidavit, yet to be filed, in the case of *Jones v. Clinton*?

Response to Request No. 28:

White House records included in the OIC Referral reflect that I spoke to Mr. Jordan on January 6, 1998. Supp. at 1886. I do not recall whether we discussed Ms. Lewinsky's affidavit during a telephone call on that date.

29. Do you admit or deny that you had knowledge of the fact that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton* on January 7, 1998?

30. Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton*?

Response to Request Nos. 29 and 30:

As I testified to the grand jury, "I believe that [Mr. Jordan] did notify us" when she signed her affidavit. App. at 525. While I do not recall the timing, as I told the grand jury, I have no reason to doubt Mr. Jordan's statement that he notified me about the affidavit around January 7, 1998. Ibid.

31. Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that he was assisting Monica Lewinsky in finding a job in New York?

Response to Request No. 31:

I told the grand jury that I was aware that Mr. Jordan was assisting Ms. Lewinsky in her job search in connection with her move to New York. App. at 526. I have no recollection as to whether Mr. Jordan discussed it with me on or about January 7, 1998.

32. Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?

33. Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?

Response to Request Nos. 32 and 33:

I do not believe I saw this affidavit before my deposition, although I cannot be absolutely sure. The record indicates that my counsel had seen the affidavit at some time prior to the deposition. See Dep. at 54.

34. Do you admit or deny that you had knowledge that any facts or assertions contained in the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton* were not true?

40. Do you admit or deny that during your deposition in the case of *Jones v. Clinton* on January 17, 1998, you affirmed that the facts or assertions stated in the affidavit executed by Monica Lewinsky on January 7, 1998, were true?

Response to Request Nos. 34 and 40:

I was asked at my deposition in January about two paragraphs of Ms. Lewinsky's affidavit. With respect to Paragraph 6, I explained the extent to which I was able to attest to its accuracy. Dep. at 202-03.

With respect to Paragraph 8, I stated in my deposition that it was true. Dep. at 204. In my August 17th grand jury testimony, I sought to explain the basis for that deposition answer: "I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate." App. at 473.

35. Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?

36. Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?

Response to Request Nos. 35 and 36:

I know that Mr. Bennett saw Ms. Lewinsky's affidavit during the deposition because he read portions of it aloud at the deposition. See Dep. at 202. I do not recall whether I saw a copy of Ms. Lewinsky's affidavit during the deposition.

37. Do you admit or deny that on or about January 9, 1998, you received a message from Vernon Jordan indicating that Monica Lewinsky had received a job offer in New York?

Response to Request No. 37:

At some time, I learned that Ms. Lewinsky had received a job offer in New York. However, I do not recall whether I first learned it in a message from Mr. Jordan or whether I learned it on that date.

38. Do you admit or deny that between January 9, 1998, and January 15, 1998, you had a conversation with Erskine Bowles in the Oval Office in which you stated that Monica Lewinsky received a job offer and had listed John Hilley as a reference?

39. Do you admit or deny that you asked Erskine Bowles if he would ask John Hilley to give Ms. Lewinsky a positive job recommendation?

Response to Request Nos. 38 and 39:

As I testified to the grand jury, I recall at some point talking to Mr. Bowles "about whether Monica Lewinsky could get a recommendation that was not negative from the Legislative Affairs Office," or that "was at least neutral," although I am not certain of the date of the conversation. App. at 562-64. To suggest that I told Mr. Bowles that Ms. Lewinsky had received a job offer and had listed John Hilley as a reference is, as I testified, a "little bit" inconsistent with my memory. App. at 564. It is possible, as I also indicated, that she had identified Mr. Hilley as her supervisor on her resume and in that respect had already listed him as a reference. Ibid.

40. For the Response to Request No. 40, see Response to Request No. 34, et al., supra.

41. As to each, do you admit or deny that you gave the following gifts to Monica Lewinsky at any time in the past?

a. A lithograph
b. A hatpin
c. A large "Black Dog" canvas bag
d. A large "Rockettes" blanket
e. A pin of the New York skyline
f. A box of "cherry chocolates"
g. A pair of novelty sunglasses
h. A stuffed animal from the "Black Dog"
i. A marble bear's head
j. A London pin
k. A shamrock pin
l. An Annie Lennox compact disc
m. Davidoff cigars

Response to Request No. 41:

In my deposition in the Jones case, I testified that I "certainly . . . could have" given Ms. Lewinsky a hat pin and that I gave her "something" from the Black Dog. Dep. at 75-76. In my grand jury testimony, I indicated that in late December 1997, I gave Ms. Lewinsky a Canadian marble bear's head carving, a Rockettes blanket, some kind of pin, and a bag (perhaps from the Black Dog) to hold these objects. App. at 484-487. I also stated that I might have given her such gifts as a box of candy and sunglasses, although I did not recall doing so, and I specifically testified that I had given Ms. Lewinsky gifts on other occasions. App. at 487. I do not remember giving her the other gifts listed in Question 41, although I might have. As I have previously testified, I receive a very large number of gifts from many different people, sometimes several at a time. I also give a very large number of gifts. I gave Ms. Lewinsky gifts, some of which I remember and some of which I do not.

42. Do you admit or deny that when asked on January 17, 1998, in your deposition in the case of *Jones v. Clinton* if you had ever given gifts to Monica Lewinsky, you stated that you did not recall, even though you actually had knowledge of giving her gifts in addition to gifts from the "Black Dog"?

Response to Request No. 42:

In my grand jury testimony, I was asked about this same statement. I explained that my full response was "I don't recall. Do you know what they were?" By that answer, I did not mean to suggest that I did not recall giving gifts; rather, I meant that I did not recall what the gifts were, and I asked for reminders. See App. at 502-03.

43. Do you admit or deny that you gave false and misleading testimony under oath in your deposition in the case of *Jones v. Clinton* when you responded "once or twice" to the question "has Monica Lewinsky ever given you any gifts?"

Response to Request No. 43:

My testimony was not false and misleading. As I have testified previously, I give and receive numerous gifts. Before my January 17, 1998, deposition, I had not focused on the precise number of gifts Ms. Lewinsky had given me. App. at 495-98. My deposition testimony made clear that Ms. Lewinsky had given me gifts; at the deposition, I recalled "a book or two" and a tie. Dep. at 77. At the time, those were the gifts I recalled. In response to OIC inquiries, after I had had a chance to search my memory and refresh my recollection, I was able to be more responsive. However, as my counsel have informed the OIC, in light of the very large number of gifts I receive, there might still be gifts from Ms. Lewinsky that I have not identified.

44. Do you admit or deny that on January 17, 1998, at or about 5:38 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his home?

Response to Request No. 44:

I speak to Mr. Jordan frequently, so I cannot remember specific times and dates. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 17, 1998, at or about 5:38 p.m. App. at 2876.

45. Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home?

46. Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his office?

47. Do you admit or deny that on January 17, 1998, at or about 7:13 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home and asked her to meet with you the next day, Sunday, January 18, 1998?

Response to Request Nos. 45, 46 and 47:

According to White House records included in the OIC Referral, I placed a telephone call to Ms. Currie at her residence at 7:02 p.m. and spoke to her at or about 7:13 p.m. App. at 2877. I recall that when I spoke to her that evening, I asked if she could meet with me the following day. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's office on January 17, 1998, at or about 7:02 p.m. Ibid.

48. Do you admit or deny that on January 18, 1998, at or about 6:11 a.m., you learned of the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp?

Response to Request No. 48:

I did not know on January 18, 1998 that tapes existed of conversations between Ms. Lewinsky and Ms. Tripp recorded by Ms. Tripp. At some point on Sunday, January 18, 1998, I knew about the Drudge Report. I understand that, while the Report talked about tapes of phone conversations, it did not identify Ms. Lewinsky by name and did not mention Ms. Tripp at all. The Report did not state who the parties to the conversations were or who taped the conversations.

49. Do you admit or deny that on January 18, 1998, at or about 12:50 p.m., you telephoned Vernon Jordan at his home?

Response to Request No. 49:

According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 18, 1998, at or about 12:50 p.m. App. at 2878.

50. Do you admit or deny that on January 18, 1998, at or about 1:11 p.m., you telephoned Betty Currie at her home?

Response to Request No. 50:

According to White House records included in the OIC Referral, I telephoned Ms. Currie's residence on January 18, 1998, at or about 1:11 p.m. App. at 2878.

51. Do you admit or deny that on January 18, 1998, at or about 2:55 p.m., you received a telephone call from Vernon Jordan?

Response to Request No. 51:

According to White House records included in the OIC Referral, Mr. Jordan telephoned me from his residence on January 18, 1998, at or about 2:55 p.m. App. at 2879.

52. Do you admit or deny that on January 18, 1998, at or about 5:00 p.m., you had a meeting with Betty Currie at which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

a. "You were always there when she was there, right? We were never really alone."
b. "You could see and hear everything."
c. "Monica came on to me, and I never touched her right?"
d. "She wanted to have sex with me and I couldn't do that."

Response to Request No. 52:

When I met with Ms. Currie, I believe that I asked her certain questions, in an effort to get as much information as quickly as I could, and made certain statements, although I do not remember exactly what I said. See App. at 508.

Some time later, I learned that the Office of Independent Counsel was involved and that Ms. Currie was going to have to testify before the grand jury. After learning this, I stated in my grand jury testimony, I told Ms. Currie, "Just relax, go in there and tell the truth." App. at 591.

53. Do you admit or deny that you had a conversation with Betty Currie within several days of January 18, 1998, in which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

a. "You were always there when she was there, right? We were never really alone."
b. "You could see and hear everything."
c. "Monica came on to me, and I never touched her right?"
d. "She wanted to have sex with me and I couldn't do that."

Response to Request No. 53:

I previously told the grand jury that, "I don't know that I" had another conversation with Ms. Currie within several days of January 18, 1998, in which I made statements similar to those quoted above. "I remember having this [conversation] one time." App. at 592. I further explained, "I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think." App. at 593.

I understand that Ms. Currie has said a second conversation occurred the next day that I was in the White House (when she was). Supp. at 535-36, which would have been Tuesday, January 20, before I knew about the grand jury investigation.

54. Do you admit or deny that on January 18, 1998, at or about 11:02 p.m., you telephoned Betty Currie at her home?

Response to Request No. 54:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 18, 1998, at or about 11:02 p.m. App. at 2881.

55. Do you admit or deny that on Monday, January 19, 1998, at or about 8:50 a.m., you telephoned Betty Currie at her home?

Response to Request No. 55:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 8:50 a.m. App. at 3147.

56. Do you admit or deny that on Monday, January 19, 1998, at or about 8:56 a.m., you telephoned Vernon Jordan at his home?

Response to Request No. 56:

According to White House records included in the OIC Referral, I called Mr. Jordan's residence on January 19, 1998, at or about 8:56 a.m. App. at 2864.

57. Do you admit or deny that on Monday, January 19, 1998, at or about 10:58 a.m., you telephoned Vernon Jordan at his office?

Response to Request No. 57:

According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 10:58 a.m. App. at 2883.

58. Do you admit or deny that on Monday, January 19, 1998, at or about 1:45 p.m., you telephoned Betty Currie at her home?

Response to Request No. 58:

According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 1:45 p.m. App. at 2883.

59. Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., you met with individuals including Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, and Rahm Emanuel?

60. Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., at any meeting with Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, Rahm Emanuel, and others, you

discussed the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp, or any other matter related to Monica Lewinsky?

Response to Request Nos. 59 and 60:

I do not believe such a meeting occurred. White House records included in the OIC Referral indicate that Mr. Jordan entered the White House complex that day at 2:44 p.m. Supp. at 1995. According to Mr. Jordan's testimony, he and I met alone in the Oval Office for about 15 minutes. Supp. at 1763 (grand jury testimony of Vernon Jordan).

I understand that Mr. Jordan testified that we discussed Ms. Lewinsky at that meeting and also the Drudge Report, in addition to other matters. Supp. at 1763. Please also see my Response to Request No. 48, supra.

61. **Do you admit or deny that on Monday, January 19, 1998, at or about 5:56 p.m., you telephoned Vernon Jordan at his office?**

Response to Request No. 61:

According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 5:56 p.m. App. at 2883.

62. **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you stated that you rebuffed alleged advances from Monica Lewinsky and in which you made a statement similar to the following?: "Monica Lewinsky came at me and made a sexual demand on me."**

63. **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you made a statement similar to the following in response to a question about your conduct with Monica Lewinsky?: "I haven't done anything wrong."**

64. **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Erskine Bowles, Sylvia Matthews and John Podesta, in which you made a statement similar to the**

following?: "I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."

65. Do you admit or deny than on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you had never had an affair with Monica Lewinsky?

66. Do you admit or deny that on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you were not alone with Monica Lewinsky in the Oval Office, and that Betty Currie was either in your presence or outside your office with the door open while you were visiting with Monica Lewinsky?

67. Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you did not have an affair with Monica Lewinsky?

68. Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you had not asked anyone to change their story, suborn perjury or obstruct justice if called to testify or otherwise respond to a request for information from the Office of Independent Counsel or in any other legal proceeding?

Responses to Requests Nos. 62 – 68:

As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.

69. Do you admit or deny that on or about January 21, 1998, you and Richard "Dick" Morris discussed the possibility of commissioning a poll to determine public opinion following the *Washington Post* story regarding the Monica Lewinsky matter?

70. Do you admit or deny that you had a later conversation with Richard "Dick" Morris in which he stated that the polling results regarding the Monica Lewinsky matter suggested that the American people would forgive you for adultery but not for perjury or obstruction of justice?

71. Do you admit or deny that you responded to Richard "Dick" Morris's explanation of these polling results by making a statement similar to the following: "[w]ell, we just have to win, then"?

Response to Request Nos. 69, 70 and 71:

At some point after the OIC investigation became public, Dick Morris volunteered to conduct a poll on the charges reported in the press. He later called back. What I recall is that he said the public was most concerned about obstruction of justice or subornation of perjury. I do not recall saying, "Well, we just have to win then."

72. Do you admit or deny the past or present existence of or the past or present direct or indirect employment of individuals, other than counsel representing you, whose duties include making contact with or gathering information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 72:

I cannot respond to this inquiry because of the vagueness of its terms (e.g., "indirect," "potential," "could be involved"). To the extent it may be interpreted to apply to individuals assisting counsel, please see my responses to Request Nos. 73-75, infra. To the extent the inquiry addresses specific individuals, as in Request Nos. 73-75, infra, I have responded and stand ready to respond to any other specific inquiries.

73. Do you admit or deny having knowledge that Terry Lenzner was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 73:

My counsel stated publicly on February 24, 1998, that Mr. Terry Lenzner and his firm have been retained since April 1994 by two private law firms that represent me. It is commonplace for legal counsel to retain such firms to perform legal and appropriate tasks to assist in the defense of clients. See also Response to No. 72.

74. Do you admit or deny having knowledge that Jack Palladino was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 74:

My understanding is that during the 1992 Presidential Campaign, Mr. Jack Palladino was retained to assist legal counsel for me and the Campaign on a variety of matters arising during the Campaign. See also Response to No. 72.

75. Do you admit or deny having knowledge that Betsy Wright was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?

Response to Request No. 75:

Ms. Betsey Wright was my long-time chief of staff when I was Governor of Arkansas, and she remains a good friend and trusted advisor. Because of her great knowledge of Arkansas, from time to time my legal counsel and I have consulted with her on a wide range of matters. See also Response to No. 72.

76. Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in an interview with Roll Call, when you stated "Well, let me say, the relationship was not improper, and I think that's important enough to say. But because the investigation is going on and because I don't know what is out – what's going to be asked of me, I think I need to cooperate, answer the questions, but I think it's important for me to make it clear what is not. And then, at the appropriate time, I'll try to answer what is. But let me answer – it is not an improper relationship and I know what the word means."?

Response to Request No. 76:

The tape of this interview reflects that in fact I said: "Well, let me say the relationship's not improper and I think that's important enough to say . . ." With that revision, the quoted words accurately reflect my remarks. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, I misled people about this relationship, for which I have apologized.

77. **Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in the Oval Office during a photo opportunity, when you stated "Now, there are a lot of other questions that are, I think, very legitimate. You have a right to ask them; you and the American people have a right to get answers. We are working very hard to comply and get all the requests for information up here, and we will give you as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations. And that's not a dodge, that's really [what] I've – I've talked with [our] people. I want to do that. I'd like for you to have more rather than less, sooner rather than later. So we'll work through it as quickly as we can and get all those questions out there to you."?**

Response to Request No. 77:

I made this statement (as corrected), according to a transcript of a January 22, 1998 photo opportunity in the Oval Office. This statement was not false and misleading. It accurately represented my thinking.

78. **Do you admit or deny that you discussed with Harry Thomasson, prior to making public statements in response to questions asked by the press in January, 1998, relating to your relationship with Monica Lewinsky, what such statements should be or how they should be communicated?**

Response to Request No. 78:

Mr. Thomason was a guest at the White House in January 1998, and I recall his encouraging me to state my denial forcefully.

79. **Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "But I want to say one thing to the American people. I want you to listen to me. I'm going to say this again. I did not have sexual relations with that woman, Ms. Lewinsky?"**

Response to Request No. 79:

I made this statement on January 26, 1998, although not in response to any question. In referring to "sexual relations", I was referring to sexual

intercourse. See also App. at 475. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, answers like this misled people about this relationship, for which I have apologized.

80. Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "...I never told anybody to lie, not a single time. Never?"

Response to Request No. 80:

This statement was truthful: I did not tell Ms. Lewinsky to lie, and I did not tell anybody to lie about my relationship with Ms. Lewinsky. I understand that Ms. Lewinsky also has stated that I never asked or encouraged her to lie. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).

81. Do you admit or deny that you directed or instructed Bruce Lindsey, Sidney Blumenthal, Nancy Hernreich and Lanny Breuer to invoke executive privilege before a grand jury empanelled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit in 1998?

Response to Request No. 81:

On the recommendation of Charles Ruff, Counsel to the President, I authorized Mr. Ruff to assert the presidential communications privilege (which is one aspect of executive privilege) with respect to questions that might be asked of witnesses called to testify before the grand jury to the extent that those questions sought disclosure of matters protected by that privilege. Thereafter, I understand that the presidential communications privilege was asserted as to certain questions asked of Sidney Blumenthal and Nancy Hernreich. Further, I understand that, as to Mr. Blumenthal and Ms. Hernreich, all claims of official privilege were subsequently withdrawn and they testified fully on several occasions before the grand jury.

Mr. Lindsey and Mr. Breuer testified at length before the grand jury about a wide range of matters, but declined, on the advice of the White House Counsel, to answer certain questions that sought disclosure of discussions that they had with me and my senior advisors concerning, among other things, their legal advice as to the assertion of executive privilege. White House Counsel advised Mr. Lindsey and Mr. Breuer that these communications were protected by the attorney-

client privilege, as well as executive privilege. Mr. Lindsey also asserted my personal attorney-client privilege as to certain questions relating to his role as an intermediary between me and my personal counsel in the Jones v. Clinton case, a privilege that was upheld by the federal appeals court in the District of Columbia.

William J. Clinton
WILLIAM JEFFERSON CLINTON

Subscribed and sworn to before me
this 27th day of November, 1998.

Moira K. Ricketts
Notary Public
MOIRA K. RICKETTS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires February 28, 2003

1 full responsibility for it. It wasn't her fault, it was
2 mine. I do not believe that I violated the definition of
3 sexual relations I was given by directly touching those parts
4 of her body with the intent to arouse or gratify. And that's
5 all I have to say.
6 I think, for the rest, you know, you know what the
7 evidence is and it doesn't affect that statement.
8 Q Is it possible or impossible that your semen is on
9 a dress belonging to Ms. Lewinsky?
10 A I have nothing to add to my statement about it,
11 sir. You, you know whether -- you know what the facts are.
12 There's no point in a hypothetical.
13 Q Don't you know what the facts are also, Mr.
14 President?
15 A I have nothing to add to my statement, sir.
16 Q Getting back to the conversation you had with Mrs.
17 Currie on January 18th, you told her -- if she testified that
18 you told her, Monica came on to me and I never touched her,
19 you did, in fact, of course, touch Ms. Lewinsky, isn't that
20 right, in a physically intimate way?
21 A Now, I've testified about that. And that's one of
22 those questions that I believe is answered by the statement
23 that I made.
24 Q What was your purpose in making these statements to
25 Mrs. Currie, if they weren't for the purpose to try to

1 Do you recall meeting with him around January 23rd,
2 1998, a Friday a.m. in your study, two days after The
3 Washington Post story, and extremely explicitly telling him
4 that you didn't have, engage in any kind of sex, in any way,
5 shape or form, with Monica Lewinsky, including oral sex?
6 A I meet with John Podesta almost every day. I meet
7 with a number of people. The only thing I -- what happened
8 in the couple of days after what you did was revealed, is a
9 blizzard to me. The only thing I recall is that I met with
10 certain people, and a few of them I said I didn't have sex
11 with Monica Lewinsky, or I didn't have an affair with her or
12 something like that. I had a very careful thing I said, and
13 I tried not to say anything else.
14 And it might be that John Podesta was one of them.
15 But I do not remember this specific meeting about which you
16 asked, or the specific comments to which you refer. And --
17 Q You don't remember --
18 A -- seven months ago, I'd have no way to remember,
19 no.
20 Q You don't remember denying any kind of sex in any
21 way, shape or form, and including oral sex, correct?
22 A I remember that I issued a number of denials to
23 people that I thought needed to hear them, but I tried to be
24 careful and to be accurate, and I do not remember what I said
25 to John Podesta.

1 sexual relationship with Monica Lewinsky to those
2 individuals?
3 A I recall telling a number of those people that I
4 didn't have, either I didn't have an affair with Monica
5 Lewinsky or didn't have sex with her. And I believe, sir,
6 that -- you'll have to ask them what they thought. But I was
7 using those terms in the normal way people use them. You'll
8 have to ask them what they thought I was saying.
9 Q If they testified that you denied sexual relations
10 or relationship with Monica Lewinsky, or if they told us that
11 you denied that, do you have any reason to doubt them, in the
12 days after the story broke; do you have any reason to doubt
13 them?
14 A No. The -- let me say this. It's no secret to
15 anybody that I hoped that this relationship would never
16 become public. It's a matter of fact that it had been many,
17 many months since there had been anything improper about it,
18 in terms of improper contact. I --
19 Q Did you deny it to them or not, Mr. President?
20 A Let me finish. So, what -- I did not want to
21 mislead my friends, but I wanted to find language where I
22 could say that. I also, frankly, did not want to turn any of
23 them into witnesses, because I -- and, sure enough, they all
24 became witnesses.
25 Q Well, you knew they might be --

1 A And so --

2 Q -- witnesses, didn't you?

3 A And so I said to them things that were true about

4 this relationship. That I used -- in the language I used, I

5 said, there's nothing going on between us. That was true. I

6 said, I have not had sex with her as I defined it. That was

7 true. And did I hope that I would never have to be here on

8 this day giving this testimony? Of course.

9 But I also didn't want to do anything to complicate

10 this matter further. So, I said things that were true. They

11 may have been misleading, and if they were I have to take

12 responsibility for it, and I'm sorry.

13 Q It may have been misleading, sir, and you knew

14 though, after January 21st when the Post article broke and

15 said that Judge Starr was looking into this, you knew that

16 they might be witnesses. You knew that they might be called

17 into a grand jury, didn't you?

18 A That's right. I think I was quite careful what I

19 said after that. I may have said something to all these

20 people to that effect, but I'll also -- whenever anybody

21 asked me any details, I said, look, I don't want you to be a

22 witness or I turn you into a witness or give you information

23 that could get you in trouble. I just wouldn't talk. I, by

24 and large, didn't talk to people about this.

25 Q If all of these people -- let's leave out Mrs.

1 opposed to it, based on anything I knew, anyway.
2 Q. Well, have you ever given any gifts to
3 Monica Lewinsky?
4 A. I don't recall. Do you know what they
5 were?
6 Q. A hat pin?
7 A. I don't, I don't remember. But I
8 certainly, I could have.
9 Q. A book about Walt Whitman?
10 A. I give -- let me just say, I give people a
11 lot of gifts, and when people are around I give a lot
12 of things I have at the White House away, so I could
13 have given her a gift, but I don't remember a
14 specific gift.
15 Q. Do you remember giving her a gold broach?
16 A. No.
17 Q. Do you remember giving her an item that had
18 been purchased from The Black Dog store at Martha's
19 Vineyard?
20 A. I do remember that, because when I went on
21 vacation, Betty said that, asked me if I was going to
22 bring some stuff back from The Black Dog, and she
23 said Monica loved, liked that stuff and would like to
24 have a a piece of it, and I did a lot of Christmas
25 shopping from The Black Dog, and I bought a lot of

849-DC-00000426

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21

1 things for a lot of people, and I gave Betty a couple
2 of the pieces, and she gave I think something to
3 Monica and something to some of the other girls who
4 worked in the office. I remember that because Betty
5 mentioned it to me.
6 Q. What in particular was given to Monica?
7 A. I don't remember. I got a whole bag full
8 of things that I bought at The Black Dog. I went
9 there, they gave me some things, and I went and
10 purchased a lot at their store, and when I came back
11 I gave a, a big block of it to Betty, and I don't
12 know what she did with it all or who got what.
13 Q. But while you were in the store you did
14 pick out something for Monica, correct?
15 A. While I was in the store -- first of all,
16 The Black Dog sent me a selection of things. Then I
17 went to the store and I bought some other things,
18 t-shirts, sweatshirts, shirts. Then when I got back
19 home, I took out a thing or two that I wanted to
20 keep, and I took out a thing or two I wanted to give
21 to some other people, and I gave the rest of it to
22 Betty and she distributed it. That's what I remember
23 doing.
24 Q. Has Monica Lewinsky ever given you any
25 gifts?

1 A. Once or twice. I think she's given me a
2 book or two.
3 Q. Did she give you a silver cigar box?
4 A. No. 849-DC-00000428
5 Q. Did she give you a tie?
6 A. Yes, she has given me a tie before. I
7 believe that's right. Now, as I said, let me remind
8 you, normally when I.get these ties, I get ties, you
9 know, together, and then they're given to me later,
10 but I believe that she has given me a tie.
11 Q. Well, Mr. President, it's my understanding
12 that Monica Lewinsky has made statements to people,
13 and I'd like for you --
14 MR. BRISTOW: Object, object to the form of
15 the question. Counsel shouldn't testify, and when
16 you start out like that, it's obviously counsel
17 testifying. I don't think that's proper.
18 MR. BENNETT: Let me add to that, Your
19 Honor wouldn't permit me to make reference to this
20 affidavit, and I respect your ruling.
21 JUDGE WRIGHT: Let me, let me just make my
22 ruling. It is not appropriate for Counsel to make
23 comments about, about these things. I don't know
24 whether he was trying to do this to establish a good
25 faith basis for the next question or not, but it is

1 ever sent any letters from the Pentagon to Betty
2 Currie in the White House?
3 A. I don't know. You'd have to ask Betty
4 about that. It wouldn't surprise me but you'd have
5 to ask her.
6 Q. Did Betty Currie ever bring to you a
7 personal message from Monica Lewinsky that had been
8 delivered to Betty?
9 A. On a couple of occasions, Christmas card,
10 birthday card, like that.
11 Q. Do you remember anything that was written
12 in any of those?
13 A. No. Sometimes, you know, just either small
14 talk or happy birthday or sometimes, you know, a
15 suggestion about how to get more young people
16 involved in some project I was working on. Nothing
17 remarkable. I don't remember anything particular
18 about it.
19 Q. Are those kept somewhere?
20 A. I don't think so.
21 Q. What did you do with them after you were
22 done with them?
23 A. I think I discarded them. I normally do.
24 People send me personal notes and stuff like that. I
25 just throw them away.

849-DC-00000413

1 up to us?
2 MR. BENNETT: I've arranged for lunch, Your
3 Honor. We can have it -- I don't know if it's there
4 right now. We were thinking twelve-thirty, but
5 whatever --
6 JUDGE WRIGHT: That's great. That's
7 perfect.
8 MR. BENNETT: And we have a room set aside
9 for you and your law clerk where you can eat
10 privately, and we have a separate room for their side
11 of the table, and our side.
12 JUDGE WRIGHT: All right, let's take a ten
13 minute break. 849-DC-00000403
14 (Short recess.)
15 JUDGE WRIGHT: All right, Mr. Fisher, you
16 may resume.
17 MR. FISHER: Thank you, Your Honor.
18 Q. Mr. President, before the break, we were
19 talking about Monica Lewinsky. At any time were you
20 and Monica Lewinsky together alone in the Oval
21 Office?
22 A. I don't recall, but as I said, when she
23 worked at the legislative affairs office, they always
24 had somebody there on the weekends. I typically
25 worked some on the weekends. Sometimes they'd bring

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1 me things on the weekends. She -- it seems to me sh-
2 brought things to me once or twice on the weekends.
3 In that case, whatever time she would be in there,
4 drop it off, exchange a few words and go, she was
5 there. I don't have any specific recollections of
6 what the issues were, what was going on, but when the
7 Congress is there, we're working all the time, and
8 typically I would do some work on one of the days of
9 the weekends in the afternoon.
10 Q. So I understand, your testimony is that it
11 was possible, then, that you were alone with her, but
12 you have no specific recollection of that ever
13 happening?
14 A. Yes, that's correct. It's possible that
15 she, in, while she was working there, brought
16 something to me and that at the time she brought it
17 to me, she was the only person there. That's
18 possible.
19 Q. Did it ever happen that you and she went
20 down the hallway from the Oval Office to the private
21 kitchen? 849-DC-00000404
22 MR. BENNETT: Your Honor, excuse me, Mr.
23 President, I need some guidance from the Court at
24 this point. I'm going to object to the innuendo.
25 I'm afraid, as I say, that this will leak. I don't

1 kitchen, it's a little cubbyhole, and these guys keep
2 the door open. They come and go at will. Now that's
3 the factual background here.
4 Now, to go back to your question, my
5 recollection is that, that at some point during the
6 government shutdown, when Ms. Lewinsky was still an
7 intern but was working the chief staff's office
8 because all the employees had to go home, that she
9 was back there with a pizza that she brought to me
10 and to others. I do not believe she was there alone,
11 however. I don't think she was. And my recollection
12 is that on a couple of occasions after that she was
13 there but my secretary, Betty Currie, was there with
14 her. She and Betty are friends. That's my, that's
15 my recollection. And I have no other recollection of
16 that.
17 MR. FISHER: While I appreciate all of that
18 information, for the record I'm going to object.
19 It's nonresponsive as to the entire answer up to the
20 point where the deponent, said, "Now back to your
21 question."
22 Q. At any time were you and Monica Lewinsky
23 alone in the hallway between the Oval Office and this
24 kitchen area? 849-DC-00000409
25 A. I don't believe so, unless we were walking

1 back to the back dining room with the pizza. I just.
2 I don't remember. I don't believe we were alone in
3 the hallway, no.
4 Q. Are there doors at both ends of the
5 hallway?
6 A. They are, and they're always open.
7 Q. At any time have you and Monica Lewinsky
8 ever been alone together in any room in the White
9 House?
10 A. I think I testified to that earlier. I
11 think that there is a, it is -- I have no specific
12 recollection, but it seems to me that she was on duty
13 on a couple of occasions working for the legislative
14 affairs office and brought me some things to sign,
15 something on the weekend. That's -- I have a general
16 memory of that.
17 Q. Do you remember anything that was said in
18 any of those meetings?
19 A. No. You know, we just have conversation, I
20 don't remember.
21 Q. How long has Betty Currie been your
22 secretary?
23 A. Since I've been President.
24 Q. Did she also work with you in Arkansas?
25 A. Not when I was Governor. She worked in the

849-DC-00000410

1 inappropriate for counsel to comment, so I will
2 sustain the objection.
3 MR. FISHER: I understand.
4 Q. Did you have an extramarital sexual affair
5 with Monica Lewinsky?
6 A. No. 849-DC-00000429
7 Q. If she told someone that she had a sexual
8 affair with you beginning in November of 1995, would
9 that be a lie?
10 A. It's certainly not the truth. It would not
11 be the truth.
12 Q. I think I used the term "sexual affair."
13 And so the record is completely clear, have you ever
14 had sexual relations with Monica Lewinsky, as that
15 term is defined in Deposition Exhibit 1, as modified
16 by the Court?
17 MR. BENNETT: I object because I don't know
18 that he can remember --
19 JUDGE WRIGHT: Well, it's real short. He
20 can -- I will permit the question and you may show
21 the witness definition number one.
22 A. I have never had sexual relations with
23 Monica Lewinsky. I've never had an affair with her.
24 Q. Have you ever had a conversation with
25 Vernon Jordan in which Monica Lewinsky was

1 me things on the weekends. She -- it seems to me she
2 brought things to me once or twice on the weekends.
3 In that case, whatever time she would be in there,
4 drop it off, exchange a few words and go, she was
5 there. I don't have any specific recollections of
6 what the issues were, what was going on, but when the
7 Congress is there, we're working all the time, and
8 typically I would do some work on one of the days of
9 the weekends in the afternoon.
10 Q. So I understand, your testimony is that it
11 was possible, then, that you were alone with her, but
12 you have no specific recollection of that ever
13 happening?
14 A. Yes, that's correct. It's possible that
15 she, in, while she was working there, brought
16 something to me and that at the time she brought it
17 to me, she was the only person there. That's
18 possible.
19 Q. Did it ever happen that you and she went
20 down the hallway from the Oval Office to the private
21 kitchen? 849-DC-00000404
22 MR. BENNETT: Your Honor, excuse me, Mr.
23 President, I need some guidance from the Court at
24 this point. I'm going to object to the innuendo.
25 I'm afraid, as I say, that this will leak. I don't

1 question the predicates here. I question the good
2 faith of Counsel, the innuendo in the question.
3 Counsel is fully aware that Ms. Lewinsky has filed,
4 has an affidavit which they are in possession of
5 saying that there is absolutely no sex of any kind in
6 any manner, shape or form, with President Clinton,
7 and yet listening to the innuendo in the questions --
8 JUDGE WRIGHT: No, just a minute, let me
9 make my ruling. I do not know whether counsel is
10 basing this question on any affidavit, but I will
11 direct Mr. Bennett not to comment on other evidence
12 that might be pertinent and could be arguably
13 coaching the witness at this juncture. Now, I, Mr.
14 Fisher is an officer of this Court, and I have to
15 assume that he has a good faith basis for asking this
16 question. If in fact he has no good faith basis for
17 asking the question, he could later be sanctioned.
18 If you would like, I will be happy to review in
19 camera any good faith basis he might have.
20 MR. BENNETT: Well, Your Honor, with all
21 due respect, I would like to know the proffer. I'm
22 not coaching the witness. In preparation of the
23 witness for this deposition, the witness is fully
24 aware of Ms. Lewinsky's affidavit, so I have not told
25 him a single thing he doesn't know, but I think when

1 he asks questions like this where he's sitting on an
2 affidavit from the witness, he should at least have a
3 good faith proffer.
4 JUDGE WRIGHT: Now, I agree with you that
5 he needs to have a good faith basis for asking the
6 question.
7 MR. BENNETT: May we ask what it is, Your
8 Honor?
9 JUDGE WRIGHT: And I'm assuming that he
10 does, and I will be willing to review this in camera
11 if he does not want to reveal it to Counsel.
12 MR. BENNETT: Fine.
13 MR. FISHER: I would welcome an opportunity
14 to explain to the Court what our good faith basis is
15 in an in camera hearing.
16 JUDGE WRIGHT: All right.
17 MR. FISHER: I would prefer that we not
18 take the time to do that now, but I can tell the
19 Court I am very confident there is substantial
20 basis. 849-DC-00000406
21 JUDGE WRIGHT: All right, I'm going to
22 permit the question. He's an officer of the Court,
23 and as you know, Mr. Bennett, this Court has ruled on
24 prior occasions that a good faith basis can exist
25 notwithstanding the testimony of the witness, of the

1 do this, if this is ever used at trial, the Rules of
2 Evidence would apply, and as stated before, the Rules
3 of Evidence don't apply in this discovery
4 deposition. Go ahead.
5 Q. In paragraph eight of her affidavit, she
6 says this, "I have never had a sexual relationship
7 with the President, he did not propose that we have a
8 sexual relationship, he did not offer me employment
9 or other benefits in exchange for a sexual
10 relationship, he did not deny me employment or other
11 benefits for rejecting a sexual relationship."
12 Is that a true and accurate statement as
13 far as you know it?
14 A. That is absolutely true.
15 Q. Do you recall, do you recall --
16 MR. BENNETT: Your Honor, may I have this
17 appended as an exhibit to this deposition, please?
18 MR. FISHER: No objection, Your Honor.
19 JUDGE WRIGHT: All right, it may be.
20 MR. BENNETT: All right.
21 Q. Now you're aware, are you not, of the
22 allegations against you by Paula Corbin Jones in this
23 lawsuit; is that correct?
24 A. Yes, sir, I am.
25 Q. Mr. President, did you ever make any sexual

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BY MR. BITTMAN:
Q Good afternoon, Mr. President.
A Good afternoon, Mr. Bittman.
Q My name is Robert Bittman. I'm an attorney with the Office of Independent Counsel.
Mr. President, we are first going to turn to some of the details of your relationship with Monica Lewinsky that follow up on your deposition that you provided in the Paula Jones case, as was referenced, on January 17th, 1998.
The questions are uncomfortable, and I apologize for that in advance. I will try to be as brief and direct as possible.
Mr. President, were you physically intimate with Monica Lewinsky?
A Mr. Bittman, I think maybe I can save the -- you and the grand jurors a lot of time if I read a statement, which I think will make it clear what the nature of my relationship with Ms. Lewinsky was and how it related to the testimony I gave, what I was trying to do in that testimony. And I think it will perhaps make it possible for you to ask even more relevant questions from your point of view.
And, with your permission, I'd like to read that statement.
Q Absolutely. Please, Mr. President.
A When I was alone with Ms. Lewinsky on certain

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occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.
These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.
I regret that what began as a friendship came to include this conduct, and I take full responsibility for my actions.
While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.
I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term "sexual relations", as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses.

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[1] That. Mr. Bittman, is my statement.
[2] Q Thank you, Mr. President. And, with that, we would
[3] like to take a break.
[4] A Would you like to have this?
[5] Q Yes, please. As a matter of fact, why don't we
[6] have that marked as Grand Jury Exhibit WJC-1.
[7] (Grand Jury Exhibit WJC-1 was
[8] marked for identification.)
[9] THE WITNESS: So, are we going to take a break?
[10] MR. KENDALL: Yes. We will take a break. Can we
[11] have the camera off, now, please? And it's 1:14.
[12] (Whereupon, the proceedings were recessed from 1:14 p.m.
[13] until 1:30 p.m.)
[14] MR. KENDALL: 1:30, Bob.
[15] MR. BITTMAN: It's 1:30 and we have the feed with
[16] the grand jury.
[17] BY MR. BITTMAN:
[18] Q Good afternoon again, Mr. President.
[19] A Good afternoon, Mr. Bittman.
[20] (Discussion off the record.)
[21] BY MR. BITTMAN:
[22] Q Mr. President, your statement indicates that your
[23] contacts with Ms. Lewinsky did not involve any inappropriate,
[24] intimate contact.
[25] MR. KENDALL: Mr. Bittman, excuse me. The

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[1] witness –
[2] THE WITNESS: No, sir. It indicates –
[3] MR. KENDALL: The witness does not have –
[4] THE WITNESS: – that it did involve inappropriate
[5] and intimate contact.
[6] BY MR. BITTMAN:
[7] Q Pardon me. That it did involve inappropriate,
[8] intimate contact.
[9] A Yes, sir, it did.
[10] MR. KENDALL: Mr. Bittman, the witness – the
[11] witness does not have a copy of the statement. We just have
[12] the one copy.
[13] MR. BITTMAN: If he wishes –
[14] MR. KENDALL: Thank you.
[15] MR. BITTMAN: – his statement back?
[16] BY MR. BITTMAN:
[17] Q Was this contact with Ms. Lewinsky, Mr. President,
[18] did it involve any sexual contact in any way, shape, or form?
[19] A Mr. Bittman, I said in this statement I would like
[20] to stay to the terms of the statement. I think it's clear
[21] what inappropriately intimate is. I have said what it did
[22] not include. I – it did not include sexual intercourse, and
[23] I do not believe it included conduct which falls within the
[24] definition I was given in the Jones deposition. And I would
[25] like to stay with that characterization.