Volume V:

Document Supplement, Part C

Documents Cited in Referral: Tabs 1-46

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TO THE

UNITED STATES HOUSE OF REPRESENTATIVES

PURSUANT TO

TITLE 28, UNITED STATES CODE, § 595(C)

DOCUMENT SUPPLEMENT C

SUBMITTED BY

THE OFFICE OF THE INDEPENDENT COUNSEL

SEPTEMBER 9, 1998

Index

INDEX: Documents cited in the 595(c) Referral

09-Sep-98

Bates # or Tab#	Production Name	Description
*Tab 001	N/A	Main Stairway to Family Quarters
*Tab 002	N/A	Movie Theater in East Colonnade
*Tab 003	N/A	11/14/95 LA Times news article
*Tab 004	N/A	11/14/95 Washington Post news article
*Tab 005	N/A	11/16/95: Facts on File, World News Digest -- pg. 852
*Tab 006	N/A	11/16/95 Washington Post news article
*Tab 007	N/A	11/17/95 USA Today news article
*Tab 008	N/A	11/20/95 Washington Post news article
*Tab 009	N/A	11/23/95: Facts on File, World News Digest -- pg. 868
*Tab 010	N/A	2/19/96 Weekly Compilation of Presidential Documents
*Tab 011	N/A	2/28/96 Newsday news article
*Tab 012	N/A	7/4/97 Drudge Report Final
*Tab 013	N/A	8/11/97 Washington Post news article
*Tab 014	N/A	8/11/97 Newsweek article
*Tab 015	N/A	9/13/97 NY Times news article
*Tab 016	N/A	9/22/97 Forbes news article
*Tab 017	N/A	10/4/97 to 10/23/97 Digest of Other White House Announcements
*Tab 018	N/A	11/9/97 LA Times news article
*Tab 019	N/A	11/14/97 Baltimore Sun news article
*Tab 020	N/A	11/15/97 Washington Post news article
*Tab 021	N/A	1/20/98 subpoena to William Jefferson Clinton, V002
*Tab 022	N/A	1/21/98 Washington Post news article
*Tab 023	N/A	1/21/98 "The News Hour with Jim Lehrer"

Bates # or Tab#	Production Name	Description
*Tab 024	N/A	1/21/98 "All Things Considered"
*Tab 025	N/A	1/21/98 White House Briefing
*Tab 025A	N/A	1/21/98 Excerpts of Telephone Interview of Clinton by Roll Call
*Tab 026	N/A	1/22/98 Remarks by President Clinton at the White House
*Tab 027	N/A	1/22/98 America Online article
*Tab 028	N/A	1/22/98 FBI Receipt of Property
*Tab 029	N/A	1/22/98 ABC News Special Report with Peter Jennings
*Tab 030	N/A	1/22/98 Roll Call interview with William Jefferson Clinton
*Tab 030A	N/A	1/22/98 Seatle Times news article
*Tab 031	N/A	1/23/98 FBI Receipt of Property, w/attached letter
*Tab 032	N/A	1/24/98 CBS News Show: Saturday Morning
*Tab 033	N/A	1/25/98 Face the Nation
*Tab 034	N/A	1/26/98 Nightline
*Tab 035	N/A	1/26/98 ABC News Special Report with Peter Jennings
*Tab 036	N/A	1/26/98 White House Education News Conference
*Tab 036A	N/A	1/27/98 AP news article
*Tab 036B	N/A	1/27/98 NBC: The Today Show
*Tab 037	N/A	2/5/98 Remarks by President Clinton
*Tab 038	N/A	2/6/98 Joint News Conference with President Clinton
*Tab 039	N/A	2/14/98 Washington Post news article
*Tab 040	N/A	2/17/98 Chicago Tribune news article
*Tab 041	N/A	3/5/98 closed hearing transcript excerpt
*Tab 042	N/A	3/17/98 Memoradum w/attachments, In re: Grand Jury Proceedings
*Tab 043	N/A	3/25/98 Washington Post news article
*Tab 044	N/A	4/17/98 letter to DAG Eric Holder from the OIC
*Tab 045	N/A	6/98 California Lawyer article

Bates # or Tab#	Production Name	Description
*Tab 046	N/A	6/15/98 Brief of Appellant William J. Clinton
*Tab 047	N/A	6/29/98 US News & World Report news article
*Tab 048	N/A	7/15/98 letter to IC Smaltz from Richard Rogers
*Tab 049	N/A	7/17/98 subpoena to the White House, D1415
*Tab 050	N/A	7/22/98 CBS News transcript, HARDBALL
*Tab 051	N/A	7/26/98 NBC News Meet the Press
*Tab 052	N/A	7/28/98 Motion of William J. Clinton for Continuance
*Tab 053	N/A	7/28/98 Transcript of Status Hearing , In re: Motion to Continue
*Tab 054	N/A	7/29/98 FBI Receipt of Property
*Tab 055	N/A	7/31/98 letter to David Kendall from Bob Bittman
*Tab 056	N/A	7/31/98 letter to Bob Bittman from David Kendall
*Tab 057	N/A	7/31/98 letter to David Kendall from Bob Bittman
*Tab 058	N/A	8/3/98 letter to Bob Bittman from David Kendall
*Tab 059	N/A	8/3/98 letter to David Kendall from Bob Bittman
*Tab 060	N/A	8/3/98 FBI Laboratory Report
*Tab 061	N/A	8/3/98 FBI 302
*Tab 062	N/A	8/3/98 letter to Judge Starr from DAG Eric Holder
*Tab 063	N/A	8/6/98 letter to AG Reno from IC Smaltz
*Tab 064	N/A	8/6/98 FBI Laboratory Report
*Tab 065	N/A	8/7/98 Washington Times news article
*Tab 066	N/A	8/10/98 Newsweek article
*Tab 067	N/A	8/11/98 letter to AG Holder from Judge Starr
*Tab 068	N/A	8/11/98 Memorandum Order, In re: Grand Jury Proceedings
*Tab 069	N/A	8/13/98 NY Times news article
*Tab 070	N/A	8/13/98 USA Today news article
*Tab 071	N/A	8/13/98 Washington Post news article
*Tab 072	N/A	8/13/98 Washington Times news article

Bates # or Tab#	Production Name	Description
*Tab 073	N/A	8/17/98 Newsweek article
*Tab 074	N/A	8/17/98 FBI Laboratory Report
*Tab 075	N/A	8/17/98 AP news article
*Tab 076	N/A	8/18/98 Washington Post
*Tab 077	N/A	8/24/98 facsimile to Jackie Bennett from Gary Grindler
*Tab 078	N/A	8/27/98 memo
*Tab 079	N/A	8/31/98 letter to Bob Bittman from David Kendall
*Tab 080	N/A	9/7/98 memo
*Tab 081	N/A	Jones v. Clinton, 1998 WL 551961, 9/1/98 order
*Tab 082	N/A	Lyrics to "Surfacing"
*Tab 083	N/A	18 U.S.C. section 2246
0812-DC-00000002	Lewinsky, Monica	Passport photo page
0824-DC-00000001 to 2	Currie, Betty	1/23/98 letter to Judge Starr from Karl Metzner
0824-DC-00000013	Currie, Betty	"Love Notes" supplement
0824-DC-00000014	Currie, Betty	2/14/97 Washington Post "Love Notes"
0827-DC-00000002 to 18	United States Secret Service	Epass Access Control Reports
0828-DC-00000003	US Mission to the UN	3/14/97 to 12/22/97 Toll records
0828-DC-00000004	US Mission to the UN	10/21/97 to 11/19/97 Toll records
0828-DC-00000012	US Mission to the UN	Monica Lewinsky's resume
0828-DC-00000013	US Mission to the UN	11/3/97 letter from Monica Lewinsky to Ambassador Richardson
0828-DC-00000023	US Mission to the UN	10/31/97 schedule for Ambassador Richardson
0830-DC-00000007	Revlon Group, Inc.	1/13/98 letter from Monica Lewinsky to Jenna Sheldon
0830-DC-00000017	Revlon Group, Inc.	12/11/97 letter from Monica Lewinsky to Richard Halperin
0831-DC-00000008 to 11	Pagemart	Pager records for Moncia Lewinsky
0832-DC-00000004 to 5	McAndrews & Forbes Holding	Toll records
0833-DC-00000980	Department of Defense	11/6/97 letter from Monica Lewinsky to Vernon Jordan
0833-DC-00001070	Department of Defense	6/24/97 typed note to Betty Currie

Bates # or Tab#	Production Name	Description
0833-DC-00001857	Department of Defense	3/5/97 E-Mail
0833-DC-00001876	Department of Defense	3/3/97 e-mail from Linda Tripp to Monica Lewinsky
0833-DC-00001906	Department of Defense	2/24/97 E-Mail
0833-DC-00001934	Department of Defense	2/19/97 E-Mail
0833-DC-00001974	Department of Defense	2/4/97 E-Mail
0833-DC-00002716	Department of Defense	Notification of Personnel Action
0833-DC-00002880	Department of Defense	Job Description
0833-DC-00003207	Department of Defense	Travel voucher
0833-DC-00009446	Department of Defense	2/19/97 E-Mail
0833-DC-00017867	Department of Defense	10/6/97 to 10/9/97 Toll records
0833-DC-00017869	Department of Defense	10/15/97 to 10/20/97 Toll records
0833-DC-00017875	Department of Defense	Toll records
0833-DC-00017886	Department of Defense	Toll records
0833-DC-00017890	Department of Defense	Toll records
0833-DC-00017903 to 04	Department of Defense	Toll records
0833-DC-00017908	Department of Defense	Toll records
0837-DC-00000001 to 27	Speed Service Couriers, Inc.	Courier receipts re: Monica Lewinsky
0843-DC-00000004	United States Secret Service	12/6/97 Epass Access Control Record
0845-DC-00000002	Tripp, Linda	Handwritten notes
0845-DC-00000004 to 17	Tripp, Linda	Handwritten notes
0845-DC-00000018 to 21	Tripp, Linda	Handwritten Notes
0845-DC-00000022 to 25	Tripp, Linda	Handwritten Notes
0845-DC-00000188	Tripp, Linda	Handwritten note
0845-DC-00000190	Tripp, Linda	Letter from Linda Tripp to Newsweek
0845-DC-00000191 to 193	Tripp, Linda	Handwritten notes
0849-DC-00000090 to 97	Rader, Campbell, Fisher & Pyke	President Clinton's Responses to Plaintiff's Third Set of Interrogatories

Bates # or Tab#	Production Name	Description
0849-DC-00000098 to 102	Rader, Campbell, Fisher & Pyke	Attachment to President Clinton's Responses to Plaintiff's Third Set of Interrogatories
0849-DC-00000121 to 137	Rader, Campbell, Fisher & Pyke	Plaintiff's Witness List
0849-DC-00000352	Rader, Campbell, Fisher & Pyke	Videotaped Deposition of William Jefferson Clinton
0849-DC-00000586	Rader, Campbell, Fisher & Pyke	Definition of "Sexual Relation"
0849-DC-00000634 to 636	Rader, Campbell, Fisher & Pyke	Affidavit of Jane Doe #6 (Monica Lewinsky)
0852-DC-00000035	American Express	Credit card statement
0852-DC-00000037	American Express	Credit card statement
0852-DC-00000044 to 45	American Express	12/17/97 billing statement
0854-DC-00001485	First Union Bank	5/6/96 Check No. 594
0856-DC-00000002	American Express	12/11/97 letter from Monica Lewinsky to Ursula Fairbairn
0880-DC-00000002 to 8	Lindsey, Bruce	Handwritten notes
0902-DC-00000003	Carter, Francis	Address
0902-DC-00000030	Carter, Francis	1/12/98 to 1/20/98 billing statement
0902-DC-00000033	Cater, Francis	FedEx USA Airbill
0902-DC-00000037 to 38	Carter, Francis	1/7/98 billing statement
0902-DC-00000051	Catrer, Francis	1/6/97 phone memo
0902-DC-00000135 to 138	Carter, Francis	Subpoena issued to Monica Lewinsky in the Paula Jones case
0902-DC-00000231	Carter, Francis	12/22/97 to 12/28/97 appointment book
0902-DC-00000232	Carter, Francis	1/5/98 appointment book
0902-DC-00000251	Carter, Francis	1/6/98 phone message
0916-DC-00000003	Park Hyatt	Receipt
0920-DC-00000013 to 18	Rader, Campbell, Fisher & Pyke	Subpoena issued to Monica Lewinsky in the Paula Jones case
0920-DC-00000517 to 525	Rader, Campbell, Fisher & Pyke	12/18/97 Order in Jones v. Clinton, LR-C-94-290
0921-DC-00000061 to 62	McCormack, Hon. James	11/6/97 Clerk's minutes for in-camera hearing
0921-DC-00000091 to 151	Rader, Campbell, Fisher & Pyke	Plaintiff's Motion to Compel Responses to Plaintiff's Second Set of Interrogatories to Defendant Clinton
0921-DC-00000459 to 466	McCormack, Hon. James	12/11/97 Order in Jones v. Clinton, LR-C-94-290

Bates # or Tab#	Production Name	Description
0921-DC-00000736 to 744	McCormack, Hon. James	1/8/98 Order in Jones v. Clinton, LR-C-94-290
0921-DC-00000751 to 752	McCormack, Hon. James	1/9/98 Clerk's minutes for in-camera hearing
0921-DC-00000770 to 772	Rader, Campbell, Fisher & Pyke	1/14/98 Clerk's Minutes
0921-DC-00000775 to 778	Rader, Campbell, Fisher & Pyke	Motion of Jane Doe #6 for Protective Order and Motion to Quash
0929-DC-00000056	NationsBank	Bank Statement
0952-DC-00000060	United States Secret Service	10/11/97 Presidential Protectee Movement Log
0964-DC-00000862	White House	12/6/97 pager record
0968-DC-00000073	White House	Schedule
0968-DC-00000187	White House	11/13/97 schedule
0968-DC-00000236	White House	3/29/98 schedule
0968-DC-00000263	White House	Schedule
0968-DC-00000303	White House	11/13/97 Diarist notes
0968-DC-00000841	White House	4/5/96 Press Schedule
0968-DC-00002947	White House	8/17/97 schedule
0968-DC-00003300	White House	11/22/97 to 11/25/97 Presidential press schedule
0968-DC-00003301	White House	Presidential Press Schedule
0968-DC-00003458	White House	2/96 calendar for Hillary Rodham Clinton
0968-DC-00003459	White House	3/96 calendar for Hillary Rodham Clinton
0968-DC-00003475	White House	7/97 calendar for Hillary Rodham Clinton
0968-DC-00003477	White House	10/97 calendar for Hillary Rodham Clinton
0968-DC-00003479	White House	12/97 calendar for Hillary Rodham Clinton
0968-DC-00003506	White House	2/28/97 Presidential Call Log
0968-DC-00003510	White House	3/29/97 Presidential Call Log
0968-DC-00003522	White House	5/1/97 Presidential Call Log
0968-DC-00003533	White House	5/24/97 Presidential Call Log
0968-DC-00003546	White House	7/4/97 Presidential Call Log
0968-DC-00003550	White House	7/14/97 Presidential Call Log

Bates # or Tab#	Production Name	Description
0968-DC-00003556	White House	7/24/97 Presidential Call Log
0968-DC-00003558	White House	8/16/97 Presidential Call Log
0968-DC-00003569	White House	10/11/97 Presidential Call
0968-DC-00003799	White House	11/13/97 schedule
0968-DC-00003843	White House	3/29/97 schedule
1000-DC-00000767 to 772	Bell Atlantic	5/4/96 Marcia Lewis Phone Bill
1012-DC-00000001	Bacon, Kenneth	4/28/97 letter from Kenneth Bacon to Lorrie McHugh
1013-DC-00000095 to 96	Bell Atlantic	2/4/98 statement of Toll calls for Debra Finerman
1014-DC-00000022	Cellular One	3/25/97 to 4/24/97 Calls
1033-DC-00000033 to 35	Bell Atlantic Mobile	Toll records
1033-DC-00000115 to 116	Bell Atlantic Mobile	Toll records
1034-DC-00000060 to 63	Jordan, Vernon	10/20/97 to 11/01/97 schedule for Vernon Jordan
1034-DC-00000099	Jordan, Vernon	12/8/97 to 12/10/97 schedule for Vernon Jordan
1034-DC-00000103	Jordan, Vernon	12/22/97 to 12/24/97 schedule for Vernon Jordan
1034-DC-00000109	Jordan, Vernon	1/12/98 to 1/14/98 schedule for Vernon Jordan
1034-DC-00000111	Jordan, Vernon	1/19/98 to 1/21/98 schedule for Vernon Jordan
1037-DC-00000001 to 2	Davis, Catherine Allday	5/18/97 Card
1037-DC-00000011	Davis, Catherine Allday	12/9/97 e-mail from Lewinsky to Davis
1037-DC-00000017	Davis, Catherine Allday	11/7/97 e-mail from Lewinsky to Davis
1037-DC-00000022	Davis, Catherine Allday	11/5/97 e-mail from Lewinsky to Davis
1037-DC-00000033	Davis, Catherine Allday	10/22/97 e-mail from Lewinsky to Davis
1037-DC-00000038 to 40	Davis, Catherine Allday	E-mails between Monica Lewinsky and Catherine Allday Davis
1037-DC-00000042	Davis, Catherine Allday	8/14/97 e-mail from Lewinsky to Davis
1037-DC-00000063	Davis, Catherine Allday	11/6/97 e-mail from Lewinsky to Davis
1037-DC-00000086 to 87	Davis, Catherine Allday	9/4/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000103	Davis, Catherine Allday	7/3/98 e-mail from Catherine Allday Davis to Monica Lewinsky

Bates # or Tab#	Production Name	Description
1037-DC-00000107	Davis, Catherine Allday	6/17/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000115	Davis, Catherine Allday	E-mail between Monica Lewinsky and Catherine Allday Davis
1037-DC-00000167 to 169	Davis, Catherine Allday	E-mails between Monica Lewinsky and Catherine Allday Davis
1037-DC-00000171	Davis, Catherine Allday	8/13/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000255 to 256	Davis, Catherine Allday	9/4/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000258 to 259	Davis, Catherine Allday	9/2/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000265 to 266	Davis, Catherine Allday	6/17/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000280	Davis, Catherine Allday	7/2/97 e-mail from Catherine Allday Davis to Monica Lewinsky
1037-DC-00000296	Davis, Catherine Allday	E-mail from Catherine Allday Davis to Monica Lewinsky
1037-DC-00000318	Davis, Catherine Allday	11/19/97 e-mail from Lewinsky to Davis
1037-DC-00000337 to 38	Davis, Catherine Allday	E-Mail from Lewinsky to Davis
1037-DC-00000341	Davis, Catherine Allday	E-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000553	Davis, Catherine Allday	11/5/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1037-DC-00000583	Davis, Catherine Allday	9/2/97 e-mail from Monica Lewinsky to Catherine Allday Davis
1051-DC-00000003 to 4	Bell Atlantic	Copy of Computer Disk
1064-DC-00000008	Renaissance Vinoy Resort	1/13/98 Toll records
1065-DC-00000006	St. Regis Hotel	Hotel receipt
1065-DC-00000008	St. Regis Hotel	Receipt
1078-DC-00000002	Washington Post	Receipt
1089-DC-00000970	White House	10/16/96 Typed note
1178-DC-00000005	White House	10/11/97 Presidential Call Log
1178-DC-00000011	White House	Presidetial Call Logs
1178-DC-00000013	White House	12/19/97 Presidential Call Log
1178-DC-00000014	White House	12/19/97 Presidential Call Log

Bates # or Tab#	Production Name	Description
1178-DC-00000015	White House	12/30/97 Presidential Call Log
1178-DC-00000016	White House	1/6/98 Presidential Call Log
1178-DC-00000018	White House	1/16/98 Presidential Call Log
1178-DC-00000019	White House	1/17/98 Presidential Call Log
1178-DC-00000020	White House	1/17/98 Presidential Call Log
1178-DC-00000021	White House	1/18/98 Presidential Call Log
1178-DC-00000023	White House	1/19/98 Presidential Call Log
1178-DC-00000026	White House	WAVES records: Vernon Jordan
1205-DC-00000016	GTE Company of California	1/25/98 toll record from California
1216-DC-00000022 to 23	Bell Atlantic	Toll records
1222-DC-00000024	United States Secret Service	1/21/96 itinerary for the White House
1222-DC-00000032	United States Secret Service	3/5/96 White House itinerary
1222-DC-00000041	United States Secret Service	3/31/96 intinerary
1222-DC-00000045	United States Secret Service	Schedule
1222-DC-00000083 to 85	United States Secret Service	11/15/95 to 11/18/95 Presidential Movement Logs
1222-DC-00000102	United States Secret Service	2/19/96 Presidential Movement Log
1222-DC-00000112 to 113	United States Secret Service	3/29/96 and 3/31/96 Presidential Movement Logs
1222-DC-00000156 to 157	United States Secret Service	11/15/95 Presidential Protectee Movement Logs
1222-DC-00000179	United States Secret Service	Presidential Movement Logs
1222-DC-00000183	United States Secret Service	1/7/96 Presidential Protectee Movement Log
1222-DC-00000189	United States Secret Service	1/21/96 Presidential Movement Log
1222-DC-00000196	United States Secret Service	2/4/96 Presidential Movement Log
1222-DC-00000197	United States Secret Service	2/19/96 Presidential Movement Log
1222-DC-00000216 to 217	United States Secret Service	3/31/96 Presidential Movement Logs
1222-DC-00000219	United States Secret Service	4/7/96 Presidential Movements
1222-DC-00000234	United States Secret Service	2/28/97 Presidential Movements
1222-DC-00000242	United States Secret Service	5/24/97 Presidential Protectee Movement Log

Bates # or Tab#	Production Name	Description
1222-DC-00000251	United States Secret Service	7/14/97 schedule
1222-DC-00000254	United States Secret Service	7/24/97 schedule
1222-DC-00000325	United States Secret Service	12/31/95, 1/7/96 Secret Service agent duty schedule
1222-DC-00000328	United States Secret Service	2/21/96 Secret Service agent duty schedule
1234-DC-00000049	White House	11/13/97 schedule
1234-DC-00000050	White House	11/13/97 Presidential Movement Log
1234-DC-00000357	United States Secret Service	8/22/97 to 12/31/97 Epass Access Control Report
1248-DC-00000008	White House	4/7/96 Telephone Memorandum
1248-DC-00000288	White House	1/17/98 Diarist schedule notes
1248-DC-00000291	White House	Daynotes
1248-DC-00000305	White House	1/17/98 Presidential Call Log
1248-DC-00000307	White House	1/17/98 Presidential Call
1248-DC-00000311	White House	1/18/98 Presidential Call
1248-DC-00000312	White House	1/18/98 Presidential Call Log
1248-DC-00000313 to 315	White House	1/18/98 Presidential Call Log
1248-DC-00000319	White House	1/19/98 Presidential Call Log
1248-DC-00000327 to 328	White House	1/21/98 Presidential Call Log
1248-DC-00000381	White House	12/19/97 Presidential Call Log
1248-DC-00000444	White House	1/13/98 Presidential Call Log
1318-DC-00000001 to 2	Young, Dale	9/4/97 note from Monica Lewinsky to Dale Young
1342-DC-00000410	White House	Photograph
1361-DC-00000002 to 42	White House	Index of books located in the Oval Office study
1362-DC-00000549	United States Secret Service	11/15/95 Presidential Protectee Movement Log
1362-DC-00001171	United States Secret Service	Secret Service agent duty schedule
1407-DC-00000005	White House	12/6/97 TO 12/24/97 WAVES for Robert Bennett
1408-DC-00000005	Rader, Campbell, Fisher & Pyke	12/5/97 Facsimile sheet
1414-DC-00000001	Rader, Campbell, Fisher & Pyke	7/21/98 letter to Julie Corcoran from Donovan Campbell, Jr.

Bates # or Tab#	Production Name	Description
1414-DC-00001006 to 1014	Rader, Campbell, Fisher & Pyke	1/9/98 Order in Jones v. Clinton, LR-C-94-290
1414-DC-00001188 to 1192	Rader, Campbell, Fisher & Pyke	12/18/97 Order in Jones v. Clinton, LR-C-94-290
1414-DC-00001327 to 32	Rader, Campbell, Fisher & Pyke	hearing excerpt
1414-DC-00001334 to 46	Rader, Campbell, Fisher & Pyke	hearing excerpt
1414-DC-00001534 to 1546	Rader, Campbell, Fisher & Pyke	12/15/97 Pleading in Jones v. Clinton, LR-C-94-290
1415-DC-00000001	White House	8/3/98 letter from David Kendall to the OIC
1472-DC-00000006	White House	11/15/95 Call Log
1472-DC-00000007	White House	11/15/95 Telephone memorandum
1472-DC-00000008	White House	11/15/95 Telephone memorandum
1472-DC-00000015	White House	11/17/95 Telephone memorandum
1472-DC-00000017	White House	2/19/96 Telephone memorandum
1472-DC-00000018 to 20	White House	2/19/96 Telephone memorandum
1506-DC-00000007 to 8	White House	8/10/95 Presidential schedule
1506-DC-00000027	White House	12/31/95 Presidential schedule
1506-DC-00000029	White House	12/31/95 Telephone memorandum
1506-DC-00000031	White House	1/7/96 Telephone memorandum
1506-DC-00000050	White House	1/21/96 Telephone memorandum
1506-DC-00000057 to 58	White House	1/30/96 Presidential schedule
1506-DC-00000068	White House	2/4/96 Telephone memorandum
1506-DC-00000070	White House	2/4/96 Telephone memorandum
1506-DC-00000102	White House	2/19/96 Telephone memorandum
1506-DC-00000139	White House	3/31/96 Telephone memorandum
1506-DC-00000144	White House	4/7 Telephone Memorandum
1506-DC-00000188 to 189	White House	Presidential schedule
1506-DC-00000192	White House	5/2/96 Presidential Call Log
1506-DC-00000222	White House	Presidential schedule
1506-DC-00000264	White House	7/5/96 Presidential schedule

Bates # or Tab#	Production Name	Description
1506-DC-00000268	White House	7/6/96 Presidential schedule
1506-DC-00000275	White House	7/19/96 Presidential Call Log
1506-DC-00000328	White House	Presidential schedule
1506-DC-00000334 to 335	White House	Schedule
1506-DC-00000353	White House	Presidential schedule
1506-DC-00000373 to 374	White House	2/8/97 Schedule
1506-DC-00000426 to 427	White House	10/10/97 Presidential schedule
1506-DC-00000523 to 525	White House	1/21/96 Diarist notes
1506-DC-00000558	White House	Presidential schedule
1506-DC-00000559	White House	Presidential schedule
1506-DC-00000638	White House	Diarists notes, Presidential call
2004-DC-00000083	Bell Atlantic	Toll records
2004-DC-00000085 to 88	Bell Atlantic	Toll records
2004-DC-00000090 to 91	Bell Atlantic	Toll records
827-DC-00000018	United States Secret Service	2/24/97 to 12/28/97 Epass Access Control Report
CZ-DC-00000010	Driscoll, Richard	Fair market value appraisal
CZ-DC-00000016	Driscoll, Richard	Fair market value appraisal
DB PHOTOS 0004	Lewinsky, Monica	Blue Dress (photo)
DB PHOTOS 0044	Lewinsky, Monica	Audio-tapes from Monica Lewinsky's answering machine (originals in Quantico)
DB PHOTOS 0048	Lewinsky, Monica	evidence picture
DB-DC-000000017	Lewinsky, Monica	Draft letter from Monica Lewinsky to William Jefferson Clinton
DB-DC-000000022	Lewinsky, Monica	11/12/97 letter from Monica Lewinsky to William Jefferson Clinton
DB-DC-000000027	Lewinsky, Monica	Outline for job interests of Monica Lewinsky
DC-DC-00000004 to 5	Willis-Vento, Caroline	Fair market value appraisal
DF-DC-00000002 to 12	Lewinsky, Monica	2/1/98 handwritten proffer
MSL-1249-DC-0139 to 141	Lewinsky, Monica	Letter from Monica Lewinsky to William Jefferson Clinton

Bates # or Tab#	Production Name	Description
MSL-55-DC-0001	Lewinsky, Monica	Draft note from Monica Lewinsky to William Jefferson Clinton
MSL-55-DC-0094	Lewinsky, Monica	Letter drafted on Monica's home computer
MSL-55-DC-0124	Lewinsky, Monica	Letter drafted on Monica's home computer
MSL-55-DC-0177	Lewinsky, Monica	Letter from Monica Lewinsky to William Jefferson Clinton
MSL-55-DC-0178	Lewinsky, Monica	Letter from Monica Lewinsky to William Jefferson Clinton
MSL-55-DC-0179	Lewinsky, Monica	11/2/97 letter from Monica Lewinsky to Betty Currie
MSL-55-DC-0184 to 186	Lewinsky, Monica	Note created on Monica Lewinsky's home computer "Happy National Boss Day?"
MSL-DC-00000456	Lewinsky, Monica	Handwritten note
MSL-DC-00000489 to 90	Lewinsky, Monica	Invitation to William Jefferson Clinton's Birthday Party
MSL-DC-00000621 to 22	Lewinsky, Monica	3/2/97 handwritten letter from Monica Lewinsky to William Jefferson Clinton
MSL-DC-00001050	White House	9/30/97 letter from Monica Lewinsky to William Jefferson Clinton
MSL-DC-00001051	Lewinsky, Monica	October 1997 Calendar
MSL-DC-00001051A	Lewinsky, Monica	November 1997 Calendar
MSL-DC-00001052	Lewinsky, Monica	Typed note
MSL-DC-00001166 to 1168	Lewinsky, Monica	Draft Affidavit
MSL-DC-00001176 to 1177	White House	6/29/97 draft letter from Monica Lewinsky to Marsha Scott
MSL-DC-00001192	White House	7/6/97 letter from Monica Lewinsky to Marsha Scott
MSL-DC-00001221	Lewinsky, Monica	Page from Monica Lewinsky's schedule book
MSL-DC-00001227	Lewinsky, Monica	6/29/97 note from Monica Lewinsky to William Jefferson Clinton
MSL-DC-00001228	Lewinksy, Monica	3/14/997 memorandum from Cliff Bernath for the Record
MSL-DC-00001230	Lewinsky, Monica	4/28/97 letter from Kenneth Bacon to Lorrie McHugh
V002-DC-00000001 to 5	Clinton, William Jefferson	1/27/98 letter from David Kendall to Bob Bittman, with attachments
V002-DC-00000006 to 7	Clinton, William Jefferson	1/28/98 letter from David Kendall to Bob Bittman

Bates # or Tab#	Production Name	Description
V002-DC-00000008 to 15	Clinton, William Jefferson	President Clinton's Responses to Plaintiff's First Set of Interrogatories
V002-DC-00000016 to 32	Clinton, William Jefferson	President Clinton's Responses to Plaintiff's Second Set of Interrogatories
V002-DC-00000052 to 55	Clinton, William Jefferson	President Clinton's Supplemental Responses to Plaintiff's Second Set of Interrogatories
V002-DC-00000056 to 92	Clinton, William Jefferson	President Clinton's Responses to Plaintiff's First Set of Requests for Production of Documents and Things
V002-DC-00000093 to 116	Clinton, William Jefferson	President Clinton's Responses to Plaintiff's Second Set of Document Requests
V002-DC-00000159 to 160	Clinton, William Jefferson	2/2/98 letter from David Kendall to Bob Bittman
V002-DC-00000469	Clinton, William Jefferson	2/3/98 letter to Bob Bittman from David Kendall
V002-DC-00000471	Clinton, William Jefferson	Book, "The Presidents of the United States"
V002-DC-00000475	Clinton, William Jefferson	3/16/98 letter from David Kendall to the OIC
V004-DC-00000134	Akin Gump	11/3/97 to 11/4/97 Toll records
V004-DC-00000135	Akin Gump	11/4/97 to 11/6/97 Toll records
V004-DC-00000143	Akin Gump	11/26/97 to 11/27/97 Toll records
V004-DC-00000148	Akin Gump	12/11/97 to 12/15/97 Toll records
V004-DC-00000151	Akin Gump	12/19/97 to 12/23/97 Toll records
V004-DC-00000154	Akin Gump	12/30/97 to 12/31/97 Toll records
V004-DC-00000158	Akin Gump	1/5/98 to 1/7/98 Toll records
V004-DC-00000159	Akin Gump	1/7/98 to 1/8/98 Toll records
V004-DC-00000160	Akin Gump	1/8/98 to 1/9/98 Toll records
V004-DC-00000161	Akin Gump	1/9/98 to 1/10/98 Toll records
V004-DC-00000162	Akin Gump	1/10/98 to 1/13/98 Toll records
V004-DC-00000164	Akin Gump	1/15/98 to 1/16/98 Toll records
V004-DC-00000165	Akin Gump	1/16/98 to 1/19/98 Toll records
V004-DC-00000166	Akin Gump	1/19/98 to 1/21/98 Toll records

Bates # or Tab#	Production Name	Description
V004-DC-00000167	Akin Gump	1/21/98 to 1/22/98 Toll records
V004-DC-00000171	Akin Gump	12/11/97 visitor record
V004-DC-00000172	Akin Gump	12/19/97 vistor record
V004-DC-00000183	Akin Gump	12/8/97 Request for Messenger Service
V005-DC-00000058	Laughlin, Gayle	1/15/98 phone record
V005-DC-00000060	Laughlin, Gayle	1/20/98 phone record
V005-DC-00000061	Laughlin, Gayle	1/20/98 phone record
V006-DC-00000007	White House	4/9/96 to 12/30/96 WAVES report for Monica Lewinsky
V006-DC-00000008	White House	2/24/97 to 11/13/97 WAVES report for Monica Lewinsky
V006-DC-00000009	White House	12/6/97 to 12/28/97 WAVES report for Monica Lewinsky
V006-DC-00000020	White House	WH Personnel Action sheet for Monica Lewinsky
V006-DC-00000109	White House	Work history report
V006-DC-00000118	White House	Notification of Personnel Action
V006-DC-00000157	White House	White House Gift Record
V006-DC-00000158	White House	Gift Donor Information
V006-DC-00000159	White House	9/4/96 letter from William Jefferson Clinton to Monica Lewinsky
V006-DC-00000162	White House	White House Gift Register
V006-DC-00000167	White House	10/30/95 Gift Unit - draft leter
V006-DC-00000178	White House	Photograph
V006-DC-00000180	White House	White House Gift Record
V006-DC-00000181	White House	White House Gift Record
V006-DC-00000183	White House	Monica Lewinsky's resume
V006-DC-00000198	White House	1995 summer White House intern list
V006-DC-00000221	White House	5/30/97 schedule sheet
V006-DC-00000222	White House	6/10/97 e-mail from Marsha Dimel to Katherine Veit
V006-DC-00000223 to 224	White House	6/12/97 e-mail from Marsha Dimel to Roseanne Hill w/attachment

Bates # or Tab#	Production Name	Description
V006-DC-00000225	White House	White House pre-employment information sheet
V006-DC-00000391	White House	WhoDB - Contact Manager Information
V006-DC-00000511	White House	12/5/97 Holiday Reception list excerpt
V006-DC-00000512 to 522	White House	12/5/97 White House Party list excerpt, report dated on 12/30/97
V006-DC-00000521	White House	12/5/97 White House Party list excerpt, report dated on 12/30/97
V006-DC-00000534	White House	6/14/96 Radio Address
V006-DC-00000572	White House	2/8/96 to 2/11/96 Presidential schedule
V006-DC-00000682	White House	8/18/96 and 8/19/96 William Jefferson Clinton Schedule
V006-DC-00000694	White House	4/2/96 Schedule of William Jefferson Clinton
V006-DC-00000747	White House	2/9/96 to 2/12/96 Presidential schedule
V006-DC-00001347	White House	4/9/96 E-Mail
V006-DC-00001770	White House	7/24/97 e-mail
V006-DC-00001792	White House	3/29/97 WAVES Request
V006-DC-00001796	White House	2/28/97 WAVES Request
V006-DC-00001813 to 1814	White House	12/5/97 e-mail: WAVES Operations Center to J. Schwartz
V006-DC-00001826	White House	Photograph
V006-DC-00001841	White House	Photograph
V006-DC-00001842	White House	Photograph
V006-DC-00001843	White House	Photograph
V006-DC-00001844	White House	Photograph
V006-DC-00001845	White House	Photograph
V006-DC-00001846	White House	Photograph
V006-DC-00001847	White House	Photograph
V006-DC-00001855	White House	Photograph
V006-DC-00001856	White House	Photograph
V006-DC-00001859	White House	Photograph
V006-DC-00001865	White House	videotape

Bates # or Tab#	Production Name	Description
V006-DC-00002064	White House	1/9/98 Presidential Call Log
V006-DC-00002065	White House	1/14/98 Presidential Call Log
V006-DC-00002066	White House	1/17/98 Presidential Call Log
V006-DC-00002067	White House	1/18/98 Presidential Call Log
V006-DC-00002068	White House	1/18/98 Presidential Call Log
V006-DC-00002069 to 2070	White House	1/19/98 Presidential Call Log
V006-DC-00002071	White House	1/21/98 Presidential Call Log
V006-DC-00002095	White House	8/16/97 schedule
V006-DC-00002130	White House	3/29/97 Presidential Movements
V006-DC-00002140	White House	7/4/97 schedule
V006-DC-00002142	White House	7/14/97 schedule
V006-DC-00002146	White House	8/16/97 schedule
V006-DC-00002147	White House	8/16/97 schedule
V006-DC-00002156	White House	11/13/97 Presidential Movement Log
V006-DC-00002158	White House	12/6/97 Presidential Movement Log
V006-DC-00002214	White House	7/4/97 diarist notes
V006-DC-00002243	White House	11/13/97 Diarist notes
V006-DC-00002287	White House	4/9/96 e-mail from Gunia to Dagenais
V006-DC-00002289	White House	E-Mail
V006-DC-00003646	White House	Coorespondence History tracking sheet
V006-DC-00003712	White House	2/24/97 memo from Betty Currie to William Jefferson Clinton
V006-DC-00003714	White House	White House Gift List
V006-DC-00003715	White House	White House Gift List
V006-DC-00003716	White House	6/14/96 Radio Address
V006-DC-00003719	White House	4/8/96 phone message
V006-DC-00003720	White House	2/28/97 Radio Address
V006-DC-00003735	White House	Photo Request

Bates # or Tab#	Production Name	Description
V006-DC-00003737 to 3744	White House	Photographs

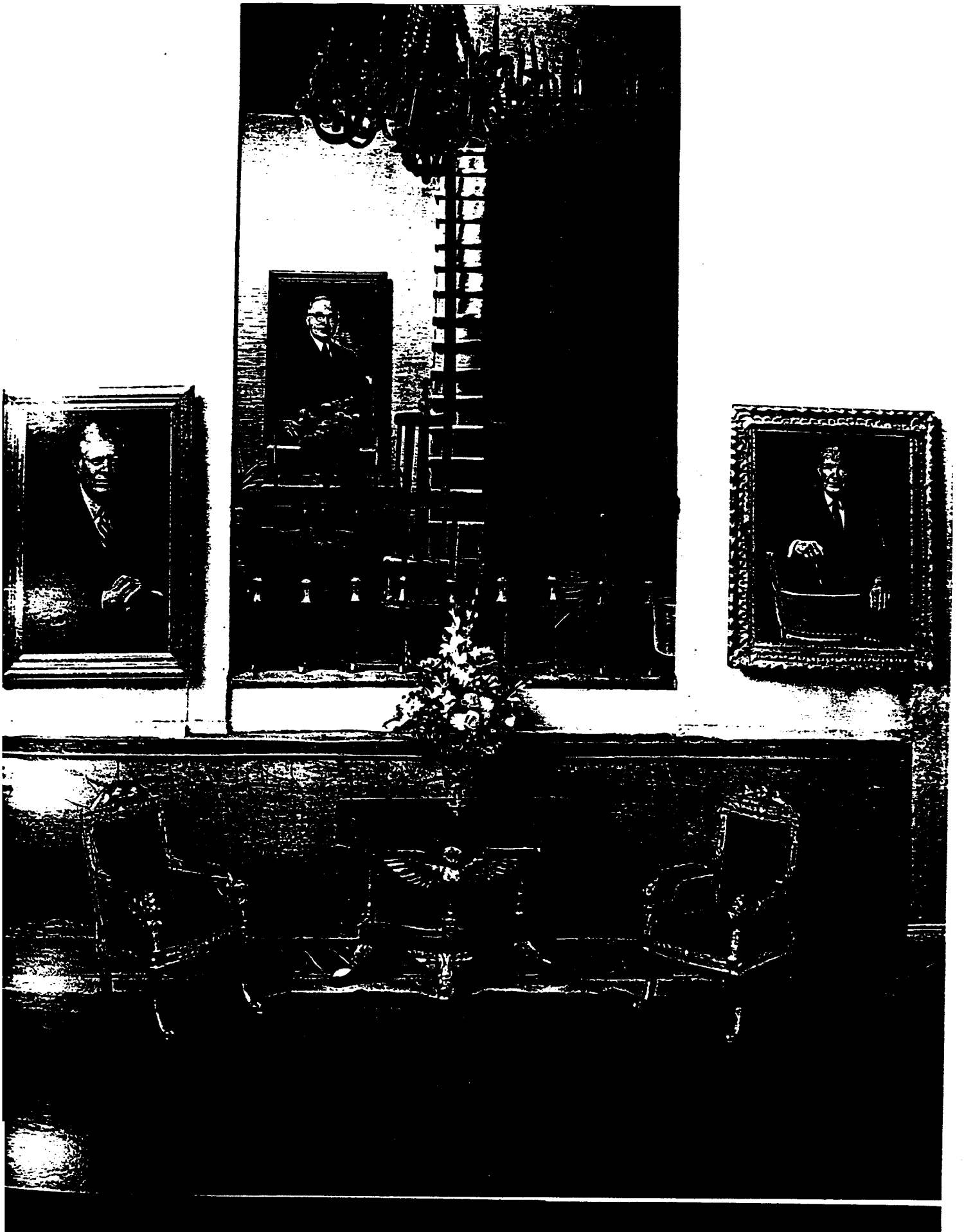
Tab Documents

Tab 1

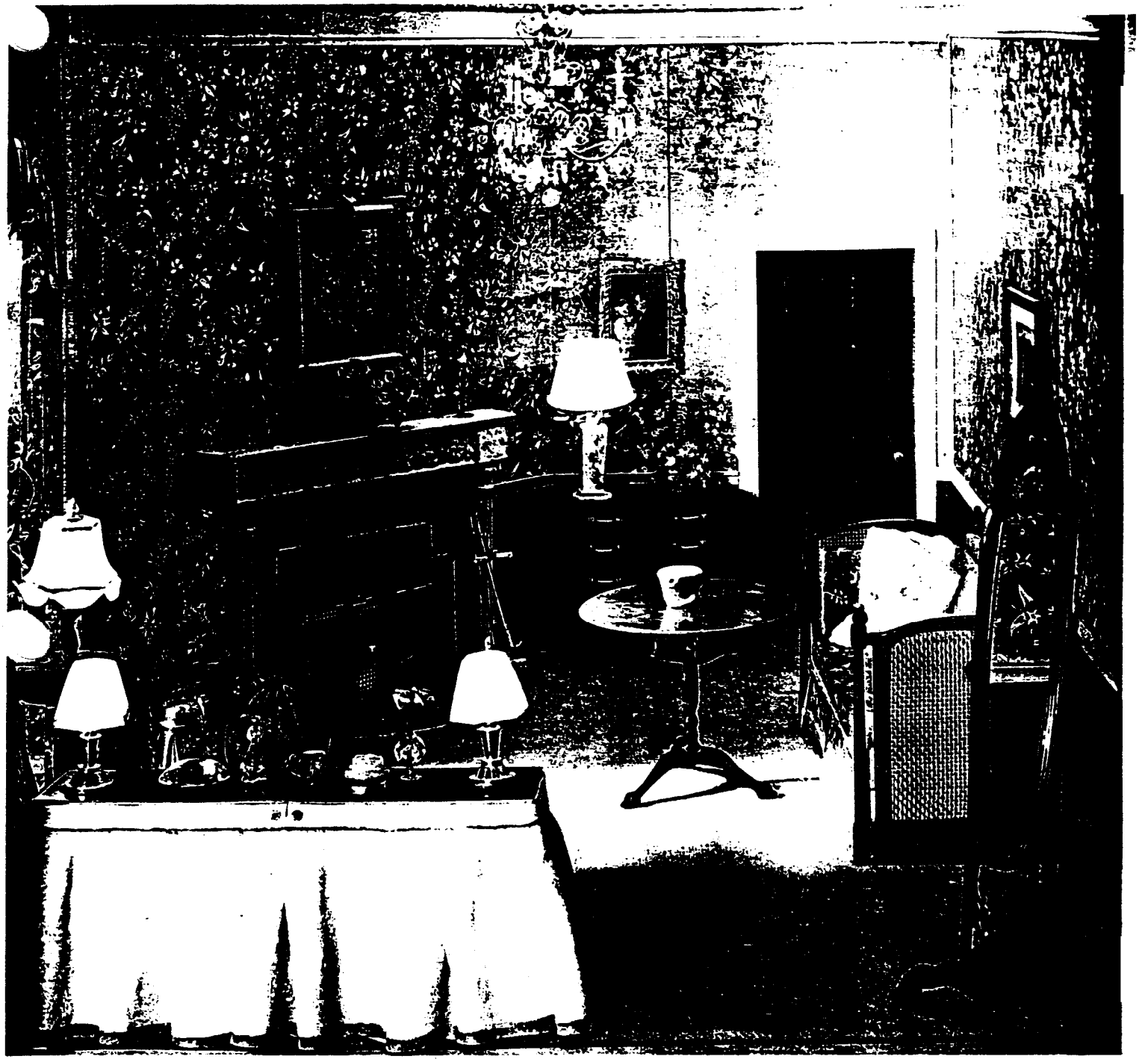
1647

Main Stairway to Family Quarters

Down these stairs come the president and first lady on every state occasion held at the White House. Tall or short, imposing or not, no one can ignore the entrance of the chief executive when the Marine Band strikes up the first chords of "Hail to the Chief." This is the ceremonial staircase, and it is here that the president, first lady, and their guests of honor are photographed before proceeding to the East Room, where the other guests are gathered. The walk down the red carpet is surely the most romantic image of the presidency. Here is the pomp. Most of the rest of the time, the president is subject to circumstance..



1649

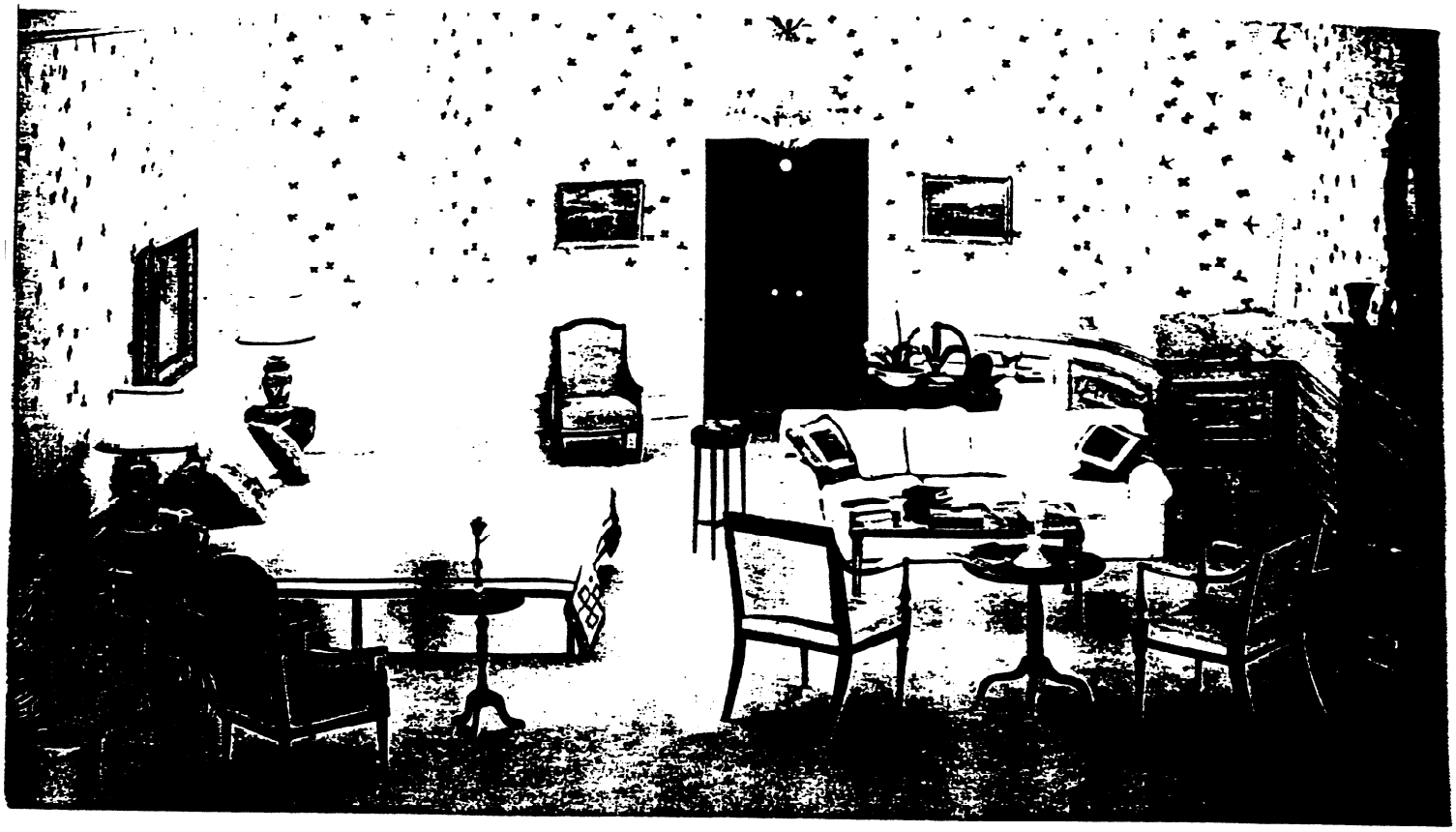


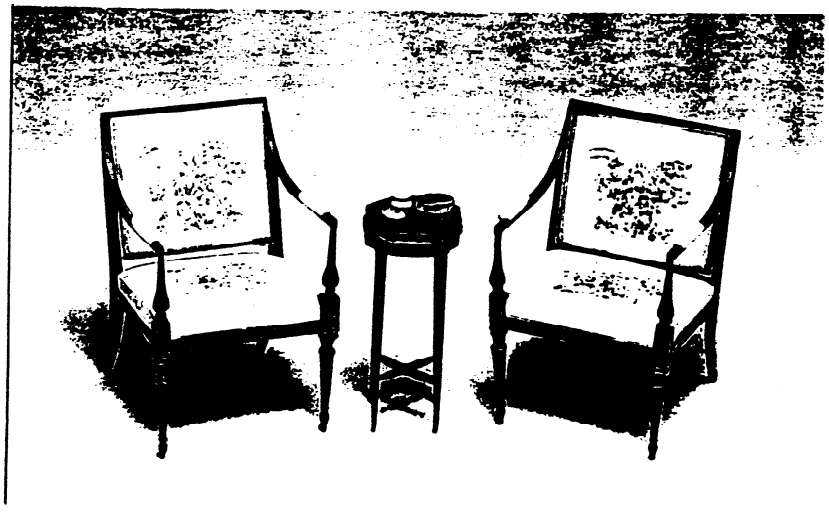
A small, sunny room, the First Lady's Dressing Room has always been a private corner of a very public residence. So private, that in 1801 it was given one of the few water closets in the big, preplumbing house. President Franklin Pierce installed the first stationary bathtub in 1853. Prior to that, men only could bathe [illegible] facility in the east pavilion, and women used portable sitz or hip tubs and shoe-shaped bathtubs made of tin. Dolley Madison bemoaned not being able to save her bathtub from the British in 1814. She was obligated to give precedence to government papers, the silver, and George Washington's portrait.

Located at the southwest corner of the house, this room adjoins the chamber that traditionally has been the master bedroom. Sometimes the presidents' children occupied the room, as did Tad Lincoln and Robert Johnson; sometimes the president reserved it for himself, as did Rutherford Hayes, who labeled it his sanctum or "den." But generally it was the first ladies who called it their own. Ida Saxon McKinley, an epileptic, spent many quiet hours sitting and knitting [illegible] Lou Hoover put in a daybed for afternoon naps [illegible] a desk for keeping accounts and correspondence; and Nancy Reagan, who decorated it as in the photograph, used it as a dressing room.

The couple who seemed to take the greatest pleasure in this intimate space were President Woodrow and Mrs. Edith Bolling Wilson, the president's second wife. As newlyweds, they found privacy in this corner [illegible] house. The room, since the addition of the bathroom and water closet, had an awkward shape with an off-centered fireplace. Nevertheless, Wilson dressed here, and he and his wife had breakfast, tea, and sometimes lunch or dinner in this crowded space. With a fire burning, Andrew Johnson's magnificent magnolia tree almost tickling the panes of glass of the large south-facing window, and a perfect view of the Washington Monument, it is obvious why they found it such a pleasant place to be together.

Being pragmatic, Eleanor Roosevelt installed a single bed and slept here. She converted the spacious room next door into her sitting room to accommodate her many and frequent visitors. She and Franklin, whose bedroom was the next room over, had used separate rooms since 1918. Bess and Harry Truman occupied the same rooms as the Roosevelts, Mrs. Truman also choosing to use the dressing room as a bedroom and the larger room as her sitting room.





When the Reagans moved into the White House in January 1981, plans had already been laid to refurbish the second and third floors of the White House. They raised nearly a million dollars from friends and political supporters. Mrs. Reagan enlisted the help of a Los Angeles interior designer and old friend, Ted Graber, to help her make the living quarters "warm and livable." The master bedroom, never seen by the public but here displayed in the replica, beautifully fulfills Mrs. Reagan and Graber's objectives.

The Chinese paper, hand-painted in eighteenth-century style, gives the presidential bedroom its individuality. The lovely, delicate irregular spacing of a wide variety of birds—peacocks, bluebirds, roosters, etc.—around the room creates an airy, open field of color and form.

In order to replicate and reduce the wallpaper for the miniature White House, John and Jan Zweifel made a scale painting of the wallpaper onto a 10-by-12-inch sheet of paper. This was then carefully reduced on a color copier to provide sheets of paper for the walls of the miniature room.

The two diminutive chairs are only 3 inches high and 2 inches wide.

1652

President and First Lady's Bedroom

After the swearing in, the parade, and the inaugural balls, the new president and first lady return to sleep in a room occupied only the previous night by another president and first lady. The changeover in the White House from one family to the next is so fast, so complete, one thinks that it must be done with a sorcerer's magic wand. The president and first lady's bedroom, the most private room in the house, humanizes the peaceful, incredible succession of power. To be able to call the White House home is the ultimate reward for those seeking to serve their country, and an honor bestowed on so few.

All the White House transitions have been swift (except the one from Lincoln to Johnson), but not always sweet. When President and Mrs. Pierce returned from the 1853 inaugural ball, there was no bedroom ready for them, which they considered a great indignity. Woodrow Wilson, who attended no ball but who celebrated first with his family and then at a smoker given for him by Princeton alumni at the Shoreham Hotel, found himself in the White House at midnight ringing assorted bells, not knowing which was which. Wearing only his underwear, he inquired if anyone had seen his trunk. He had no pajamas and, presumably, no toothbrush.

This room was Eleanor Roosevelt's and Bess Truman's sitting room/study but Jacqueline Kennedy reverted it to a bedroom as it had been for most of the nineteenth and early twentieth century. On inaugural night, though, the room was not yet ready, and she slept down the hall in the Queen's Bedroom. Eventually, it was decorated in shades of pale green and blue, and her furniture from her Georgetown house was moved in. The president's bedroom was across the hall, furnished with an eighteenth-century Chippendale high chest and a mahogany four-poster bed. Mrs. Kennedy did much of her work and her thinking in this bedroom suite.

It was in this room that Willie Lincoln died in the great "Lincoln" bed (see page 186) and James Garfield lay prostrate for months from an assassin's bullet. Because of Garfield's discomfort during the sweltering D.C. summer of 1881, doctors and engineers introduced the first air conditioning system in the United States to cool the dying president.

William McKinley was asleep here when an usher entered the room and whispered in his ear that the secretary of the navy was on the telephone with an important message. The battleship *Maine* had exploded and sunk in Havana harbor just hours before.

In this room, the first Mrs. Wilson passed away, and Woodrow Wilson suffered the stroke that would leave him an invalid for the rest of his life. For weeks he lay here helpless on the huge Lincoln bed.

On April 12, 1945, Eleanor Roosevelt was called to her sitting room and told of her husband's death at Warm Springs. She then summoned to her room the vice-president, who came directly from presiding over the Senate. Truman later wrote, "That was the first inkling I had of the seriousness of the situation." William Seale describes the exchange as follows: "Was there anything he could do for her? Eleanor Roosevelt replied, 'Is there anything *we* can do for *you*? For you are the one in trouble now.'"[12]

President's Study



Walls cannot talk, but if they could, the most dramatic stories these four would tell would center on the years 1933 to 1945. This was Franklin Delano Roosevelt's bedroom. An early riser, the invalid president would often conduct business from his bed. Francis Perkins, secretary of labor, described the bed and surrounding furniture as follows:

a small, narrow white iron bedstead, the kind one sees in the boy's room of many an American house. It had a thin, hard looking mattress, a couple of pillows, and an ordinary white seersucker spread. A folded old gray shawl lay at the foot . . . A white painted table, the kind one often sees in bathrooms, stood beside the bed, with a towel over it and with aspirin, nose drops, a glass of water, stubs of pencils, bits of paper with telephone numbers, addresses and memoranda to himself, a couple of books, a worn old prayer book, a watch, a package of cigarettes, an ash tray, a couple of telephones, all cluttered together.[13]

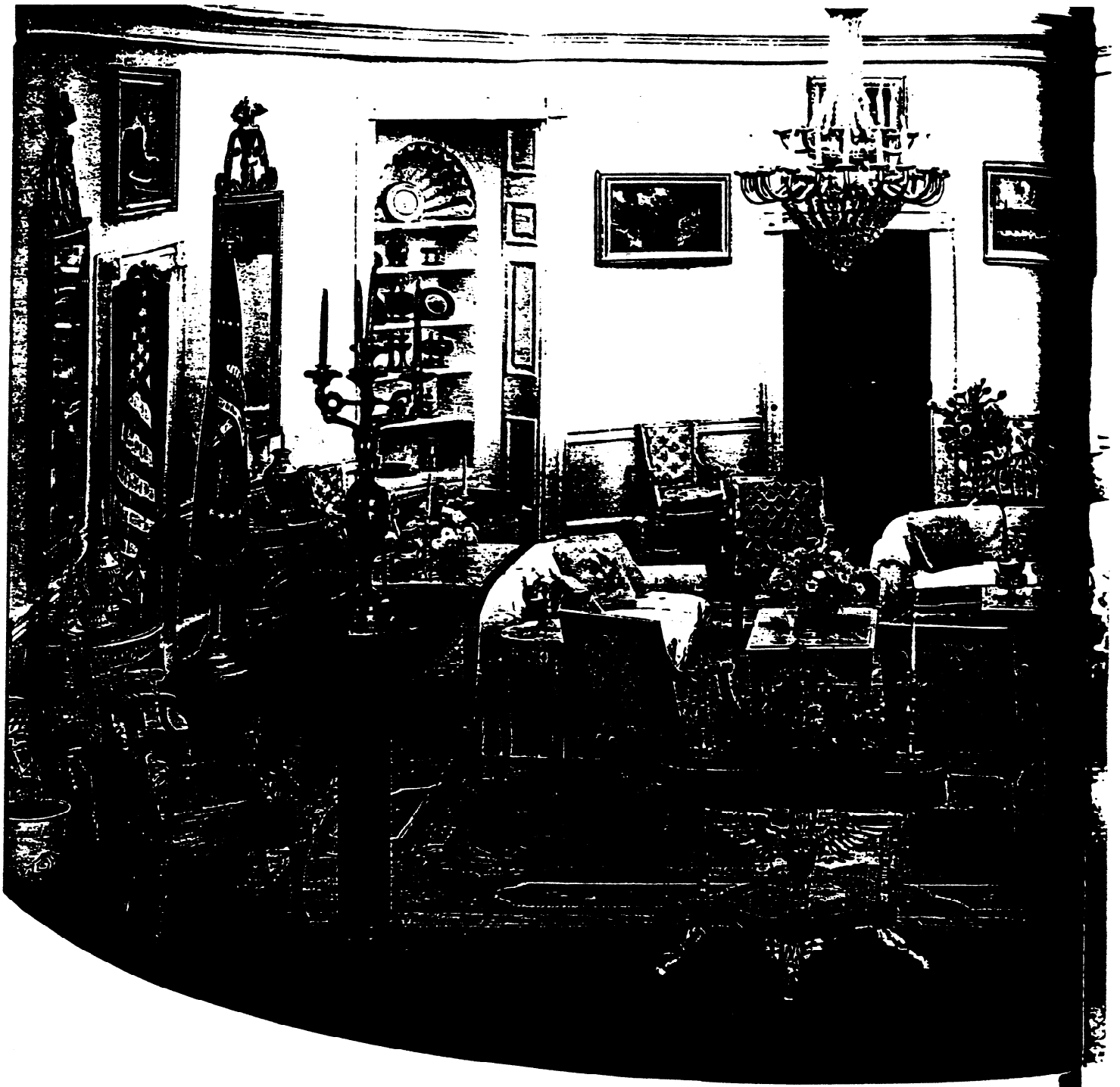
If the president was suffering from one of his chronic colds, the cabinet members would meet in this room. Aides would bring up memoranda and messages, and the papers of state would mingle with personal memorabilia. The mantel, seen on the left of the photograph, held miniature "Mexican pigs, Irish pigs, pigs of all kinds, sizes and colors" alongside family photographs, recalled Perkins.

FDR was an avid collector of many things, and one hobby in particular, stamp collecting, prepared him, quite unexpectedly, for his role as commander in chief during World War II. His naval aide during the war, Captain John L. McCrea, commented many years later that "the President's knowledge of world geography was amazing. I once expressed surprise that he knew so much about an insignificant lake in a small foreign country." "If a stamp collector really studies his stamps," replied FDR, "he can pick up a great deal of information." This geographical knowledge, often far exceeding that of others under his command, was vital during the war years.



The room appears as it did during the Reagan presidency. The red and white furniture came from Ronald and Nancy Reagan's California home. The desk lamp was made from a fire chief's silver horn, given to President Reagan when he was governor. The furnishings are cozy, comfortable, and familiar because it was here that the Reagans liked to relax. They looked forward to the evenings when dinner was served on trays in front of the television. Within these four walls, there was the semblance of a normal life.

1655



Yellow Oval Room



In 1809, Dolley Madison chose yellow for the prevailing color in the upstairs Oval Room. In 1961, Jacqueline Kennedy decided the room should be decorated with antiques of the Louis XVI style of late-eighteenth-century France. The suite of furniture includes four side chairs and two armchairs made around 1800 by Jean-Baptiste Lelarge. A set of four carved and gilded armchairs were made by C. Sené, also of the Louis XVI period, two of which can be seen in the foreground. This neoclassical style was strongly influenced by Greek and Roman furnishings discovered during the excavations at Pompeii and Herculaneum in the late 1750s. The candelabra on the two French Louis XV commodes flanking the mantel were given by Princess Elizabeth of Great Britain in 1951 when she visited President and Mrs. Harry Truman.

Royalty and gold candelabra were not Harry's "style." He'd rather have watched a local baseball game and sit outdoors on a balmy summer's evening. Truman unilaterally decided that a balcony should be added to the second-floor Oval Room, against the loud protests of architects and historians. Truman got his balcony, with its good view of local playing fields, and he thoroughly enjoyed using it. If you want to know what his architectural transgression looks like, pull out a $20 bill.

When Millard and Abigail Fillmore moved into the House in 1850 after the death of Zachary Taylor, there was not a Bible or dictionary or any other book to be found. Mrs. Fillmore, a former schoolteacher, did not consider a house a home without a library, and if this big white "temple of inconveniences," as her husband described it, was to be habitable for herself, her family, and future first families, there had to be books. They received money from Congress to buy some, and in the second-floor Oval Room she created her library and family room.

The Yellow Oval Room is one of the prettiest rooms in the house. Three stately windows facing the south lawn, Washington Monument, and Jefferson Memorial provide one of the best views in Washington and flood the room with light.

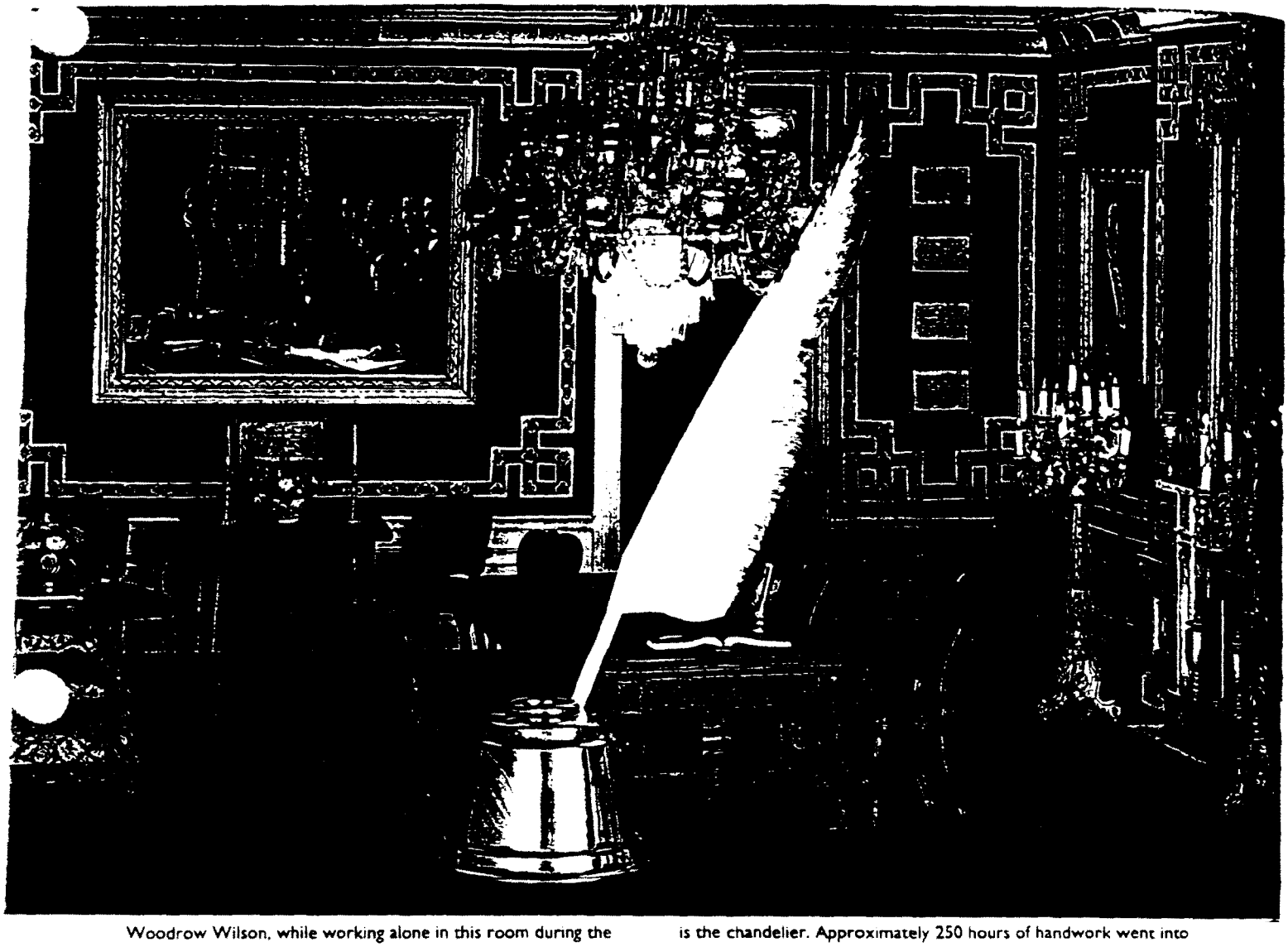
This room has always been central, literally and figuratively, in the lives of the occupants of the White House. For most of the two hundred years of the house's history, it was the boundary between the family's bedrooms and either the president's executive offices (in the nineteenth century) or the official guest rooms. Sometimes the Yellow Room was strictly a room where children and parents would meet nightly to read, sing, play musical instruments, hang Christmas stockings, and relax, as during the administrations of Fillmore, Lincoln, Hayes, Theodore Roosevelt, and Wilson. The Hayeses sang psalms, and Wilson read the Bible aloud. Harding and his friends played poker and drank bootleg liquor.

Sometimes this room would serve as the president's private office, where he could concentrate and work away from the surrounding tumult of the executive offices. Grover Cleveland, Benjamin Harrison, FDR, and Harry Truman used it for this purpose. Franklin Roosevelt used it the most, often inviting advisers to stay for cocktails that he would mix himself, followed by dinner served on trays.

Here, the day after FDR's first inauguration, the president met with his cabinet to discuss the financial crisis and later signed the Emergency Banking Act of 1933. On December 7, 1941, at about 1:40 P.M., Roosevelt and Harry Hopkins were having lunch when a telephone call brought the news of the bombing of Pearl Harbor. On New Year's Day 1942, Roosevelt was joined in this room by Winston Churchill, Maxim Litvinof of the Soviet Union, and T.V. Soong representing China for the signing of an agreement to join with twenty-six countries in a "united nations" against Axis aggression. And the list goes on and on.

The room has also been, during John Adams' administration and then every one since Kennedy's, the parlor where the president and first lady entertain their guests of honor before official state functions. This invitation to "come upstairs" at the White House is one of the rarest and also most cherished. It is the presidential equivalent of inviting someone to your home, because the first floor of the White House is truly a public arena, and it is only upstairs that privacy prevails. The photographs of the Reagans and Gorbachevs drinking cocktails in the Yellow Oval Room are one more reflection of the end of the Cold War. President and Mrs. Clinton will welcome many more heads of former communist bloc countries and, standing by the tall windows, point out the memorial to the author of the Declaration of Independence and the monument to the father of the oldest continuous democracy in the world.





Woodrow Wilson, while working alone in this room during the dark days of World War I, would contemplate the painting on the far wall, "Signing of the Peace Protocol Between Spain and the United States, August 12, 1998" by Théobald Chartran. In it President McKinley stands at the end of the cabinet table that had served as his desk (and now serves as President Clinton's desk in this room). Just a few months earlier, on April 20, 1898, McKinley had regretfully signed the document authorizing military action in what John Hay called the "splendid little war" and which was the United States's first foray into imperialism beyond its shores.

Spectacular in both the full-size and miniature Treaty Rooms is the chandelier. Approximately 250 hours of handwork went into making this chandelier for the White House replica. John Zweifel had to work with tiny tubing, brass rings, glass beading, and hair-thin copper wires for electrifying the lilliputian chandelier. Every glass shade had to be hand-blown by an expert who could measure his or her breath so that each one was exactly the same petite size as the preceding one.

The pewter inkwell stands just two inches high yet looks colossal the replica of the historic Treaty Room The full-size quill is eight inches long; the baby quill is 3/8 inch.

1660

Treaty Room

- *In 1809, it was a large bedroom.*
- *In 1823, James Monroe sat at a desk in this room and wrote his doctrine warning Europe to stay out of the Western Hemisphere.*
- *In 1825, John Quincy Adams made it a sitting room.*
- *From 1849 until the time of Lincoln's assassination it was a reception room for visitors wanting to see the president.*
- *In 1866, Andrew Johnson made it his cabinet room, and it functioned as such until the West Wing was built.*
- *In 1902, Theodore Roosevelt made it into a study. Woodrow Wilson spent most of his time in this room, where he wrote the Fourteen Points, his personal requirements for peace after World War I.*
- *In 1930, it became the "Monroe Drawing Room" after Mrs. Hoover placed reproduction Monroe furniture in it.*
- *In 1936, it was one of the rooms Eleanor Roosevelt used for press conferences.*
- *In 1945, Winston Churchill used it as his personal map room.*
- *In 1952, it was a sitting room.*
- *In 1962, Jacqueline Kennedy made it the Treaty Room (as seen in the photograph).*
- *In 1990, it became the president's office in the residence.*

In 1962, 80 million Americans watched the television tour of the White House and saw President and Mrs. Kennedy sitting in the Treaty Room answering Charles Collingwood's questions. Many of the questions referred to the changes Mrs. Kennedy was making to the White House. John Kennedy observed that every president who comes to live in the White House receives stimulus from the legendary figures who served in the same capacity. He explained: "Anything which dramatizes the great story of the United States—as I think the White House does—is worthy of the closest attention and respect by Americans who live here and who visit here and who are part of our citizenry. That's why I am glad that Jackie is making the effort she's making."[14]

The Treaty Room, recreated to resemble the Cabinet Room during Ulysses S. Grant's term of office and to commemorate peace treaties signed to end or prevent wars, was a Jacqueline Kennedy inspiration and realization. She was particularly proud of her research in tracking down the treaties signed in this room, and procuring facsimiles from the National Archives to hang on the walls.

Interior decorators could hardly believe Mrs. Kennedy was resurrecting Victorian furniture considered terribly unfashionable in 1962, but the first lady was far more interested in historical precedents than design magazine approval. Her passion during the three short years she lived in the White House was to imbue the house with the spirit of past presidents, and the Treaty Room was a fine example of her aspirations. The room is strikingly unified in design, and most of the furnishings originated with past presidents.

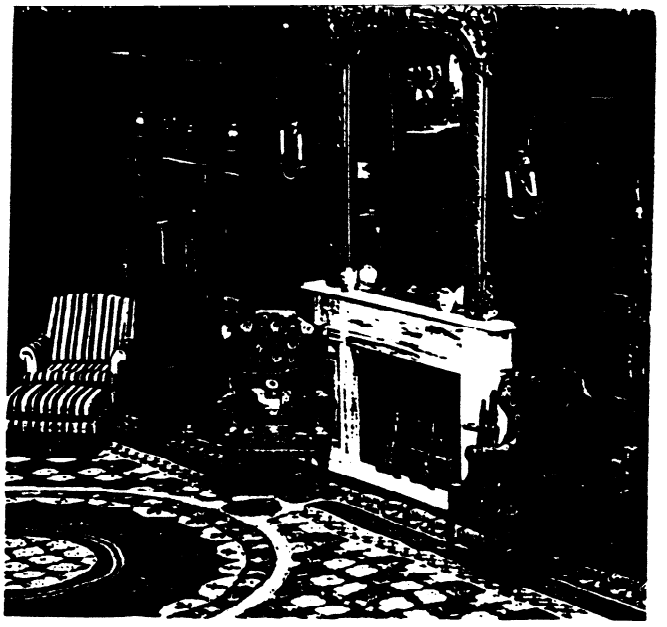
The White House television tour was a Jacqueline Kennedy tour de force with more than a little help from CBS, and she possessed star quality equal to her subject. She knew what to say on camera and how to

say it. A classic example of her tact and ability to find common ground with her audience was recorded in the published transcript of the program. Charles Collingwood asked Mrs. Kennedy what purpose the Treaty Room would serve, and the television audience heard her reply:

Well I do think every room should have a purpose. It can still be a sitting room because that sofa, though you may not believe it, will look nice. But it will serve a definite purpose. My husband has so many meetings up here in this part of the house. All the men who wait to see him now sit in the hall with the baby carriages going by them. They can sit in here and talk while waiting for him.

During the rehearsal period, however, when Mrs. Kennedy was asked why she was refurnishing the room, she replied, "It's really to get the Cabinet out of the living room."

Many presidents have used the old cabinet table that was the focal point of Mrs. Kennedy's restoration for the signing of peace treaties. William McKinley watched as the peace treaty ending the Spanish-American War was signed in August 1898; Calvin Coolidge in 1929 put his signature on the ratification of the Kellogg-Briand Peace Pact; John Kennedy, in 1963, signed the "Treaty for a Partial Nuclear Test Ban"; Richard Nixon, in 1972, signed the "Treaty of the Limitation of Anti-Ballistic Missile Systems"; in 1979 the table was taken outdoors for the momentous signing of the Egyptian-Israeli Peace Treaty by Menachem Begin, Anwar el-Sadat, and Jimmy Carter (see document page 193); and on a brilliant, sunny day in September 1993, the world witnessed not only the signing of the Israeli-Palestinian peace treaty on the cherished cabinet table, but also the handshake between Yitzak Rabin and Yasir Arafat that took place alongside that American heirloom.



The photograph above shows part of the former Treaty Room as it appears in the Clinton White House (except for the rug, which is not correct). The president uses the room as an office and the historic cabinet table (opposite page) as his desk. A child of the sixties, the president favors strong colors, but no one quite understands why the Clintons, whose love of American history spans the entire 200-year history of the house, have allowed a prevalence of Victoriana to dominate newly refurnished White House rooms. Clinton has kept the Chartran treaty painting (see page 72) and added ones of Benjamin Franklin and George Washington. Scattered throughout the room are the president's favorite photographs and mementos. The president's books flank the fireplace in bookcases built in situ by White House carpenters (see Carpenters' Shop, p.190) because they were too large to fit through the doorways. The overall effect resulting from the choice of fabrics, colors, lamps, and upholstered furniture is a reflection of the judgment of Little Rock interior decorator Kaki Hockersmith.

Mrs. Clinton, discussing the changes she is making to the White House, stated in an interview published in *Historic Preservation* (November–December 1993) that "preservation and restoration—not redecoration" is what she and her husband hope to achieve. "We're interested in enhancing the house and the furnishings within it . . . as a means of furthering the historical mission of the house." As President Clinton enjoys inviting certain guests and foreign dignitaries to his office in the residence, it, like other rooms, "should depict the quality and the importance of the White House as a living museum," asserts the first lady.

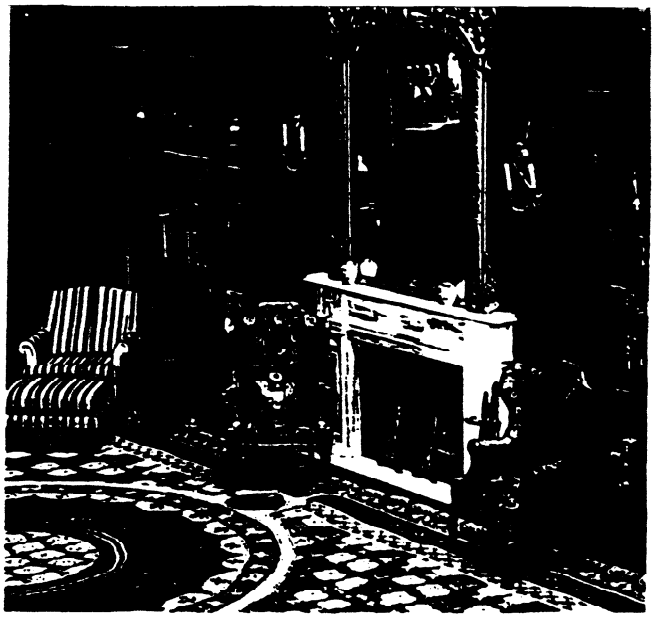
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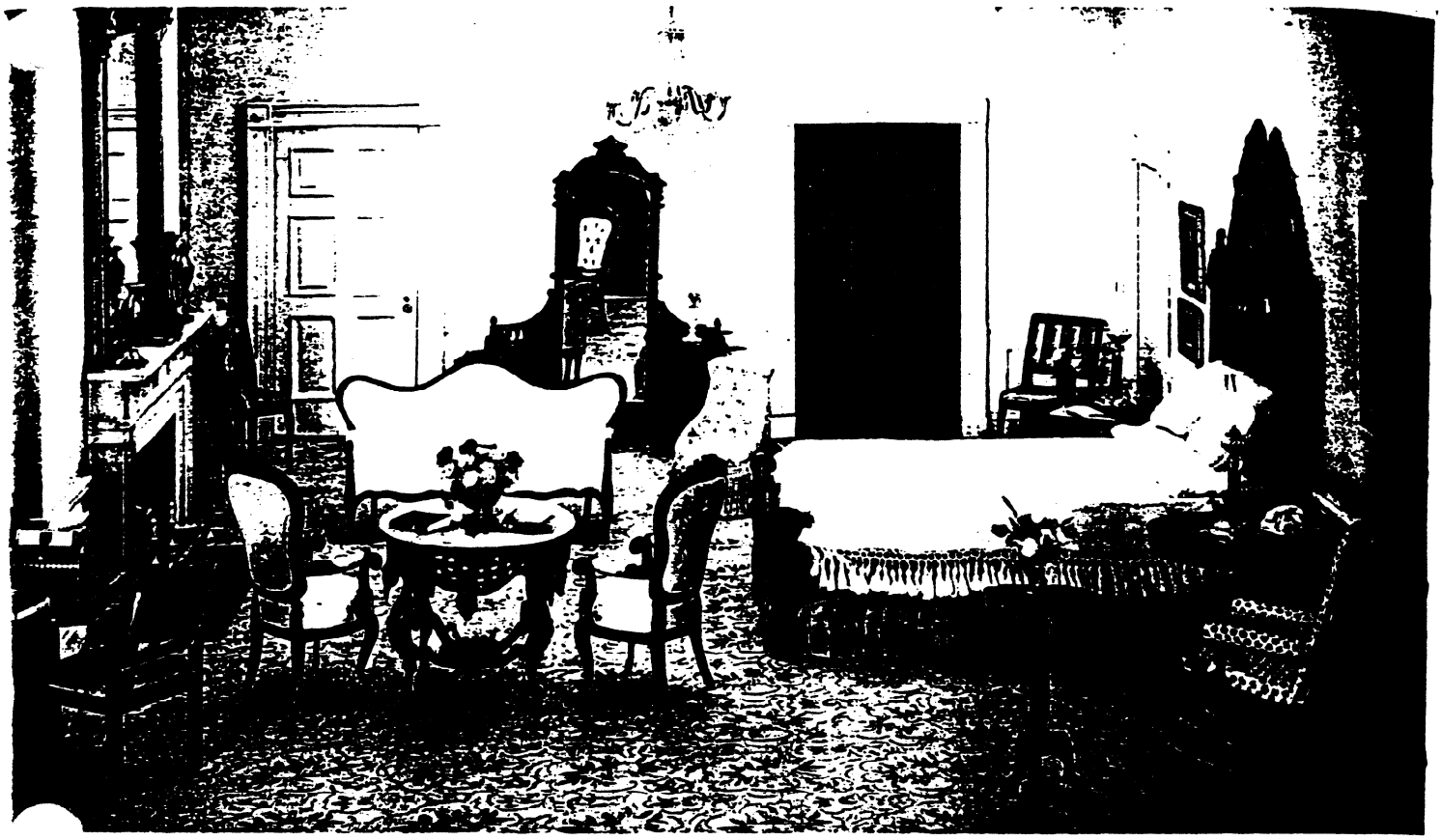
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.arles McKim, President and Mrs. Theodore Roosevelt's architect and interior designer, wanted in 1902 to rid the White House of all the Victorian furniture. Edith Roosevelt insisted that certain pieces be kept, including the majestic carved rosewood bed now in the Lincoln Bedroom. Teddy Roosevelt subsequently enjoyed many restful nights in it; Woodrow Wilson, we assume, spent many restless nights worrying about World War I; and Calvin Coolidge remained silent on the subject of how he slept in the imposing Lincoln Bed. Had the architect instead of the first lady had his way, one of the most famous pieces of furniture in the White House might have been lost forever.

The elaborately carved Victorian table was also part of the furniture purchased by Mary Todd Lincoln from William and George Carryl of Philadelphia in 1861. In 1860, the prince of Wales stayed overnight in the "best guest room" in the James Buchanan White House, a room described by Mrs. Lincoln's cousin as "most shabby." The bed and the table reflect Mary Todd Lincoln's idea of appropriate furniture for a guest bedroom. In 1970, another prince of Wales, Prince Charles, slept in the bed that came to the White House as a result of his ancestor's brief visit.

The cream-colored silk sofa and matching chairs, believed to have been used in the White House during Lincoln's administration, were discovered in England and given to the White House in 1954. The "slipper" chair is upholstered in yellow and green William Morris fabric provided by a citizen who wanted to help Mrs. Kennedy with the restoration of the Lincoln Room.

The rocking chair (right foreground) is similar to the chair Lincoln used in the box at Ford's Theatre the night of his assassination. In front of the walnut bureau with full-length mirror, bought by Mary Lincoln, one nineteenth-century White House guest did her "pompadour every morning."

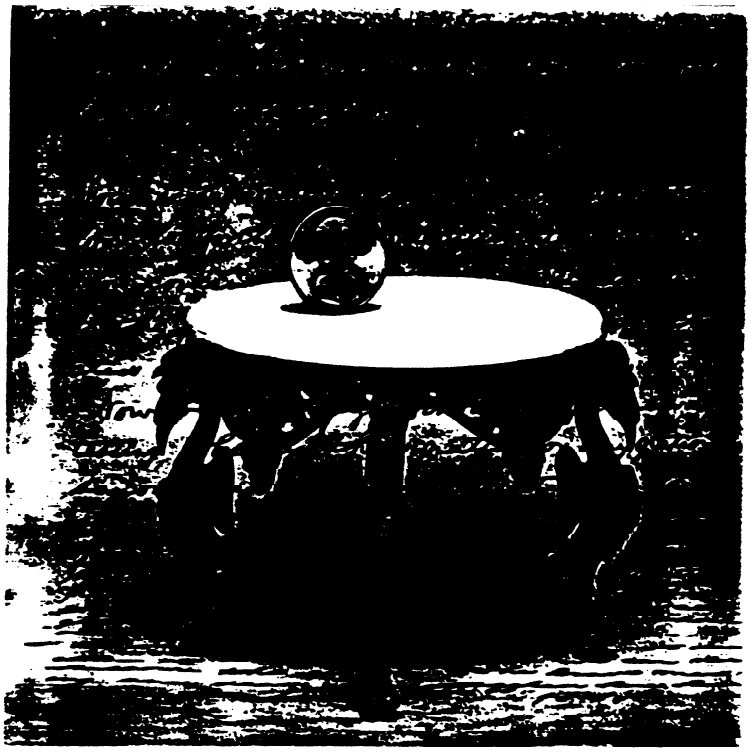
Visitors staying the night make certain to sit at the desk on the left. This has been authenticated as the desk Lincoln used at the "summer White House," a few miles northeast of 1600 Pennsylvania Avenue. The chairs at the desk and along the north wall were in Lincoln's cabinet room. The tables flanking the bed were purchased by President Jackson, whose portrait, seen to the left of the bed, hung in the exact spot when this room was Lincoln's office (see pages 108–11).

Lincoln Bedroom

The towering figure in the history of the White House was Abraham Lincoln. Theodore Roosevelt spoke for every chief executive when he said: "I think of Lincoln, shambling, homely, with his strong, sad, deeply-furrowed face, all the time. I see him in the different rooms and in the halls." The Lincoln Bedroom, which was the sixteenth president's office and cabinet room (see pages 108–11), is the only room in the White House named after and honoring a past president. Jacqueline Kennedy commented:

Sometimes I used to stop and think about it all. I wondered, "How are we going to live as a family in this enormous place?" I would go and sit in the Lincoln Room. It was the one room in the White House with a link to the past. It gave me great comfort. I love the Lincoln Room. Even though it isn't really Lincoln's bedroom, it has his things in it. When you see that great bed, it looks like a cathedral. To touch something I knew he had touched was a real link with him. The kind of peace I felt in that room was what you feel when going to church. I used to sit in the Lincoln Room and I could really feel its strength. I'd sort of be talking with him. Jefferson is the President with whom I have the most affinity. But Lincoln is the one I love.[15]

A plaque on the mantelpiece reads: "In this room Abraham Lincoln signed the Emancipation Proclamation of January 1, 1863 whereby four million slaves were given their freedom and slavery forever prohibited in these United States." This was an act of great personal courage and historic consequence. Even without the furniture, presidents entering the room feel the power of the past and the necessity of just leadership in the future.



The table stands less than 2 1/2 inches high, but Jack Zweifel, John and Jan's eldest son, carved all the fine details found in the original piece. Storks support the marble surface, grapes hang down from the circular top, and the legs brace a bird's nest underneath. The rosewood table is the finest example of woodcarving in the White House replica. It took approximately 160 hours to carve and many hours to sand and stain. The Gettysburg Address, seen in facsimile in the background, is traditionally displayed in the Lincoln Bedroom in the form of a holographic copy.

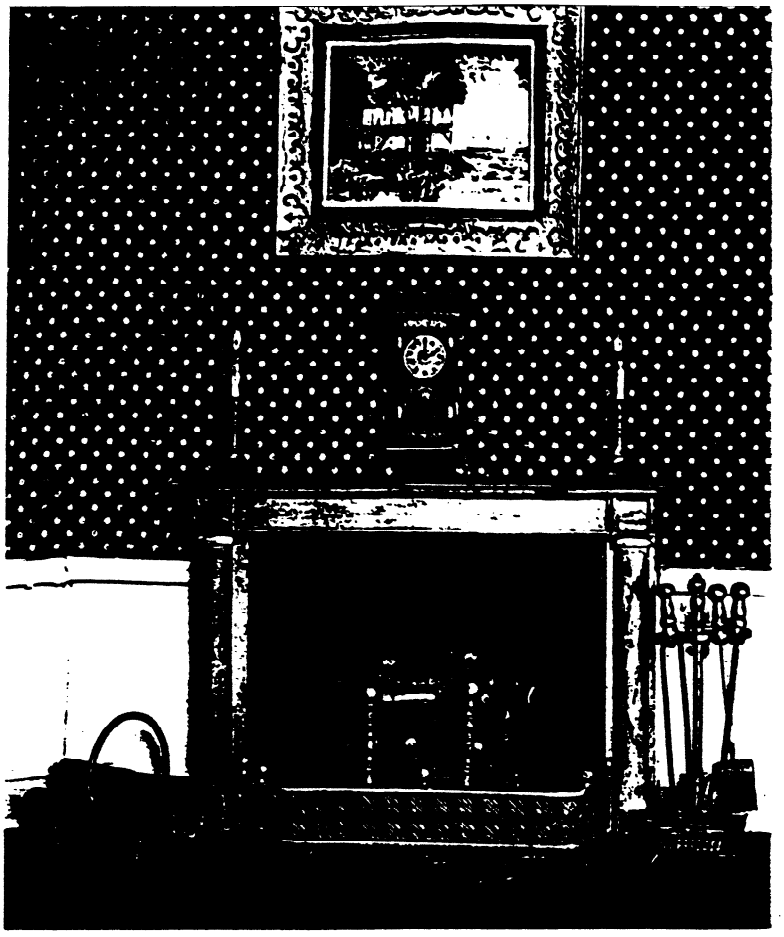
Lincoln never slept in the 9-feet-long, 6-feet-wide bed that carries his name, but by its side he wept uncontrollably at the sight of his small son Willie, lost forever in its folds, dead at the age of eleven. Three years later, in 1865, the man who pleaded for "malice toward none; with charity for all" was embalmed at the foot of the big bed, shot by an assassin's bullet.

For many years, this room has been reserved for guests. FDR insisted that his close adviser Harry Hopkins and his new bride even live in the Lincoln suite (bedroom and sitting room), and had it repainted for them. Harry Truman, a passionate devotee of American history, decided to pull together furniture from Lincoln's time and place it here.

1665



Lincoln Sitting Room



Visitors to the White House replica often ask themselves, "What makes it look so real?" The answer lies in the thousands of little details. In this small room of the replica, there is a "fire" in the fireplace, and it flickers. The logs are perfectly scaled; even the knots are in proportion. All the necessary tools are there to maintain the fire, and the andirons have been perfectly shaped to fit the space. The mantel is a carved copy of the original. The picture frame and the wainscoting are built up from thin pieces of wood to look like the real thing. There is a copy of the painting *Pavilion at Gloucester* by William Glackens. The electrified candles burn, and although the copy of the French Empire clock on the mantel does not tick, other clocks in the White House replica do.

Located in the southeast corner of the mansion, this small room's moment of glory came during the McKinley administration and the Spanish-American War. The site of the president's "War Room," frequently referred to in histories of the war, is rarely specifically situated. But it was this small space that became, as William Seale says, "the lifeline of war communications . . . removing it from its traditional place in the War Department." In 1901, over the same telegraph lines, came the news that McKinley had been shot by an assassin while visiting the Pan-American Exposition in Buffalo. Colonel Crook, who had served as executive clerk at the White House since the early 1860s, remembered thinking as he read the telegram, "Good God! First Lincoln—then Garfield—and now McKinley!"

For the first quarter of the nineteenth century, the Lincoln Sitting Room was simply empty. When Charles Dickens visited the White House in the 1840s, it was Tyler's "unimpressive" office. Later, it was generally occupied by the president's private secretary and had the luxury of a water closet at the north end, contributing to its irregular shape. The room became the telegraph office during the administration of Rutherford B. Hayes. After the executive offices were moved out of the mansion in 1902, it was used by the first family themselves or as part of one of the principal guest suites in the house.

Richard Nixon read and listened to music here. He always liked a fire in the fireplace, even in summer, and, according to his daughter Tricia, had the air conditioning turned up to compensate for his idiosyncratic habit. John Zweifel included in his rendering of this room the cigar burns in the carpet that Nixon inadvertently caused.

The decor dates from the Reagan administration. The desk on the right was made by James Hoban, the original architect of the White House. The four rosewood chairs were purchased by Mary Todd Lincoln. The plaster cast sculpture titled *Neighboring Pews* was created by John Rogers, the most popular sculptor in America between 1860 and 1895.

Queen's Bedroom and Sitting Room

Ike Hoover, who worked for ten presidents, described Will Rogers' visit to the Coolidge White House:

Mr. Rogers had been assigned to what is known as the pink [Queen's] guest suite, in the extreme northeast corner of the bedroom floor. It consists of a large room with a four-poster bed, a small dressing-room, which also has a single brass bed in it, and a private bath. He was escorted halfway down the hall by the President and his room pointed out to him. A doorman was summoned to have one last word with Mr. Rogers and learn if there was anything that could be done for him before he retired.

Upon entering the room, Mr. Rogers seemed rather hesitant about occupying the large four-poster bed that had been prepared for him. Turning to the doorman, he inquired if he had to sleep there. He was told of the small bed in the dressing-room and chose that in preference to the large one. The man turned down these covers and left Mr. Rogers with his own thoughts, to spend the night in the White House with all the thrills he afterwards described.[16]

Truman's mother couldn't see herself in this big, beautiful guest room (originally called the Rose Bedroom) either, declaring she would rather sleep on the floor. The bed was too high, the decor too fussy, she declared, and like the earthy humorist, she slept in the small sitting room. The entertainer Sammy Davis Jr., however, when he spent the night at the White House, turned down the chance to sleep in the famed Lincoln Bedroom in favor of the Queen's Bedroom. He later joked, "I thought to myself, now I don't want [Lincoln] coming in here talking about 'I freed them, but I sure didn't mean for them to sleep in my bed.'"

The White House needed a sumptuous bedroom. Before Blair House, located across the street, became the official presidential guest house, the White House did have many overnight visitors with singularly imperious or peculiar ways. Winston Churchill and Madame Chiang Kai-shek during the war years were two of the most demanding. And royalty never fits smoothly into a household labeled the "first house of democracy." It is known that the White House staff were often disconcerted by the manner in which certain supercilious guests ordered them about. Whether "Mr. Brown" (alias for V. M. Molotov, Soviet minister for foreign affairs, who slept in the Rose Bedroom in 1942) addressed them as "comrade" has gone unrecorded. What *has* been recorded are the findings of the valet who unpacked Molotov's suitcase: black bread, sausages, and a revolver.

The Rose Bedroom was renamed the Queen's Bedroom by Jacqueline Kennedy in honor of the royal guests who had occupied it. Among these were Queen Elizabeth of Great Britain in 1942, Queen Wilhelmina of the Netherlands in 1942, Queen Julianna of the Netherlands in 1952, Queen Frederika of Greece in 1953, and Queen Elizabeth II of Great Britain in 1957.

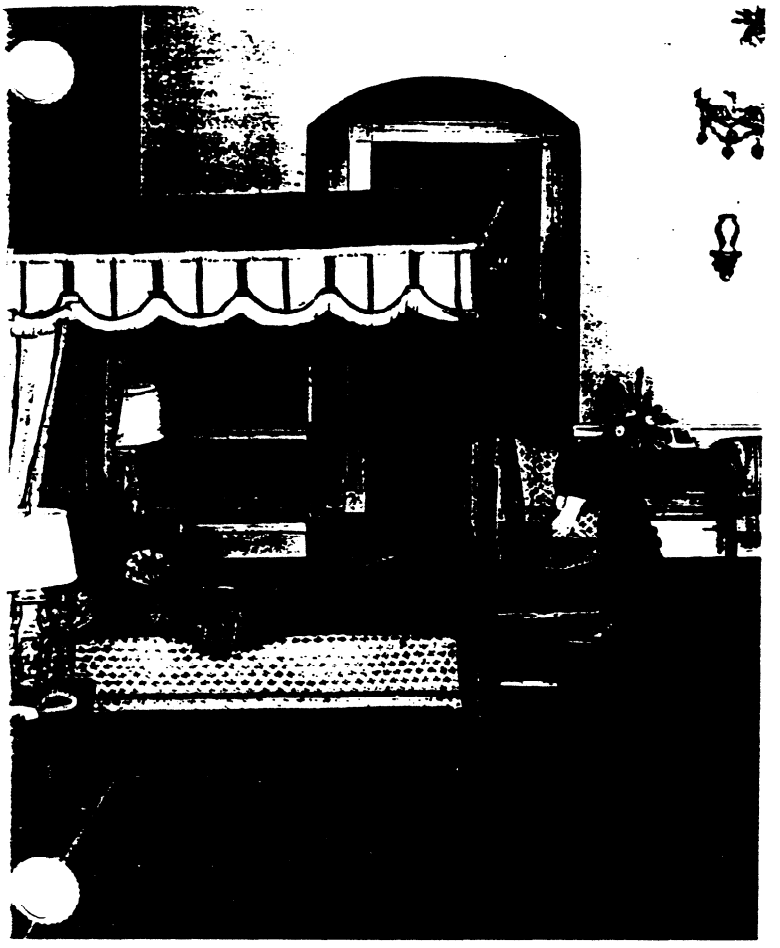
In the days of Buchanan and Lincoln, the president's private secretaries lived in this bedroom, with twenty-four-hour dedication to the job expected. John Hay and John G. Nicolay shared the room in the 1860s. By the time of Andrew Johnson's presidency, his private secretary was moved to the corner room (today's Queen's Sitting Room), and the larger space became an office occupied by six clerks. When executive offices were finally built adjoining the man-



The Queen's Bedroom overlooks Lafayette Park to the north of the White House. The four-poster bed is thought to have belonged to Andrew Jackson; it came from the Hermitage, his home in Tennessee. The Federal sofa has scrolled arms and floral decorations on the top rail. The carved wood mantel on the west wall dates from the years 1820–30 and was removed from a Philadelphia house built in 1792. The English looking glass over the mantel with an eighteenth-century floral painting framed with it was presented to the White House by Princess (now Queen) Elizabeth on behalf of her father, King George, when she and Prince Philip visited Washington in 1951. The princess remarked that it was the king's "hope, and mine, that [the mirror] will remain here, as a mark of our friendship, so long as the White House shall stand."

The Queen's Bedroom has traditionally been given to female guests, as the Lincoln Bedroom was considered the more masculine. Female portraits, too, dominate the paintings in the room. One of the most beautiful is of the actress Fanny Kemble (seen above the sofa). The artist, Thomas Sully, was the son of English actors who emigrated to America in 1792. Fanny Kemble also arrived in America from England with her actor father in 1832 and soon won the hearts of American audiences.

The actress was presented to Andrew Jackson at the White House in 1833, the year she married and gave up the stage. Vehemently opposed to the slavery she witnessed on her husband's Georgia plantation, she divorced him in 1849. She began to give public readings that became legendary. Longfellow was enraptured: "How our hearts glowed and trembled / as she read . . . " She also wrote *Journal of a Residence on a Georgian Plantation*, published in England in 1863, hoping to encourage a public outcry against slavery. Her nephew later married President Ulysses Grant's daughter Nellie in the Blue Room. Fanny is a favorite of first families and an inspiring companion while staying overnight at the White House.



Sir Winston Churchill spent a total of forty-two frenetic days at the White House, including nearly a month's stay shortly after Pearl Harbor. When he arrived, with an aide, secretary, two Scotland Yard men, and a valet, he virtually took over. Everyone in his entourage needed to sleep in close proximity to Churchill and consequently, because the house is not as large as many an English manor, near Roosevelt. Churchill occupied the Queen's Suite, opposite Harry Hopkins' room and down the corridor from the Roosevelts.

Stories of Churchill at the White House abound. Although there is no evidence that Eleanor bumped into him stark naked one night, David Eisenhower thought the story was worth investigating; he concluded, after conducting various interviews, that it would have been impossible. Winston Churchill II reported that his grandfather always slept in a vest (undershirt), nothing more, nothing less.

Legend has it that Franklin did get to see all of the prime minister. As the story goes, Churchill was dictating in his bath, and continued to dictate while walking around his room in a towel and even after the towel fell to the floor. It was then that Roosevelt entered the room and was greeted with the famous declaration: "The prime minister of Great Britain has nothing to hide from the president of the United States." But when Robert Sherwood, the playwright, author, and onetime speechwriter for FDR, asked Churchill if the story was true, the great statesman replied that it was not. He maintained that he always had his towel around his imposing belly.

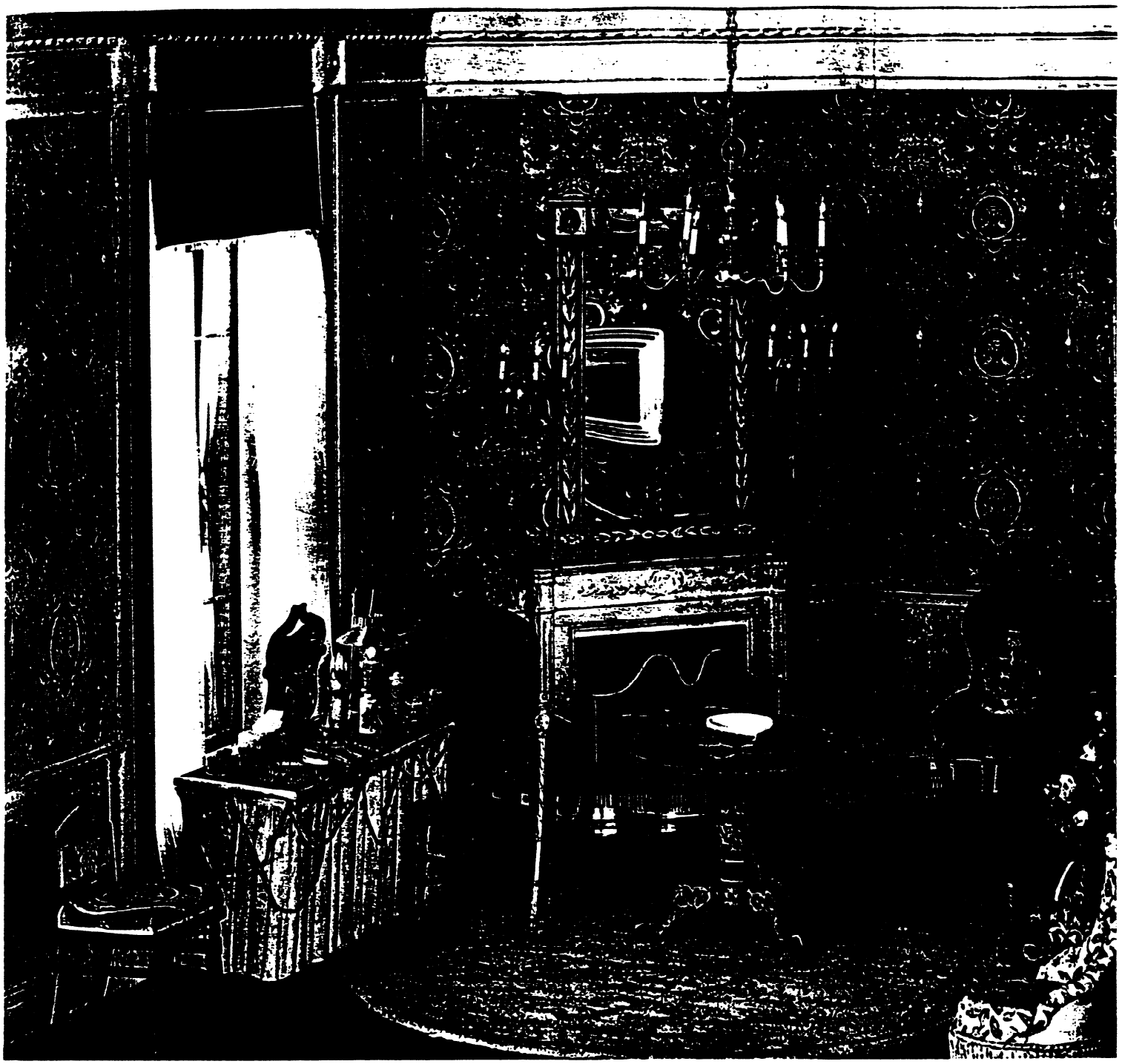
Churchill stayed up nightly talking to the president until about 2:00 A.M. Roosevelt would attempt to put in normal working days, but Churchill, according to contemporary reports, spent a large part of the day "hurling himself violently in and out of bed, bathing at unsuitable moments and rushing up and down corridors in his dressing gown." If there hadn't been a war to win, Eleanor would have kicked him out. The cigar on the bed is a "Super Churchill," placed here for scale and not to suggest that the prime minister was careless about where he left his smoldering cigars.

sion during Teddy Roosevelt's tenure, the rows of desks that had filled this room for so many years were placed in a large room at the west end of the West Wing. This room then became the Rose Bedroom and the site of Alice Roosevelt Longworth's childhood appendectomy.

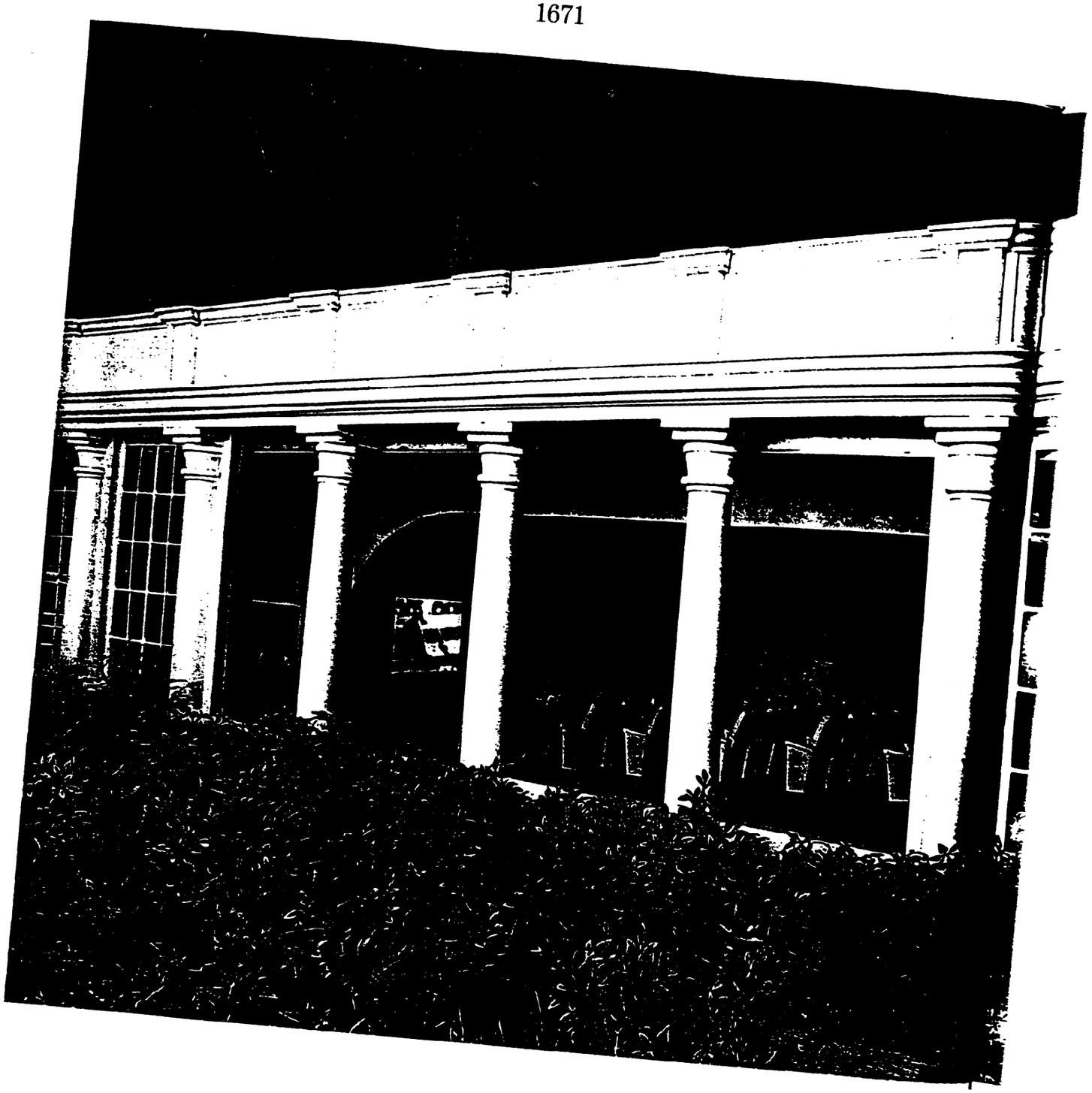
Today, the Queen's Bedroom and Lincoln Bedroom accommodate personal friends and family of the president and first lady who are invited to spend the night at the best address in the country.

The *Architectural Digest* (December 1981) described the Queen's Sitting Room as "evoking a stately yet festive tone." French fabric with a neoclassical medallion design was installed during the Kennedy administration. A draped dressing table is festooned with tasseled cord. The crown and scepter are just for fun, reminding the viewer that the White House replica descends from a long line of magnificent miniatures, including Queen Mary's Dolls' House at Windsor Castle.

1670



1671





Movie Theater in East Colonnade

In July 1942, President Franklin Roosevelt ordered the White House cloakroom, located in the east colonnade, converted into a movie theater. From that time on, the White House has had no permanent coatroom, but every first family would probably agree that having a personal movie theater is better. In any case, the space still serves as the temporary coatroom.

As early as 1933, Roosevelt was receiving newsreel footage of important presidential activities. The president also was sent copies of films made by government agencies and, once the war began, many of the propaganda films. Family and friends have probably used the theater far more than the president, especially since the White House also has always had access to feature films.

Margaret Truman was delighted to learn that she could ask for a viewing of any Hollywood movie, new or old, at any time she desired. It is reported that she saw her favorite, *The Scarlet Pimpernel*, sixteen times. Mamie Eisenhower, like many American women in the 1950s, enjoyed watching a movie on a Saturday afternoon. She was particularly fond of sharing the sixty-five-seat theater with her young grandchildren. Her husband, too, watched many movies there. Presidents Carter and Reagan normally waited until they were resting at Camp David to savor Hollywood's latest offerings. President Clinton's "favorite cultural activity," noted the *New York Times* on March 23, 1994, "seems to be showing movies at the White House."

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Tuesday, November 14, 1995

PART-A; National Desk

President, GOP Hold Last-Ditch Summit on Budget; Government: Hope for avoiding shutdown rises as Dole and Gingrich visit the White House. Senate and House remain in session in case of agreement.

PAUL RICHTER; EDWIN CHEN
TIMES STAFF WRITERS

President Clinton and Republican congressional leaders convened a late-night summit at the White House on Monday in a last-ditch effort to broker a temporary budget deal and avert a partial shutdown of the government today.

Both the House of Representatives and the Senate remained in session in case an agreement was reached.

A glimmer of hope for avoiding the first government shutdown in five years arose when Senate Majority Leader Bob Dole (R-Kan.) and House Speaker Newt Gingrich (R-Ga.) announced they were going to the White House for a meeting expected to begin about 10 p.m.

Dole and Gingrich said every point of contention would be "on the table" and that there would be "no preconditions."

The talks appeared even more promising because the two Republican leaders agreed to include the two congressional Democratic minority leaders, Sen. Tom Daschle of South Dakota and Rep. Richard A. Gephardt of Missouri. Dole and Gingrich had refused to involve congressional Democrats in any such discussions, insisting that the dispute was between the White House and Capitol Hill Republicans.

Earlier, Clinton vetoed a temporary borrowing bill, and vowed to veto a stopgap spending measure that would have kept federal offices open, setting the stage for a furlough of more than a third of the government's 2.1 million civilian workers this morning. The stopgap measure was passed by the Senate Monday afternoon. Clinton vetoed the second temporary measure before sitting down with the Republicans Monday night.

Throughout the day, White House and GOP leaders had traded

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unciations.

Clinton declared that signing the bills would force him to swallow unacceptable portions of the GOP agenda that Republicans had tacked onto the short-term budget bills.

"This legislation is part of an overall back door effort by the congressional Republicans to impose their priorities on our nation," he said. He charged that the GOP was violating the intent of the Founding Fathers by packing special provisions dealing with larger government policy questions into temporary measures meant to deal exclusively with government solvency.

Republicans countered that Democrats often engaged in such tactics when they were in control of Congress. They taunted Clinton and accused him of trying to avoid a compromise. Gingrich said the standoff "must seem like a spectacle to the average American," and he warned that the public will "blame all of us."

Some Democrats as well acknowledged that the standoff cast a highly unflattering light on the adversaries.

"Everybody loses if we try to bring the government to a andstill," said Sen. John B. Breaux (D-La.) "We're so busy trying score political points, I think some people in Louisiana believe even we in Congress are not 'essential' employees who should report to work tomorrow."

Without an agreement, some 800,000 federal workers in Washington and across the country would be furloughed today for an indefinite period. Those employees, who have been deemed nonessential, have been told to report to work, and to be prepared for orders to close up their operations and head home unless a compromise is reached.

Federal supervisors could direct their employees to stay at work longer if it appeared that a breakthrough was coming.

Vital Services

The furloughs would not affect federal services deemed vital, such as air traffic control, law enforcement, the mails and the military. But they would close national parks, museums, passport offices and the processing of new claims for Social Security, food stamps and other government benefits.

The battle over the two temporary measures developed because the Congress has fallen behind in its efforts to finish the work of sing 13 bills needed to fund the various government operations for fiscal year that began Oct. 1. So far, only three of the 13 bills

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e been finished by Congress.

The two temporary budget measures would keep the government operating as usual for several more weeks, providing Congress and the President time to complete work on the remaining measures.

Some Senate Republicans sought to defuse Clinton's opposition to a GOP provision to raise Medicare premiums for elderly beneficiaries. The Republican measure to temporarily extend the government's spending authority would have raised those monthly premiums, starting Jan. 1, from the current $46.10 to $53.50, rather than allowing them to fall to $42.50, as provided in current law.

As a way around the White House objections, Sen. Peter V. Domenici (R-N.M.), chairman of the Senate Budget Committee, suggested that the spending bill keep the premiums level at $46.10. But White House officials did not promise that Clinton would accept that compromise. They said that even agreement on that point would not eliminate the President's objection to language in the same bill that would sharply cut interim spending levels for some federal programs.

Temporary Spending

The bill provides that temporary spending could fall to as low as of fiscal 1995 levels for some federal programs that Republicans have sought to cut or eliminate. The provision threatens some programs that are close to Clinton's heart--such as the national service program and Goals 2000 education programs--and thus run counter to vital White House aims.

Mike McCurry, White House press secretary, said, "The President is very concerned about the 60% funding level." As the federal government's borrowing authority ticked toward expiration at midweek, Treasury Secretary Robert E. Rubin took steps Monday to assure that the government would be able to pay its debts. The temporary borrowing bill vetoed by Clinton would have raised the current $4.9-trillion debt ceiling by $67 billion.

To stay below the debt ceiling, Treasury officials announced that they will dip temporarily into certain government retirement funds, essentially a bookkeeping ploy in which Treasury securities are redeemed for cash. By removing those securities from the books, the Treasury lowers the total U.S. debt, making room to add on new debt through a series of Treasury auctions this week and next.

The government had faced a major cash squeeze in the coming days--$102 billion in payments for interest and principal.

Today's announcement is saying we're not going to default," a

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asury spokesman said.

Bonds rallied on Wall Street after the announcement. The benchmark 30-year Treasury bond yield fell to 6.27% from 6.33% Friday. The Dow industrial stock index inched up 2.53 points to a record 4,872.90, but most stocks closed lower.

Government officials made final plans for furloughs, after going through the frustrating exercise of trying to decide which employees would be essential to their operations.

At the White House, for example, 79% will be furloughed, leaving 90 of the Executive Mansion's 430 full-time equivalent employees on the job.

The guidelines will leave the White House press office staffed by unpaid interns, one press assistant and the press secretary; while the White House's political director, Douglas Sosnik, will be furloughed.

The prospect of a shuttered government is also forcing the White House to shorten a trip to Asia that U.S. and Asian officials have deemed highly important.

linton will now spend two days, instead of six, on a trip that was to encompass a state visit with the Japanese, and a meeting with members of the Asian trade bloc.

Long scheduled, the trip will now amount to "a weekend trip to Asia," McCurry acknowledged.

Only days ago, Japanese ambassador to the United States Takakazu Kuriyama was suggesting that such a shortening was undesirable and unlikely. "We don't expect that to happen, and of course we don't want to see that happen, given the importance of the relationship," the ambassador said.

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Tuesday, November 14, 1995

A SECTION

At White House, on Hill, Pondering the Essentials

Guy Gugliotta
Washington Post Staff Writer

Sen. Alfonse M. D'Amato (R-N.Y.) was planning to hold "essential" Whitewater hearings, then canceled. Rep. John R. Kasich (R-Ohio) wants his pay held, but doesn't know how to do it. The White House is going down to one chef. Senators may bring lunch -- their dining rooms will be closed.

With a government shutdown only hours away, the opposing camps in the White House vs. Congress budget battle last night tried to ~ cide who would work tomorrow and who would not.

~ Not surprisingly, the White House, with only one boss calling the shots, had things pretty well figured out by sundown. President Clinton and top White House staff were "essential personnel," as were the Secret Service and the people working in the Situation Room.

But first lady Hillary Rodham Clinton's staff will fall from 16 to four, and maintenance will drop from 70 to 14. Where there are normally four chefs, there will be only one during the day and another at night -- only 90 of the White House's 430 employees were expected to stick around for a day's work.

In Congress, by contrast, where there are 535 bosses, any meaningful count of the total considered "essential" was impossible. Secretary of the Senate Kelly Johnston said there will be no guided tours, but the Capitol will be open and Capitol Police will see that visitors don't get into harm's way.

House Oversight Committee Chairman Bill Thomas (R-Calif.) sent a letter to House members early in the afternoon yesterday describing "essential" personnel as "only those whose primary job responsibilities are linked directly to legislative activities."

'homas himself, however, found wandering the halls late

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terday looking for House Speaker Newt Gingrich (R-Ga.), confirmed the vagueness of this dictum, saying "I don't know of any shutdown," and offering the opinion that Congress was deeply involved in the nation's essential business.

The House Budget Committee chairman wanted to "make sure my pay is held, just like any federal employee. So I asked somebody how to do that this morning," Kasich said, "and they said, 'I have no idea.' "

Also planning on coming to work was Gingrich spokesman Tony Blankley. "My dog thinks I'm essential," he said. "I bring him food -- he told me in dog words." Besides, he added, "McCurry would be disappointed if I wasn't there."

Michael McCurry, the White House press secretary, was not immediately available for comment, but as one of the White House's 90 anointed, he can watch Blankley twisting the knife on TV and will be able to return the favor.

The House was lucky on food, because it privatized all its cafeterias and dining rooms. The Senate, which runs its own eating places, is shutting them down, leaving senators with the awkward choice of visiting the House to eat or making do with vending machines.

D'Amato, the Senate's Banking Committee chairman, said late yesterday that he'd planned to conduct a Whitewater hearing today, saying it was "essential" to the "fulfillment of our objectives." How essential?

Not that essential: He later postponed the hearing, issuing a release citing "the tremendous press of business relating to the budget." Hearings to resume, he said, after Thanksgiving.

Staff writer Helen Dewar contributed to this report.

---- INDEX REFERENCES ----

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Tab 5

Israel Arrests More Rabin Slaying Suspects; Military Withdraws from Jenin

Peres Pursues Peace with Security. Israeli military radio Nov. 11 reported that the police had arrested an active-duty soldier and his father in connection with the assassination of Prime Minister Yitzhak Rabin, who was slain Nov. 4 by a Jewish ultranationalist. The police, already holding the confessed assassin and five other right-wing suspects, did not immediately confirm the two new arrests. However, a police spokesman, Boaz Goldberg, Nov. 14 said that authorities had widened their crackdown on rightist militants, rounding up more than 50 additional people on a host of charges not directly tied to the Rabin case. [See below, p. 833A1]

Concurrently, Acting Prime Minister Shimon Peres signaled Israel's intention to meet terms of the accord on extended self-rule that the Rabin-led government had signed with the Palestine Liberation Organization (PLO) in September. The Israeli military Nov. 13 withdrew from the northernmost West Bank Arab city of Jenin, transferring control to the Palestinian National Authority (PNA), headed by PLO Chairman Yasir Arafat, after 28 years of Israeli military occupation. [See p. 709A1]

In hailing the advent of self-rule to Jenin, Gen. Nasser Yousef, a senior PNA security official, said, "Without a doubt this day crowns the work of Prime Minister Yitzhak Rabin who lost his life working for peace."

Peres Nov. 14 toured Israeli military posts on the West Bank near the "green line," Israel's 1967 border with the then-Jordanian West Bank. He indicated that security considerations for Israel's military outposts and settlements in the West Bank would remain one of his uppermost priorities as Israel continued its peace process with the Palestinians.

Peres said that the military's withdrawal from Jenin, the first Palestinian city affected under the second-phase accord, would be followed by a pause in troop redeployments so that Israelis could "draw all the necessary conclusions" as to the feasibility for withdrawing from other West Bank cities, in accordance with the September accord.

Peres added that all available measures would be taken to insure that Jews and Arabs on the West Bank could continue undisturbed in their normal lives as Palestinians moved toward democratic elections, tentatively set for Jan. 20, 1996.

Peres Nov. 13 had met in Israel with Benjamin Netanyahu, leader of the right-wing opposition Likud bloc. The two had reportedly agreed to monitor their supporters for the kind of inflamed rhetoric that many observers had denounced as fostering a climate of political violence in Israel.

Focus Shifts to Nationalist Rabbis—Israeli Police Minister Moshe Shahal Nov. 10 said that investigators had concluded that Yigal Amir, the confessed assassin of Rabin, had belonged to a terrorist cell whose violence had been encouraged by a "spiritual leader." Shahal declined to identify the alleged instigator by name, but Israeli newspapers singled out two rabbis—Nahum Rabinovich and Dov Lior—as the possible spiritual leader in question.

Shahal also said that the alleged cell had planned to carry out attacks against Arabs in the West Bank.

Amir had contended in court testimony that Jewish law sanctioned his killing of Rabin. [See p. 834E1]

Rabinovich, who lived in the West Bank settlement of Maale Adumim, outside Jerusalem, and Lior, from the settlement of Kiryat Arba, north of Hebron, Nov. 13 both denied the public accusations against them.

However, Israeli television Nov. 14 aired a tape in which Rabinovich said, "Turning over a comrade to gentiles in a way that endangers his life and turning over property of Jews—whoever does such a thing has to pay with his life." As of Nov. 16, the police had not filed charges against either Rabinovich or Lior.

In developments related to the police crackdown on right-wing extremists, it was reported Nov. 14 that among the detained had been Rabbi Moshe Levinger, a prominent figure among Jewish settlers, and Noam Federman, spokesman for the militantly nationalist Kahane Chai (Kahane Lives) group, an off-shoot of the anti-Arab Kach (Thus) organization founded by the late Rabbi Meir Kahane. [See p. 207E1; 1994, p. 200B1]

Related Developments—In other developments related to the Israeli–Palestinian peace process:

□ The Israeli newspaper *Yediot Ahronot* Nov. 10 reported that a poll of adult Israeli Jews indicated a sharp shift toward support of the Labor Party and its peace process in the aftermath of the Rabin assassination. According to the survey, conducted Nov. 7–8 by the Dahaf Institute, some 74% of respondents said they wanted the government to implement the second-phase accord on Palestinian self-rule, and 23% indicated that they wanted the process to be halted. The survey also showed potential voters backing Peres over the Likud's Netanyahu by a 54% to 23% margin. Some 23% of respondents reportedly favored a third choice or were undecided. [See 1994, p. 150E1]

□ Israelis Nov. 12 ended their formal seven-day mourning period for Rabin with a demonstration that drew 250,000 people to the square in Tel Aviv where he had been assassinated. Peres addressed the crowd, as did Leah Rabin, widow of the slain prime minister. Leah Rabin urged Israelis to back Peres in his effort to continue the peace process, vowing, "The silent majority will be silent no more." [See p. 834F2]

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IN THIS ISSUE

B
Israel arrests more Rabin slaying suspects; military withdraws from Jenin; Peres pursues peace with security; focus shifts to nationalist rabbis.
Nigerian writer, minority rights activists hanged; executions cause furor.
Saudi bombings kill seven at U.S.-run military center; five Americans among dead.
C
British Commonwealth summit held.
Pages 849–852

United States
Clinton vetoes stopgap spending, debt bills; partial government shutdown results.
First Interstate Bancorp accepts buyout.
Boeing hit by machinists strike.
Supreme Court to review cable programming curbs.
D
Rockefeller Center accepts Goldman bid.
Nielsen survey reports U.S., Canadian Internet use.
Federal Reserve reports modest economic growth.
Space shuttle 'Columbia' flies long science mission.
Uprisings occur at four federal prisons.
Foreigners' free-speech rights expanded.
Pages 852–857

Europe
E
German fugitive tycoon's extradition set.
British court overturns arms-to-Iraq convictions.
Italian former Premier Andreotti charged with murder.
Portugal's socialist government takes office; facts on Premier Guterres.
Pages 857–859

Other World News
Australian former treasury official Eastman convicted of murder.
F
Canadian court to retry Somali regiment chief.
Haitian aid package suspended by U.S.
Japanese cabinet minister quits over Korea remarks.
Sri Lankan troops advance on rebels.
Trinidad Prime Minister Panday sworn in.
Pages 859–863

Miscellaneous
Mayfair wins final PGA golf tour event.
G
Awards, Supplies
Pages 863–864

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*Second Section Table of Contents

REFERENCES in brackets [ ] are to location of background information in this & preceding volumes

rorist operation carried out against the U.S. military on Saudi soil during the 50 years of U.S.–Saudi military cooperation. [See 1991, p. 129F1]

U.S. forces had maintained a low profile in Saudi Arabia, out of deference to Saudi custodial responsibilities for Moslem holy sites. The U.S. Defense Department Nov. 13 declined to reveal how many U.S. troops were currently stationed in Saudi Arabia. It was known, however, that for the last 20 years the U.S. had conducted a training program for the 80,000-strong Saudi National Guard on the use and maintenance of U.S.-supplied military equipment. ■

Other International News

British Commonwealth Summit Held. Leaders from most of the British Commonwealth's 52 member nations, the majority of which were former colonies of Britain, attended a four-day summit in Auckland and Queenstown, New Zealand Nov. 10–13. The summit was dominated by the Commonwealth's reaction to French nuclear tests in the South Pacific and Nigeria's execution of nine minority-rights activists. [See pp. 850C1, 823C2; 1993, p. 851E3]

The Commonwealth leaders Nov. 11 decided to suspend Nigeria from the organization for human-rights abuses. Nigeria, which was led by military dictator Gen. Sani Abacha, had drawn fierce worldwide protests after the Nov. 10 executions. Author and environmentalist Ken Saro-Wiwa was among the nine political activists executed.

Commonwealth Condemns A-Tests—The Commonwealth Nov. 10 released a statement condemning France's recent resumption of nuclear testing. British Prime Minister John Major Nov. 10 criticized the Commonwealth's statement and reaffirmed his support of France's right to conduct the tests.

The nuclear tests were being held in the South Pacific and had drawn protests from Commonwealth members there, including New Zealand and Australia. Leaders of those countries had maintained that Major was reluctant to oppose the tests because he feared upsetting Anglo-French relations. Australian Prime Minister Paul Keating Nov. 3 had set a potentially divisive tone for the summit when he said that Major would get "a smack with a ruler" for supporting the tests. (Keating Nov. 10 apologized to Major for his comments, which he said were misrepresented by the media.)

The Commonwealth's Nov. 10 declaration noted the "widespread anger caused by the current program of nuclear weapon tests," although it did not mention France by name. An "overwhelming majority" of Commonwealth leaders were said to back the statement, which claimed that the tests could adversely affect a 1996 nuclear test ban treaty.

Major Nov. 10 called the statement "inconsistent and unbalanced." Major was particularly opposed to the suggestion that the tests could derail the 1996 treaty.

Mozambique was admitted into the Commonwealth Nov. 12. Mozambique would become the only member not to have former colonial ties to Britain. ■

UNITED STATES

Clinton Vetoes Stopgap Spending, Debt Ceiling Bills

Partial Government Shutdown Results. President Clinton Nov. 13 vetoed two bills that would have provided the federal government with funds to pay its debts and remain in operation. Early in the day, Clinton vetoed the first measure, which would have granted a temporary increase in the legal debt limit for the government. Later that evening, Clinton refused to sign a continuing resolution bill—or so-called stopgap spending measure—which would have provided funding for government activities for the next two weeks. The second veto forced a partial shutdown of the federal government. [See below, p. 730D3; 1993, p. 771A1; 1990, pp. 756C1, 569C1]

The president's vetoes marked the latest event in an ongoing budget battle between the White House and Republican leaders in Congress. Clinton said that the bills contained "extreme proposals" that would imperil the environment, funding for education and public health. [See below]

The Senate Nov. 9 had passed its final version of the debt-limit increase bill, 49–47. The House then passed the same bill with a 219–185 vote Nov. 10. The continuing resolution cleared the House Nov. 10, by a 224–172 vote, and the Senate early Nov. 13 passed it by a voice vote.

Details of the Debt-Limit Bill—The debt-limit bill vetoed by Clinton would have authorized an increase in the debt limit to $4.967 trillion, from the current $4.9 trillion. However, the bill stipulated that after Dec. 12 the debt limit would decrease to $4.8 trillion. In addition, the bill would have barred the U.S. Treasury from tapping into federal trust funds to pay government bills or payments on bonds.

In the absence of a new debt-limit increase and without the use of trust fund money, the federal government almost certainly would be unable to make interest payments on borrowed money, forcing the government to default on its loans. That unprecedented event, in turn, would precipitate a financial crisis.

Had Clinton signed the bill, it would effectively have given him the option of either reaching a new budget agreement with Republicans—very likely on their terms—by Dec. 12 or placing the country at serious risk of defaulting on its debts. The president cited the proposed restrictions on the Treasury as the chief reason for his veto. Investors and financial markets greeted Clinton's decision with relief.

In addition, Republicans had tacked on to the debt-limit bill several unrelated "rider" measures that Clinton opposed. One provision would require federal agencies to perform new risk- assessment and cost-benefit analyses before issuing new health, safety and environmental regulations. Another measure would require the president to agree in principle to balance the federal budget in seven years using Congressional Budget Office estimates. The CBO's estimates tended to be more pessimistic than those of the Clinton administration, which used numbers provided by the White House Office of Management and Budget.

Clinton Nov. 13 called the debt-limit bill a "back-door effort by the congressional Republicans to impose their priorities on our nation," and claimed that it would cripple laws designed to protect the environment and public health. House Speaker Newt Gingrich (R, Ga.) the same day accused the president of playing "political games" and defended the bill, saying that Republicans had been "elected to change politics as usual."

The federal government had run a deficit every year since 1969, requiring it to borrow money in order to stay in operation. Congress alone was authorized to set the debt limit for the government, but that limit required presidential approval. Periodically, as the government neared its debt limit, Congress would send a bill to the president that would authorize a debt increase. Congress usually attached riders to the bill in hopes that the president would sign the bill, even if he did not approve of all the provisions within it, rather than place the government in financial danger.

Trust Funds Tapped to Avoid Default—With no debt-limit increase scheduled, Secretary of the Treasury Robert E. Rubin Nov. 13 announced that he would tap into two federal retirement funds in order to avoid a government default on the $102 billion in interest loans and principal that came due Nov. 15–16. The two funds were the Government Securities Investment Fund and the Civil Service Retirement Fund. Those funds were politically the safest to draw upon because federal law required that, if the funds were ever appropriated during a debt crisis, the government would have to repay any interest lost to the funds. Analysts said that the two funds would provide the Treasury with enough money to stave off a default for several months. [See p. 776G2]

Continuing Resolution Details—The continuing resolution that Clinton vetoed would have extended financing for government agencies until Dec. 1. Clinton's main objection to the bill stemmed from a provision authorizing an increase in premiums for Medicare, the federal medical-insurance plan for the elderly. The bill also would have implemented stricter spending reductions than those stipulated by the continuing resolution that was currently funding the federal government.

Congress as of Nov. 16 had sent the president only five of the 13 appropria-

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STYLE

That Essential Difference; Majority of House Employees Escape the Shutdown

Phil McCombs
Washington Post Staff Writer

So who's essential, anyway?

Judging from the activity in the office buildings of the U.S. House of Representatives yesterday, the answer must be: darn near everyone!

Congressional aides were scurrying through the halls. They filled the House restaurants (run by a civilian company), though the Senate's were closed. They crowded the elevators, which ran just as before without elevator operators. Drivers of the underground trains connecting the Capitol and legislative office buildings were dismissed originally, then summoned back yesterday.

In Speaker Newt Gingrich's congressional office -- 2428 Rayburn -- flocks of people moved to and fro; there was laughter emanating from a back room amid clicking computers and ringing phones.

"No!" said a stern receptionist, when asked if these workers could be interviewed concerning the exact nature of their essentiality; she referred inquiries to the speaker's office over in the Capitol building. "We have several people in that office. Anyone can help you," she said.

The government may have shut down nonessential activities such as the Smithsonian's Air and Space Museum -- indeed, you could have landed a light plane at Third and Jefferson streets on the Mall yesterday afternoon -- but apparently it takes a lot of essential government to make a nonessential government shut down.

And who's to say what's essential, anyway? Rep. John T. Myers (R-Ind.), chairman of the House "Gym Committee," was on a three-member panel that closed the facility as part of the shutdown. Yesterday morning, the House gym was reopened. Myers resigned his

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t, a spokesman said, and beyond that there was no comment -- though doubtless the dramatic inside details will one day be known to history.

"Everyone is essential in our office," said Andi Dillin, press secretary for Rep. Bill McCollum (R-Fla.). "We're continuing to hold hearings and do legislation, so the legislative aides are needed. The chief of staff is needed to oversee everything. The press secretary is needed to answer the questions of the press."

Even the people who answer the phones, she added, must stay on duty because "it's essential we let the constituents know what's going on."

Apparently, most congressional offices are following these same rough guidelines -- just keep everyone merrily toiling away as if nothing has happened. Dillin said she'd attended a meeting of congressional press secretaries where "just a few" raised their hands when asked if there were furloughs in their offices.

Things were different at the White House, where officials said only 43 of 400 employees were allowed to work. The rest could not even work for free. Working, one official said, incurs "obligations" the government, and the government cannot incur obligations it no authority to pay.

A White House official also said people cannot "volunteer," because that is a provision of work without compensation or congressional authorization. White House stay-at-homes were told they cannot even call their offices to check on work.

On the Hill, "90 percent of the offices are maintaining a full operation," said Michael S. Erlandson, administrative assistant for Rep. Martin Olav Sabo (D-Minn.). In Sabo's office, he added, "the congressman feels all the people are hired because they are essential."

Erlandson elaborated, saying that everyone from receptionist Miriam Barrett "to myself as chief of staff is essential for different reasons, but they all relate to the congressman trying to get his job done."

"Oh, my God!" said a voice from behind a high telephone console; this turned out to be an intern, Chris Mulloy.

"I am essential because," Mulloy started saying in response to a reporter's question, when the AA politely but firmly cut her off.

'I don't think we should interview the interns," he said,

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ling. "We're not going to send the interns home and say they're nonessential: It's an educational process for them to be here and observe all this."

According to Erlandson, one of the few congressional operations taking the shutdown thoroughly to heart is that of Rep. Bill Luther (D-Minn.). Indeed, the National Journal's CongressDaily reports that Luther issued a statement saying, "It would be inappropriate for Congress to exempt itself from the effects of the situation."

"His office should be open, let me call over there for you," suggested receptionist Barrett.

A visit to Luther's office in the Longworth Building revealed a bundle of mail on the marble floor in front of the locked door, upon which Luther himself -- or, perhaps, some lingering essential staff member -- had posted this notice in bold lettering:

"Congressman Luther is temporarily out of the office. The congressman's staff has been furloughed due to the shutdown of the federal government. If you have an appointment or wish to have an appointment with the congressman, please call (202) 225-2271 to leave a message for the congressman. We apologize for the inconvenience. Thank you."

And freshman Rep. Michael P. Forbes (R-N.Y.) sent everybody in his office home except himself: "The White House and Congress are currently deadlocked over a plan to balance the federal budget," his answering machine explained.

"I will continue to remain on the job, [but] because spending authority has now expired . . . I am compelled to close my congressional office until an agreement is reached," he said. "I regret any inconvenience to you."

Forbes himself, waylaid outside the chamber after a vote, admitted that "it's not been easy," but "maybe we'd have an agreement if all the staff went home and we started to feel like every other federal employee."

What are the guidelines here, anyway?

"I did a study of my office," said Rep. John Conyers Jr. (D-Mich.), interviewed while catching an elevator in the Rayburn Building, "and found that everyone on my staff was more essential than me -- so I declared myself nonessential and furloughed myself."

Actually, under the House rules, to the extent they can be

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ertained at this point, Conyers could probably do that if he wanted. According to memos issued by Rep. William Thomas (R-Calif.), chairman of the Committee on House Oversight, "nonessential House operations" must be shut down as determined by "the appropriate government officer."

Who, naturally, "has always been the member."

This being government, each furlough requires an "Authorization for Furlough of Employees."

"It's still very difficult for me to write out the furlough sheets for the employees we're furloughing," said Donna L. Brazile, administrative assistant to Del. Eleanor Holmes Norton (D-D.C.), shaking her head sadly and admitting she hadn't done it yet.

Brazile said she had to go to Norton and argue for her own essentiality: "I said I was essential. She said, 'Why?' I said I was essential because I had to administer everything and shut down the offices and follow the appropriation process."

It worked.

The essential criterion of essentiality in the House, the mas memos stress, turns on whether an employee's responsibilities "are directly related to legislative activities."

Which suits Jeff P. Nelligan just fine. "What makes me essential is we had a bill on the floor last night -- the ICC Termination Act -- and we're getting hundreds of calls from all over the country," said Nelligan, leaping up enthusiastically from his computer yesterday.

Nelligan works for the Committee on Transportation and Infrastructure under the chairmanship of Rep. Bud Shuster (R-Pa.); on his computer screen at that very moment was a press release on the $6.5 billion National Highway System bill, which, Nelligan nimbly explained, "is to the 21st century what the interstate highway system is to the 20th."

Essentiality? "Everyone's essential," he said, "everyone here."

"Am I essential?" said Frank Record, a Republican staffer on the Committee on International Relations, who was shooting the breeze with a friend in the Rayburn cafeteria. "No one's told us to go home yet. We're all waiting. I could use a little vacation."

Nearby, a woman putting ketchup on her hamburger asked not to

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identified, but said she's a staff assistant on a House subcommittee, adding: "I don't know how essential that is, but there it is. I do basic office procedures, like answering the phone and filing, so I guess that makes me essential."

She ate an onion ring. "We're not getting many calls. We get the regular in-house calls, but we're not getting too many outside calls, but they said we were essential."

She kept eating onion rings, thinking it over. Finally she said:

"I mean: We don't have much to do today."

Staff writers Guy Gugliotta, Howard Kurtz, Stephen Barr and Ann Devroy contributed to this report.

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PHOTO,,Dudley M. Brooks
CAPTION: GOP committee staffer Frank Record, who wasn't sent home, says, "I could use a little vacation."

---- INDEX REFERENCES ----

NAMED PERSON: NEWT GINGRICH;

KEY WORDS: FURLOUGHS; WHITE HOUSE STAFF; CONGRESSIONAL STAFF; BUDGET; DEFICIT; TAX SYSTEM; PRESIDENTIAL VETOES; PRESIDENTIAL RELATIONS WITH CONGRESS; U.S. CONGRESS

NEWS SUBJECT: Taxes; Politics (TAX PLT)

NEWS CATEGORY: NEWS; FEATURES

GOVERNMENT: Congress; Executive (CNG EXE)

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Tab 7

Citation
17/95 USATD 04A
_/17/95 USA TODAY 04A
1995 WL 12678997

Search Result

Rank 7 of 10

Database
USATD

USA Today
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Friday, November 17, 1995

NEWS

Interns help pick up slack at White House

Susan Page; Bill Nichols

THE BUDGET SHOWDOWN; LIFE WITHOUT GOVERNMENT

White House life during the shutdown: President Clinton orders in pizza for dinner as first lady Hillary Rodham Clinton vacuums the dustballs that are accumulating in the corners of the Lincoln Bedroom.

Well, not exactly.

While the federal budget showdown has idled 800,000 federal ·ployees and shuttered the nation's most popular tourist ractions, it hasn't meant serious lifestyle changes for the C..ntons.

The 70-member staff that runs and maintains the White House has been trimmed to 16.

Still on duty in the East Wing are a day chef and an evening chef, a day butler and an evening butler, two day housekeepers and an evening housekeeper, two ushers, two electricians, four engineers and a computer specialist.

On Capitol Hill, members of Congress aren't facing many personal inconveniences from the confrontation, either. The elevator operators have been sent home and the Senate cafeteria closed.

But most congressional staffers have been designated "essential" by their bosses so they can continue to work.

In contrast, Clinton has made deep cuts in his West Wing staff of aides. He has reduced the 430 full-time employees in the Executive Office of the President to a skeleton crew of 90.

Hillary Clinton furloughed 12 of her 16 staffers.

ıd even if Congress passes the appropriations bill that funds

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White House, Clinton won't sign it, aides say. He'll argue that s office shouldn't be back in operation until the rest of the government is, too.

So, absent as of Thursday evening:

-- A receptionist to greet visitors in the West Wing lobby.

-- Stenographers to record and transcribe the president's every word.

-- Sit-down meals in the most exclusive of capital lunchrooms, the White House mess. It was open for take-out only.

At the National Security Council, a spokesman said the need to deal with immediate crises had delayed planning for such future events as Clinton's trip to Europe in 10 days.

If the shutdown continues for long, plans to install Christmas decorations and prepare the White House for nearly 150,000 guests invited to holiday parties could be in trouble.

The White House staffers who are working find themselves pending on a newly empowered cadre of youthful, unpaid interns. nton strolled around the halls Thursday to thank them.

Meanwhile, those who aren't working - and are prohibited by law from doing their jobs on a volunteer basis - have slept in and have started doing Christmas shopping.

About 20 furloughed members of the first lady's staff got together to volunteer at a local soup kitchen Wednesday.

A sizeable group of the president's staff toasted their non-essential status at a Tex-Mex restaurant Tuesday night. Afterward they went to a sneak preview of the new movie, An American President.

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PHOTO,b/w,Jake Bacon,Arizona Daily Sun via AP;
PHOTO,b/w,Wilfred Lee,AP

---- INDEX REFERENCES ----

KEY WORDS: BUDGET

'S SUBJECT: Economic News (ECO)

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11/17/95 USATD 04A

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Word Count: 451
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Tab 8

Citation
20/95 WASHPOST A19
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1995 WL 9273378

Search Result Rank 34 of 104 Database WP

The Washington Post
Copyright 1995

Monday, November 20, 1995

A SECTION

THE FEDERAL PAGE

Some Just Wouldn't Stop Working

Stephen Barr; Bill McAllister
Washington Post Staff Writers

They were the phantoms of the Great Government Shutdown.

When federal offices closed last week, numerous white-collar employees sent home on furlough stuffed their briefcases and bags with files from the in-box, figuring they could take a project or two home and, at the least, work in peace and quiet. Other employees supposedly on furlough were sneaking into their offices, apparently they could meet upcoming deadlines at work.

Said one furloughed worker: "We were told not to fall down the stairs if you come to work," presumably because injuries would not be covered by insurance. He, like others interviewed, asked not to be identified.

Supervisors were instructed not to put pressure on anyone to complete their work, he said. Even so, many of his furloughed colleagues were showing up in the office.

This is, after all, Washington, where virtually everyone hates to miss work. Work is status, work is power, and everyone likes to think he or she is essential.

But work by any employee on furlough because of a shutdown has been deemed illegal. The 19th century Anti-Deficiency Act forbids agency managers to accept volunteer labor or other services. Violators can be punished with a $5,000 fine, imprisoned for not more than two years, or both.

Unlike other federal workers, employees at the White House were permitted to volunteer during a shutdown. But at a price.

hite House volunteers would have their salary changed to

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11/20/95 WASHPOST A19

·o, which carries "substantial consequences," as a White House h..mo explained. A zero salary meant the White House workers would: lose their health insurance and life insurance; lose the prospect of any back pay that Congress might grant furloughed workers; and cease accruing sick leave and vacation time.

Still, many among the rank and file wanted to work. Last week, a public affairs officer at one agency, bored with filling out graduate school applications, went to his office to sit in on an interview that a senior official was giving to a newspaper reporter.

"They told me I could be arrested or something," he said, "but I was going nuts. I got my car worked on. I made some calls. But I was going crazy," especially because his agency is fighting for survival in Congress.

It took him less than two minutes Thursday to respond to a call placed to his pager.

The people who study work were not surprised.

Edward Lawler, a University of Southern California business professor, said scientific studies have long found individuals who "·re motivated by the task rather than the reward. . . .

"They are very much turned on by the work they do. I'm not surprised that some would do it but I would expect it would be a very small percentage . . . maybe 5 to 10 percent."

Lawler said such workers were probably involved in interesting, high-profile projects. "If you are a parking lot attendant, you are not coming in to park extra cars."

Bonnie Michaels, president of Managing Work & Family Inc., a Chicago consulting firm, said it is hard to explain why federal workers would take risks when told not to work. Many workers battle bouts of insecurity and a "fear of the future," she said. For them, work is an anchor in their lives.

Lawler said work acts almost as a narcotic for some people. "They are inseparable from the work they do. It defines who they are. Without it, some people literally can come apart."

The Anti-Deficiency Act also made life difficult for workers authorized to carry on government business during the shutdown. The law allows civil servants and the military to continue national defense, protect public safety and health, support the national ɔnomy and perform emergency tasks.

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11/20/95 WASHPOST A19

But it apparently limited otherwise routine activities. Lawyers at the National Aeronautics and Space Administration said last week that NASA Deputy Administrator John R. Dailey could not appear for a panel discussion before the National Academy of Public Administration. An aide to Deputy Attorney General Jamie S. Gorelick refused a reporter's request for an interview, saying Gorelick was restricted to performing only "essential business."

Clinton administration officials, meanwhile, have repeatedly chided reporters for using the terms "essential" and "nonessential" when writing about employees affected by the shutdown. The official designations are "excepted," "emergency" and "non-excepted" employees, officials said.

"If the legal test was 'essential employees,' there would have been no furloughs," said John A. Koskinen, deputy director of the Office of Management and Budget.

Rep. Steny H. Hoyer (D-Md.) said he found "a disturbing trend towards downplaying the importance" of the furloughed workers. "It is disgraceful that some have chosen to suggest that 'nonessential' employees really are not needed or do not contribute," he said.

"Anybody who understands how to lead and deal with people would never declare 800,000 people nonessential," Ross Perot said yesterday on NBC's "Meet the Press." "That creates a scar that will take a long time to heal."

Senior Executives Association president Carol A. Bonosaro said furloughed workers "have been subjected to unwarranted ridicule in the media and by the public" because of the widespread use of "nonessential."

She recently met with Vice President Gore, she said, and "was gratified to learn that the vice president not only understands the denigrating nature of this label but is personally offended by its use."

Gore "has personally urged" top administration officials to assure returning federal workers of their importance to their agencies, Bonosaro said.

Staff writers William Branigin, David Brown, Elizabeth Corcoran and Thomas W. Lippman and staff researcher Barbara J. Saffir contributed to this report.

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ILLUSTRATION,,Peter Alsberg; PHOTO,,Nancy Andrews;

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11/20/95 WASHPOST A19

'O-GRAPHIC
C..PTION: SHUTDOWN CHRONOLOGY
MONDAY, NOV. 13
President Clinton vetoes legislation that would have averted a government shutdown, saying the bill would raise Medicare premiums and deeply cut education and environment programs. An attempt to find a compromise between the White House and GOP congressional leaders fails.
TUESDAY, NOV. 14
Clinton and Republican leaders exchange public recriminations but fail to find a solution to the budget stalemate.
+ About 800,000 federal workers across the nation are sent home. About 150,000 of the 310,000 civil servants in the Washington area are furloughed.
+ National park visitor centers and monuments close. All Smithsonian museums and the National Zoo close. More than 4,000 ticket holders to the biggest show of Johannes Vermeer's painting in three centuries are locked out of the National Gallery of Art.
+ The administration continues to issue Social Security checks, but new applications are not processed. Medical staff remains on duty at veterans hospitals and clinics.
+ Air traffic controllers, the Coast Guard, railway inspectors and other safety personnel remain on the job. Weather forecasting
ntinues.
ll active duty military stay at work, along with about 571,000 o the Defense Department's 866,000 civilian employees.
+ Federal prisons operate as normal. Criminal investigations and prosecutions continue, but postponements are sought in most civil cases.
+ A reduced staff of maids, butlers, chefs, electricians and engineers take care of the White House. About 90 of Clinton's 430 non-household staff members stay on duty.
+ Schools and hospitals in the District of Columbia stay open, but other services are disrupted.
WEDNESDAY, NOV. 15
Treasury Secretary Robert E. Rubin announces plans to pull $61.3 billion from two federal retirement accounts, an unprecedented move that he said was necessary to save the government from the first default in its history.
+ Government contractors began to receive "stop work" orders from agencies, leading some of them to send their workers home, too.
+ Corporations register stock and bond offerings with the Securities and Exchange Commission at sharply lower fees because a higher fee is part of the budget and has not become law yet. The loss to the Treasury is estimated at between $15 million and $25 million.
THURSDAY, NOV. 16
gress draws criticism because it keeps virtually all of its
ff at work, even though its appropriation has lapsed, too.

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11/20/95 WASHPOST A19

he National Park Service instructs parks to close lodges and cabins, the first step to completely shutting down the nation's largest parks.
+ The Grand Canyon closes for the first time in its 76-year history, prompting protests from Arizona Gov. J. Fife Symington (R).
+ The shutdown begins to take its toll on area businesses, with companies furloughing at least 1,000 private-sector workers.
FRIDAY, NOV. 17
Hours of intense negotiations aimed at reopening the government collapse.
+ Federal employees besiege government personnel offices seeking advice on when they might be paid. An increasing number fill out forms to apply for unemployment compensation.
+ A federal judge rejects a request by the American Federation of Government Employees to stop agencies from requiring employees to work without pay during the budget standoff.
+ Interior Department officials say they are being pressured by members of Congress to accommodate hunters who use dozens of wildlife refuges that are shuttered.
+ Housing and Urban Development Secretary Henry Cisneros worries that the shutdown could jeopardize rental subsidies to 1.3 million low-income households and stall the processing of millions of dollars worth of home loans and mortgages.
SATURDAY, NOV. 18
ublican leaders and the White House begin lengthy talks to end tne shutdown. Administration officials warn that the government will face a series of financial emergencies within several days.
+ Cash shortages could make it difficult to provide milk and food to federal prisons and medical supplies to veterans hospitals.
+ The shutdown jeopardizes the distribution of about 7,000 welfare checks to Native Americans and more than 3.3 million benefit checks to veterans and survivors.
+ The cost of the shutdown is estimated at about $120 million a day, with the bulk of that representing back pay that GOP leaders have pledged to restore.
SUNDAY, NOV. 19
Clinton and the Congress agree to balance the budget not later than fiacal 2002, and the House and Senate pass a one-day funding bill allowing about 750,000 federal employees to return to their jobs today. The Senate, in session on a Sunday for only the 17th time in its history, also passed a bill to fund the government until Dec. 15, and the House was to vote on that measure today.
-- Stephen Barr

---- INDEX REFERENCES ----

NAMED PERSON: STENY H. HOYER;

ANIZATION: ANTI-DEFICIENCY ACT

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11/20/95 WASHPOST A19

WORDS: FEDERAL EMPLOYEES; FEDERAL GOVERNMENT; BUDGET; U.S. CONGRESS; PERSONNEL MANAGEMENT; FURLOUGHS; D.C. METROPOLITAN AREA

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NEWS CATEGORY: NEWS

GOVERNMENT: Federal Government; Congress (FDL CNG)

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Tab 9

Balkan Presidents Reach Bosnia Peace Accord; NATO to Keep Peace in Divided State

End Seen to Four-Year War. The presidents of Serbia, Croatia and Bosnia-Herzegovina Nov. 21 agreed to a pact to end a nearly four-year-old war among Croats, Moslems and Serbs in Bosnia that had claimed some 250,000 lives. The agreement would divide Bosnia into two entities, a Moslem–Croat federation and a Serb republic, that would share a central legislature and presidency, with Sarajevo as the national capital. A North Atlantic Treaty Organization (NATO) peace-keeping force of 60,000 troops—about one-third of them from the U.S.—would be deployed in Bosnia by the end of the year to sustain the fragile peace accord. [See below, p. 810A2]

The leaders initialed the pact in an impromptu ceremony at Wright-Patterson Air Force Base near Dayton, Ohio, where they had convened Nov. 1 in U.S.-sponsored peace talks. A formal signing was scheduled to take place in Paris in mid-December.

President Alija Izetbegovic, leader of the predominantly Moslem Bosnian government, and Croatian President Franjo Tudjman initialed the treaty on behalf of their respective nations. Slobodan Milosevic, the president of Serbia, signed for the Bosnian Serbs, whom he had represented at the talks. U.S. Secretary of State Warren M. Christopher, who guided the treaty through tortuous last-minute negotiations, initialed the pact as a witness on behalf of President Clinton's administration.

The Balkan leaders and U.S. officials hailed the peace agreement as a pivotal breakthrough. President Clinton at a White House press conference expressed hope that the pact would give "the people of Bosnia . . . a chance to turn from the horrors of war to the promise of peace." But many observers were skeptical about whether the warring Bosnian factions, who bore deep-rooted grudges after years of war and atrocities, could coexist peacefully within the same state, as the Dayton plan stipulated.

Pact Would Oust Karadzic—The treaty would bar any persons who were indicted for war crimes from holding political office in the new state. That provision would effectively remove from power Bosnian Serb political leader Radovan Karadzic and Gen. Ratko Mladic, his military deputy. However, the pact would not require the signatory governments to turn over accused war criminals for prosecution, a safeguard that had been key to winning Croat and Serb backing for the pact.

The pact gave the estimated 2.7 million refugees who had been driven from their homes by the Bosnian war the legal right either to return to their homes or to receive compensation for lost land and property. A human-rights commission was to be appointed to monitor the treatment of refugees and related issues, but no clear mechanism for punishing rights violations or enforcing the repatriation of refugees was put in place.

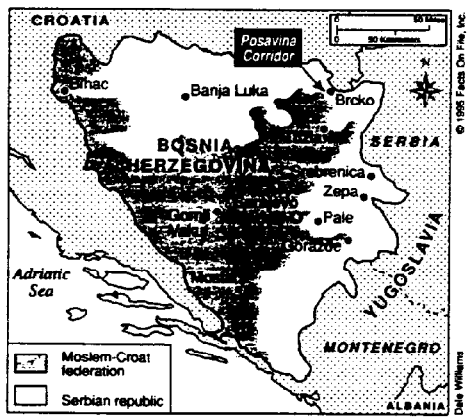
Milosevic Sways Bosnian Serbs—The Bosnian Serb delegation to the Dayton talks Nov. 21 refused to initial the accord. But Karadzic and other Serb leaders Nov. 23 initialed the pact after meeting with Milosevic in Belgrade, the capital of Serbia. (Karadzic and Mladic had been unable to travel to the Dayton talks because there were outstanding international warrants for their arrest for war crimes.)

Milosevic, who was also the de facto leader of the federation of Yugoslavia, was widely blamed for having sparked the recent wars in Bosnia and Croatia by throwing Serbia's financial and military support behind nationalist Serbs in those countries. Ensuing trade sanctions had strangled Serbia's economy, increasing the political pressure on Milosevic to reverse his position and support a peace plan. Most analysts concurred that the Bosnian Serbs would be unable to sustain a war in Bosnia without Milosevic's backing.

In the wake of the Dayton accords, the United Nations Security Council acted immediately to lift the sanctions against Serbia. [See below]

Parties Agree to Land Split—Central to the Nov. 21 peace pact was a U.S.-devised division of territory that would give the Moslem–Croat federation 51% of the land within Bosnia's original borders and the Bosnian Serbs, 49%. All sides in the dispute had agreed to accept the 51%–49% division formula prior to the Dayton peace summit, but wrangling over specific details of the split threatened to derail the talks from their outset. [See map below]

With a few significant exceptions, the



The division of territory in Bosnia between a Moslem–Croat federation and a Serbian republic, as agreed by negotiators in Dayton, Ohio Nov. 21.

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IN THIS ISSUE

Balkan presidents reach Bosnia peace accord; NATO to keep peace in divided state; end seen to four-year war.
Japan hosts APEC summit; free-trade framework signed; China vows tariff cuts.
Latin American and Caribbean news in brief.
Pages 865–868

United States
Clinton signs second 'stopgap' funding bill; compromise temporarily ends impasse.
House passes congressional gift ban.
Foster wins Louisiana governor's race.
Space shuttle 'Atlantis' completes Russian space station linkup mission.
Second-quarter corporate profits rose 0.8%; quarterly earnings reported.
300th post-1976 execution takes place.
Pages 868–874

Europe
Ex-communist Kwasniewski defeats Walesa in Polish presidential race.
France approves sweeping welfare reforms.
Germany's opposition party elects new leader.
Great Britain's Queen Elizabeth II opens new parliamentary session.
Pages 874–876

Other World News
Algerian President Zeroual wins reelection.
Australian commission censures Health Minister Marks.
Canadian former Prime Minister Mulroney named in bribe probe, sues government for libel.
Guatemalan presidential candidates face runoff vote.
Japan asks U.S. about alleged trade talks spying.
Mexico's central bank intervenes after peso plummets.
Pages 876–879

Miscellaneous
Boxing promoter King's fraud case ends in mistrial.
People.
Deaths.
Pages 879–880

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forms. Werleigh was confirmed by the Senate Nov. 5 and by the Chamber of Deputies Nov. 6. She was sworn in Nov. 7, becoming Haiti's first female premier. [See p. 773E2]

Former **Brig. Gen. Henri Max Mayard,** who had been the fourth-highest-ranking officer in Haiti's now defunct military, Oct. 3 was **murdered** by unidentified gunmen in a suburb of Port-au-Prince, Haiti's capital. Mayard was one of at least 20 supporters or officials of the former military who had been killed in what international human-rights officials termed "commando-style executions" since the military junta was ousted and Aristide was restored to power in October 1994. Aristide in April had disbanded Haiti's military, which had been accused of numerous human-rights abuses during the three-year rule of the junta. [See p. 860E3] ■

UNITED STATES

Clinton Signs Second Stopgap Funding Bill

Compromise Temporarily Ends Impasse. President Clinton Nov. 20 signed into law a continuing resolution, also known as a stopgap measure, that would fund the federal government through Dec. 15. The bill contained language that committed the president and Congress to balancing the federal budget by the fiscal year 2002 and to providing adequate funding for education, the environment and various federal "entitlement" benefit programs. The stopgap bill's enactment ended a six-day shutdown of the federal government, the longest in U.S. history. [See below, p. 852E1]

A continuing resolution was needed to keep the federal government operating because only six of the 13 appropriations bills that funded the federal government had been passed as of Nov. 22. A previous continuing resolution had expired Nov. 13. Clinton the same day had vetoed another stopgap measure, saying he objected to a clause in the bill that required an increase in Medicare premiums. The resulting funding gap forced temporary closings of national parks and museums and placed more than three quarters of a million federal employees on furlough.

The battle over the stopgap bill was seen by many as a prelude to what promised to be grueling negotiations between the White House and Congress over a massive budget reconciliation bill that had cleared the Senate and House Nov. 17 and Nov. 18, respectively. That bill authorized funding for government entitlement programs, which collectively accounted for about two-thirds of all federal outlays. Clinton had vowed to veto the bill. [See p. 813F1]

Tense Negotiations Preceded Deal—In the days following the Nov. 13 veto of the earlier stopgap bill, the White House and Republican congressional leaders engaged in a series of tense negotiations in an attempt to reach a compromise on a new continuing resolution. Negotiations broke off several times before an agreement was reached.

Meanwhile, the House Nov. 16, by a vote of 277–151, approved a new stopgap measure. Only three Republicans voted against the measure, while 48 Democrats voted for it. Later in the day seven Senate Democrats joined with all the Senate Republicans to pass the measure, 60–37. The bill did not contain the Medicare provision to which Clinton had objected, but it did include language requiring the president to commit to balancing the federal budget within seven years and to using Congressional Budget Office (CBO) economic forecasts in White House calculations of deficit reductions. Clinton said he objected to both conditions and vowed to veto the bill.

Though both the Senate and House votes on the bill had fallen short of the two-thirds majority needed to override a presidential veto, the number of Democratic defections revealed a weakness in the support for the president's stance on the budget and provided additional incentive for him to reach a compromise with Republicans.

Gingrich 'Snub' Affects Talks—Republicans were given added incentive to reach a settlement with the White House as a result of a Nov. 15 remark made by House Speaker Newt Gingrich (R, Ga.). Gingrich said that he had placed a number of restrictive provisions into the stopgap bill that Clinton had vetoed Nov. 13 because he had felt slighted by the president when the two men flew together on Air Force One, the presidential jet, to the funeral of assassinated Israeli Prime Minister Yitzhak Rabin. [See p. 833A1]

Gingrich complained that the president had refused to negotiate on the budget crisis during the 10-hour return flight from Israel Nov. 6 and that Clinton had made Senate Majority Leader Robert J. Dole (R, Kan.) and himself exit from the rear of the plane, rather than from the front as was usual for important guests.

Democrats quickly seized upon Gingrich's comments and attempted to portray the speaker as having shut down the federal government out of spite. Some of them Nov. 16 brought to the House floor an enlarged copy of a banner headline from the *New York Daily News* that read, in part, "CRY BABY Newt's Tantrum."

Observers said that Gingrich's remarks weakened his bargaining position by making him appear obstructive.

The president appeared to be winning the battle for public support in the budget dispute. A *Washington Post*/ABC News opinion poll taken Nov. 19 showed that 71% of the public disapproved of the way Republicans were handling the budget standoff; 42% faulted Clinton's stance.

Details of Stopgap Agreement—White House and Republican leaders finally reached an agreement on a continuing resolution late Nov. 19. Republicans were able to include in the compromise bill the language from the resolution passed Nov. 16 that required the president and Congress to enact legislation that would balance the budget within seven years. However, White House negotiators succeeded in attaching a clause to the resolution that stipulated that the balanced budget must "insure Medicare solvency" and provide "adequate" funding for Medicaid, education and the environment. Republicans agreed to accept those conditions after guarantees that national defense, agriculture and veterans would receive adequate funding were added to the clause.

A compromise was also reached on the methods used to calculate deficit projections. The agreement required Congress and the White House to use CBO estimates, but only after the CBO had consulted with the White House Office of Management and Budget (OMB) and "other government and private experts." The Clinton administration, which relied on OMB economic estimates, had said that the CBO projections were too pessimistic.

The stopgap bill stipulated that all government programs and agencies whose spending bills had not yet been enacted would receive funding at 75% of fiscal 1995 levels. The stopgap bill that had expired Nov. 13 had provided funding at 90% of 1995 levels.

The stopgap measure also required that all federal employees who had been furloughed during the federal shutdown receive back pay, and provided funds for that purpose.

In a rare Sunday session Nov. 19, the Senate approved the compromise stopgap measure, by voice vote. The House approved the bill Nov. 20 by a vote of 421–4. Clinton signed the bill later in the day. (A one-day stopgap bill was passed late Nov. 19 by the House and Senate and signed that day by the president, allowing federal employees to return to work the morning of Nov. 20. Both chambers passed the bill by voice vote.)

No Agreement on Debt Limit—The continuing resolution contained no provision that would increase the federal debt limit. Earlier in November, Secretary of the Treasury Robert E. Rubin had tapped into several government trust funds in order to prevent the U.S. from defaulting on its debts after Clinton had vetoed a bill that would have raised the federal debt limit. Clinton had objected to the bill because it contained provisions committing him to a seven-year timetable for balancing the budget using CBO projections. [See p. 852E1]

Standard & Poor's Corp., a leading international credit-rating agency, Nov. 10 issued a statement to the U.S. government, warning it that investors' faith in the U.S.'s ability to pay back its debts been "diminished" as a result of the impasse over the debt limit. The agency said it would not reduce the U.S.'s triple-A credit rating—the highest it granted—but it held out the possibility that it would do so if the U.S. defaulted on any of its pay-

Tab 10

Citation Search Result Rank 1 of 1 Database
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19/96 Wkly. Compilation Presidential Documents 262
1996 WL 13335771

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Monday, February 19, 1996

Vol. 32, No. 7, ISSN: 0511-4187

Remarks in a roundtable discussion on the work-study program in Des Moines, Iowa. (President Bill Clinton speech)(Transcript)

February 11, 1996

Sally Hinders, assistant provost for career services, Drake University, welcomed the President and introduced the participants, one of whom indicated that he was from Winterset, IA, site of the "Bridges of Madison County."]

The President. They should have given you the role. Laughter

Ms. Hinders discussed some of the advantages of the work-study gram at Drake University, indicating that students who participate tend to become more involved in the Drake community and often use their experiences as stepping stones to other opportunities. She then asked the President to talk about the program.]

The President. Well, let me begin by thanking all of you for taking some time on a Sunday afternoon to do this. I'm delighted to be here, delighted to be at Drake.

Since I became President I've worked hard to try to increase access to colleges and universities for young people because it's obvious that more need to be able to go and more need to be able to stay. And I never will forget when I was Governor I had an encounter one night with a number of students in Fayetteville, which is the hometown of the University of Arkansas, and I just stopped in a little place, drank a cup of coffee. And there were several students there, and I talked to two of them of the group there who had actually dropped out of school once already because they were afraid they couldn't afford the cost of staying in. They were worried about whether they could get the proper students loans, whether they could get any scholarships, whether they would ever be able to pay back their loans.

So I began to work on it when I was a Governor, things we could do at State level. And when I ran for President I had a commitment to try expand opportunities for college going. And essentially what we have

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e so far is to put the Pell grant program back on track - it was in s-ious trouble - passed a national service program, which this year has 25,000 young people in it earning money for college tuition while doing community service; and to expand loan options so that more young people could have the option to pay their loans back as a percentage of their income when they get out if they take a job that wouldn't permit them to make what would be the normal commercial repayment schedule. And that would mean no one would ever have to forgo borrowing money because they would always be able to handle the loan repayment.

And then in the State of the Union Address I recommended, as you pointed out, that we have a 50-percent increase in the work-study program, to get up to a million students a year in work-study because we haven't kept up over the years in work-study with the demand, with increasing enrollment. And I also believe that the cost of college tuition up to $10,000 a year ought to be deductible, which I believe would be - from my point of view, it's the best kind of tax cut you could have because you'd be giving a tax reduction to people who are investing either in themselves or their children and, therefore, making a big investment in our common future.

But the work-study program is of real interest to me because I worked myself through college; I worked myself through law school. I don't b-lieve I would have made it if I hadn't had the jobs. And I also have -erved just what you said, that a lot of young people actually do better when they have a work experience to go with their schooling. So I'm hoping to persuade the Congress to adopt this increase in work-study, even though in general we're reducing the budget. And we will offer to the Congress a way to do this consistent with our need to balance the budget in 7 years. So this won't bust the budget or anything, but it will help a lot more people to go and then to stay in college.

Let me just make one other point on that. I'm very encouraged that the college-going rate in our country is still going up, but I am not encouraged that it has started to fall again in the last 2 or 3 years among people whose incomes are in the lowest 20 percent of our economy. And if you think about it, the whole sort of premise, or promise, of America from our earliest immigrants is that hard working parents would be able to open more opportunities to their children. So it's not a good thing that we have that happening.

So one of the things I hope will happen out of the whole combined impact of all these proposals is that young people who come from families with very modest in comes will start increasing their college-going again, just like the rest of our country.

s. Hinders introduced some work-study participants, the first of indicated that the program was a stepping stone to an internship

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that throughout the experience her employers were supportive of her efforts. A parent indicated that her daughter would not be at a private university were it not for the work-study program and that, while her husband's job as a teamster was not always stable, they never had to worry about their daughter's education.]

The President. Well, let me say I know that Drake has made a real effort to hold down the tuition, too, so that more people will be able to afford to go. And I just spoke to the National Association of Independent Colleges and Universities in Washington a couple days ago, and I tried to cite the number of schools that were doing that. I think more and more schools are trying not to just get caught in a vicious cycle where they have to raise tuition and then they have to find more aid, then they have to do more work-study.

I'd just like to remind everybody - I know all of you around this table know this, but the American people who are watching us and citizens of Iowa who are watching us, this is not - this should not be viewed as a social program. This is an investment in our future. The taxpayers make out big time on this investment. We get a whole lot more back out of all of you because you're going to have college degrees, because you're going to be able to live out your own dreams, because you're going to be able to do what you wish to do.

nd not just financially. This is not entirely a money issue. There's also - our society is a better place when people find more personal fulfillment in the work that they do. So it is a financial issue, but it's also much more of a moral and social issue. It knits us together more strongly when more people have a chance to develop their God-given abilities.

I personally believe that we don't make any better investments than this. And almost 100 percent of people like you in your position will pay back to the Government far more in increased taxes than you ever took out in student loans or Pell grants or work-study funds or anything else. And I think that's an important thing for the American people to remember, that this is an investment with a big-time return.

Another participant said that the program had reduced the burden on his family, and it gave him a greater appreciation for education and a career.]

The President. Your son spoke very well.

The student's father said the work-study program had helped both his sons, teaching them to work harder toward their goals. Another participant said that a family member had faced medical problems that d diminished family financial resources, but that Drake had been able ut together a financial aid package which allowed him to go to

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ool and help pay for his education.]

The President. How many hours a week on average do all of you work?

Q. About 10, 11.

The President. About 10, 11? About the same for everybody? And do you all find that it doesn't undermine your studies?

The student said that the program made her work harder, set a schedule, and keep to it. Another indicated that it helped them mature. Work-study student Molly Adams said that it increased her sense of responsibility and went on to explain her work with the Grace United Methodist Church and how it helped the community in Des Moines.]

The President. Marilyn, what percentage of Molly's pay comes from the Government, and what percentage do you have to come up with?

Marilyn Adams. Isn't it one-third and a third? I think that's right - 25 and 75.

The President. So your church pays for 25 percent? So it's the same as with the college, then?

. Correct.

The President. Because when you employ people it's 75-25, isn't it?

Q. Correct.

The President. So do you have to allocate work-study slots off-campus, is that how it works?

Q. Correct. We're supposed to spend 5 percent of our overall allocation on off-campus studies.

The President. Does the law limit you to 5 percent?

Q. No.

The President. So it's Drake policy? Or is it Department of Education policy? If you wanted to have - if a college or university wanted to place 25 percent of the work-study people off-campus, could they do so?

Q. As far as I know we could, if we could find the places and the students to work there.

The President. And what percentage of your students are on :-study?

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. About 75 percent of our students who receive financial aid go ahead and accept their work award and work.

Q. And I can add to that, about 80 percent of our students receive some form of financial aid.

The President. So a majority do this, are on some sort of work-study.

Q. Oh, yes.

The President. Now, if you had more positions, could you fill them?

Several participants indicated their willingness to take more work-study positions. Ms. Hinders discussed matching funds and indicated that Drake contributes additional money because they like the work-study program.]

The President. Now, I saw in the notes I was given before I came in here that the students make between $4.65 an hour and $7.00, but mostly nearer $4.65 than $7.00. But what would you say the average pay is? Between $4.65 and $5.00 an hour?

Q. Right around $5.00, yes.

he President. What determines the pay, the ability of the match or the nature of the job, or what?

One participant said it was the nature of the job; another said supply and demand play a part, but some positions require very specialized skills and the wages go up a little bit in order to be competitive with the marketplace. Another participant said that Drake University overspends the matching funds and really spends more like 50 percent.]

The President. Really?

Q. Lots of students coming in and out every day are involved with those positions. And they're quite varied as well.

The President. But you would - anyway, I take it that - you all agree then that there is a demand for more work-study positions, and if we could go - one million a year is our goal, and that basically costs - it would be about a 50-percent increase from where we are now.

Ms. Hinders said that those are the kinds of opportunities that students and parents are really looking for. Employers and work-study students then described their programs.]

ne President. Let me ask you something, you're a freshman?

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). Yes.

The President. That's one thing I wanted to ask. How do you deal with the demand - if the demand exceeds the supply, do you give any preference to older students or is it strictly by income, by need, without regard to class?

Ms. Hinders explained that Drake University begins with need-based students but said that it is a part of the financial aid program. She then introduced the director of the university's financial aid program who said that work-study was a cornerstone of the financial aid program and that it was a win-win situation for all involved.]

The President. I also think the value that the students give you - Erica mentioned that just the work experience, working with older people in a good environment. It's amazing how quickly young people mature and to take a responsibility.

You know, it's a funny thing, when the Government was shut down - which wasn't too funny - laughter - but when it was shut down there were days when the whole White House was practically being run by the interns. Laughter It was amazing. There were probably four of us with gray hair - laughter - and the rest of it, the kids were sort of ·nning the show. And they did a great job. I mean, they worked hard; y kept the basic functions open. They worked quite well the first time we were shut down, and we didn't have everything covered by the budget.

It just reminded me again of how important it is to give young people that experience, too. It sort of binds the community and the society together in very important ways.

Ms. Hinders. Well, very much so. I know that we're running a little bit short on time.

The President. Tom, you want to say something?

Senator Harkin thanked all the participants and mentioned that he was the only Senator to sit on both the committee for higher education and the appropriations committee, and in the last Congress was chairman of the appropriations committee.]

The President. I hope you will be again.

Senator Harkin. Well, I hope so. Laughter By the way, Rebecca, as I told you, is doing a great job for me. The youngest person I've every had in that - the position of being the scheduler is a tough position.

ne President. It's the worst job in an office.

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enator Harkin said that during his years on the education committee the commitment to education had declined year after year and indicated that was particularly true of Pell grants and college work-study programs. He concluded by saying that the President supports these programs and that he hoped that interest rates on student loans would remain low.]

The President. I think that's quite important. I think it's been underestimated, the impact of not having that interest accumulate until people have been out a few months.

Q. Definitely.

The President. Let me just also say, to follow up on what Senator Harkin was saying, and to try, to put it in some larger political context - for the last 30 years anyway, by and large, education has not been a particularly partisan issue. We've had broad bipartisan support for these things until just recently.

And I hope we can get it back, because this is - this big philosophical debate going on in Washington, if you believe the Government is the problem and is the reason for all of our ailments as a society, then you think people are better off if you just get the deficit down, have a strong defense and let people manage for themselves. If you believe that we're stronger as a country, when we deal with our common problems in a common fashion, we will work together on them, then it's obvious that things that have a big-ticket cost, like a national work-study program, require some involvement with the National Government.

And as I said, these are really matters that historically have not been, at least in my lifetime, the last 30 years, have not been really matters of much partisan debate. But what has happened in the last, sort of, decade, there's been this sort of head of steam built up behind the notion that Government per se was bad. Not dumb regulations, or an ill-advised program, or a bad tax system, or whatever, but just the whole idea of Government was intrinsically - something wrong with it. And I basically don't agree with that.

I think what's happened is we need - all organizations have to become less bureaucratic, less rule-oriented, more oriented toward empowering people to solve their own problems. And Government's like that, too, but we cannot meet our educational obligations unless there is a public, broad-based, national commitment to helping you do what you do here at the grassroots level.

And actually, one thing I like about the work-study program is it's idea of what it ought to be - we say, okay, here's a national problem; we need more young people going to college, but it costs a lot

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go and most people can't afford to go. Okay? Here's the national solution: We should give money to help that happen. But we don't tell you how to do it. In other words, that's the way the Federal Government ought to operate more. We say - we set a national goal. We provide some resources to meet that goal. We ask you to make a contribution as well. Then you get to decide how. We all agree on the what, nationally, and then you define the how at Drake. And at the University of Iowa, they might define it in an entirely different way. I mean, that's the way this country ought to work, where people work together in that fashion.

I just sat here and made a list of the seven people I worked for in college and law school. Laughter It's quite interesting. I was thinking, more than half of them I still hear from, I still have a relationship with and I still feel enormously indebted to because they gave me a chance to get my education. I was sitting here thinking about it while you all were talking. Laughter

Ms. Hinders. Well, as we draw to a close, Senator Harkin, do you have any additional comments that you'd like to add?

Senator Harkin. Do you have any students in the Head Start program?

Q. We do.

nator Harkin. You do?

Q. Yes.

Senator Harkin. Good for you.

Ms. Hinders. This has been a pleasure to have you here today, Mr. President. We have enjoyed coming together as a group to talk to you about an issue that we really have a passion for. And we can tell that you do, too. So, on behalf of Drake and our entire community, thank you.

The President. Thank you, and good luck to all of you.

NOTE: The roundtable began at 12:45 p.m. in the Knapp Center at Drake University.

---- INDEX REFERENCES ----

NAMED PERSON: BILL CLINTON ESSAYS, LECTURES ADDRESSES

KEY WORDS: EDUCATION

NEWS CATEGORY: TRANSCRIPT

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Tab 11

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:8/96 NWSDAY A32 NWSDAY
2/28/96 Newsday A32
1996 WL 2513789

Newsday
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Wednesday, February 28, 1996

VIEWPOINTS

Embattled Clintons Should Note Watergate Lessons

By Ronald D. Rotunda. Ronald D. Rotunda teaches at the University of Illinois College of Law. He was assistant counsel to the Senate Watergate committee.

SOME PEOPLE see in Whitewater the specter of Watergate, while others deny any analogy. I think it's too early to make a definitive judgment - but there are disquieting similarities.

Watergate referred to a host of scandals that involved more than the burglary of Democratic Party headquarters. The Senate Watergate hearings, for example, disclosed that Richard Nixon's White House had created an "enemies list" of reporters and others not friendly to ' administration. We recently learned that a member of Bill nton's cabinet, Energy Secretary Hazel O'Leary, spent more than $40,000 of taxpayers' money to create her own enemies list of reporters writing stories unfavorable to O'Leary and her department. The White House announced that the list was "unacceptable," but not illegal. Ditto, Nixon.

When some of the Watergate tapes were finally released, we learned Nixon advised aides to say: "I don't remember . . . I can't recall." No one claims Clinton has given such advice, but many of his aides also have bad memories. Witnesses at the Senate Whitewater hearings have used the phrases "don't recall" or "don't remember" nearly 800 times. One, when confronted with inconsistent statements from his diary, claimed he lied to his diary. The "I don't recall" defense did not preclude perjury convictions against the Watergate defendants.

When 18 1/2 minutes disappeared from the White House tapes, Alexander Haig blamed the gap on "some sinister force." In Whitewater - which, like Watergate, involves a wide variety of purported wrongdoing - documents have mysteriously appeared. For two years, the independent counsel has subpoenaed certain billing records of the Rose law firm - where Hillary Clinton and several Clinton aides worked. A few weeks ago, these records surfaced, covered by a White House aide, in (of all places) the family quarters of the White House.

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2/28/96 NWSDAY A32

The records are annotated in the handwriting of Vince Foster, the White House aide who apparently committed suicide in 1993. Hillary Clinton has not explained how they materialized in one of the most secure places in the world - unless they had previously been withheld in violation of the subpoenas. That would involve an obstruction of justice.

After Hillary Clinton testified before the Whitewater grand jury, she said she had no idea how the documents got there. The records, showing she worked on projects for Madison Guaranty Savings & Loan, appear inconsistent with her claim that she did little work for the failed thrift, which is at the center of the Whitewater controversy.

Nixon unsuccessfully sought to keep documents from Congress by asserting executive privilege, while Bill Clinton has unsuccessfully asserted attorney-client privilege. Another disquieting similarity between Watergate and Whitewater is the way facts seem to drip out slowly and the story keeps changing. First, we're told that the first lady "had no role" in the decision to fire the employees of the White House Travel Office. Then a memorandum is uncovered that says, "Hillary wants these people fired - Mac [McLarty, then chief of staff] wouldn't do it." We are told that the travel employees e fired because of sloppy records and criminal behavior.

Then we learn that, before the inauguration, before any investigation of the travel office, Clinton's aides in Arkansas were saying the decision had already been made to remove the travel office staff and replace it with political cronies. The attorneys for Billy Dale, the head of the travel office, accused the White House of removing logs that would account for money he was charged with embezzling. Although the trial judge refused Dale permission to subpoena the White House for these records, the jury returned a swift verdict of acquittal.

Ultimately, Watergate was a scandal about abuse of power, which also involved laundering of funds. Whitewater may involve a scandal about laundering of funds, which also involves abuse of power. A cynic may look at what has been revealed and see an interesting business relationship between the former governor of Arkansas and his wife, a practicing lawyer. When the Arkansas Securities Department started investigating Madison, Madison began sending Hillary Clinton a $2,000 monthly retainer; as Bill Clinton was about to become governor, an official connected to Tyson Foods (a big Arkansas employer) arranged commodities trades for Hillary Clinton that rapidly converted $1,000 to $100,000.

ontinuing lessons abound in both the Watergate and Whitewater experiences. Last month, I visited Moldova, one of the former Soviet

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2/28/96 NWSDAY A32

)ublics, to advise the newly created Supreme Court on the role of an independent judiciary. Toward the end of our meetings, the justices asked about Watergate. Later, they said, "Tell us about the Hillary problem." They clearly saw a resemblance. I told them that in America, no one, not the president, not his spouse, is above the law. That is the lesson of Watergate.

---- INDEX REFERENCES ----

KEY WORDS: OPINION; WATERGATE; BILL CLINTON; WHITEWATER; SCANDAL;

EDITION: NASSAU AND SUFFOLK

Word Count: 791
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OFFICE OF the PRESIDENT, petitioner,
v.
OFFICE OF INDEPENDENT COUNSEL, et al.

No. 96-1783.

Supreme Court of the United States

June 23, 1997.

Case below, In re Grand Jury Subpoena Duces Tecum, 112 F.3d 910.

*2483 Petition for writ of certiorari to the United States Court of Appeals for the Eighth Circuit denied.

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Tab 12

Ants in the picnic basket?

The Drudge Report
07/04/97 *By Matt Drudge*

REQUEST E-MAIL DELIVERY OF THE REPORT

DRUDGE REPORT FINAL
By Matt Drudge
Fri Jul 04 02:25:21 1997

Ants in the picnic basket?

Coming just hours after the President "adamantly" denies harassing Paula Jones, the DRUDGE REPORT has learned that NEWSWEEK ace investigative reporter Michael Isikoff is hot on the trail of a new development that threatens to ignite premature holiday fireworks at the White House. Reports have surfaced that Isikoff has been in contact with a former White House staffer who may offer "pattern" evidence of improper sexual conduct on the part of the President.

At this hour it is unclear whether Isikoff will pull the pieces of this explosive story together before deadline.

Other reporters may also be on the trail of this new development.

The story is said to involve a federal employee sexually propositioned by the President on federal property.

If true, the new account would be markedly different from the Jones' scenario, which involved pre-presidential actions long ago and far away.

Under the new media-management team of Begala and Blumenthal [B2], the White House filed its first formal denial of Jones' allegations late on the eve of the holiday weekend -- just as Washington was clearing out, herding to beaches, and packing picnic baskets.

And too late for the network broadcasts.

But in the new era of non-stop news cycles, the old tricks did not fly. Traffic stopped on I-95 as the APUPIREUTERS broke the first word of the Clinton denial at 6:18 p.m. ET, designed for minimum impact -- and weeks before the court answers were actually due. But true to the Age, word quickly spread on the Internet, talk radio and cable, proving that no longer are there any safe times to release damaging information.

Tab 13

Citation
11/97 WASHPOST D01
11/97 Wash. Post D01
1997 WL 12880811

Search Result

Rank 1 of 1

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The Washington Post
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Monday, August 11, 1997

Style

MEDIA NOTES

A Reporter's Net Loss; Details of **Newsweek** Story Appear Prematurely on the Web

Howard Kurtz
Washington Post Staff Writer

An investigative reporter is trying to nail down a sensitive story. Suddenly someone splashes the key details all over the Internet, even though the reporter doesn't have enough evidence to publish. Now half of official Washington is talking about the story he sn't finished writing.

That was the situation faced by **Newsweek's** Michael Isikoff as he pursued the question of whether former White House aide Kathleen Willey had ever accused President Clinton of making an improper sexual advance.

On July 4, word of the Isikoff inquiry turned up on the World Wide Web's **Drudge** Report, the one-man gossip operation run by Matt **Drudge.** By month's end, **Drudge** had put out more details of the work-in-progress, including Willey's name. What's more, **Drudge** says he was tipped off by one of Isikoff's **Newsweek** colleagues.

"I outed the story," boasts **Drudge.** "I was totally driving him crazy. There was nothing he could do." He says Isikoff sent him an e-mail calling him "insane."

Isikoff, a former Washington Post reporter, takes the matter seriously, saying **Drudge** was reporting things -- such as what Willey supposedly told **Newsweek** -- that he could not possibly know. That, in turn, greatly complicated Isikoff's dealings with potential sources.

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"He's rifling through raw reporting, like raw FBI files, and disseminating it," Isikoff says. "He doesn't conform to any journalistic standard. This is not harmless fun; it's reckless and ought to be condemned. He ought not be treated as an impish character. It's hard to do real reporting in an atmosphere that's been polluted like this."

Newsweek described its story as "complicated and murky," and media critic Terry Eastland called it "carefully executed investigative reporting." Indeed, contrary to **Drudge's** advance billing, Isikoff's piece last Monday raised questions about whether any sexual harassment took place. He quoted another former White House aide, Linda Tripp, as saying that Willey emerged looking "happy" from the Oval Office on the day in question in 1993 and did not appear harassed.

What pushed the Willey story into the mainstream press (the story was first broken by CBS's Bill Plante) was the decision by Paula Jones's attorneys to subpoena Willey in Jones's sexual harassment suit against Clinton. Willey's lawyer said she was "outraged" to be drawn into the case and has "a good relationship" with the president. Clinton's lawyer, Robert Bennett, said the president "adamantly denies" doing anything improper.

Bennett said in an interview that the media are "hypocritical" because they ignore "stories that don't meet their journalistic standards" until "some event, like the issuance of a subpoena or the appearance of something in another publication." Then, he says, "the press uses that as an excuse" to run with the flimsy story.

Clearly, Drudgelike leaks on investigative stories boost the chances for misleading and sensational headlines. **Drudge** freely admits his gossip is sometimes wrong; he predicted that Hillary Rodham Clinton would be indicted last summer.

Isikoff "has a right to be furious," **Drudge** says, "but life's not fair. The new technology lets someone interrupt the flow." Besides, says **Drudge,** "I seemed to have about 80 percent of the facts."

Tabloid Goose Chase

Top editors at the New York Post and Daily News are crying foul

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the charge that their owners spiked stories questioning whether Mayor Rudolph Giuliani was having an affair with his communications director.

The editors say they were simply unable to confirm that Giuliani's marriage to Donna Hanover was falling apart before Vanity Fair published the charge last week.

"Once a week there'd be a new Donna rumor that would explode like crazy," says Arthur Browne, the Daily News managing editor. "It kind of took on a life of its own.

"We checked on every apartment we were told she was moving into. A huge amount of man-hours was devoted to this. But no source had firsthand knowledge. It was always, 'I was told.' We came up dry. . . . What's going on in their household is in some respects beyond the reach of journalism, and should be."

"We weren't able to develop enough information that we would have felt comfortable going with it," says Post Editor Ken Chandler. "When you write about problems in someone's marriage, usually it's because one of the principals has decided to talk about it, or filed a suit, or has been seen in public dating someone they're not married to. In this case there was no supportive evidence. It wasn't for lack of trying."

The editors say they never discussed the story with their bosses, Post owner Rupert Murdoch and News mogul Mort Zuckerman, both of whom have business dealings with New York City. Giuliani and press aide Cristyne Lategano have denied the reports of an affair, while Hanover has sidestepped the charge and pointedly not defended her husband.

Daily News sources say the editors killed one story that raised questions about the alleged affair after Hanover, at a party for a movie she appeared in, thanked people for helping her through "difficult" times and did not mention her husband. Browne says he recalls vetoing only "shaky gossip items."

Once the Vanity Fair piece surfaced, the News ran a banner headline, infuriating staffers who felt the tabloid should have broken the story. Browne says the paper had no choice after "a national publication of some repute" reported that the alleged affair "had a

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8/11/97 WASHPOST D01

gnificant impact on city government." The Post ran nothing in its first edition, then caught up after the mayor's office issued a statement.

"I'm still not convinced the Vanity Fair piece was accurate," Chandler says.

Petering Out?

Charlie Peters, the irascible founder of the Washington Monthly, is ready to pass the baton. Sort of. One day. When he gets around to it.

Peters hopes to sell the neoliberal magazine to one of his earliest editors, Nicholas Lemann, now the Atlantic Monthly's national correspondent. The deal, first reported by National Journal, could happen in a year or two.

"I could just not face selling now," Peters says. "I still want to grab the world by the lapels and tell it what to do next. But I also realize I'm 70 years old. I want to provide for the Monthly to ntinue in the right hands, and Nick Lemann is the right hands."

But Lemann says he hasn't tackled the hard work of lining up investors or sizing up the business challenges. "There's no urgency because Charlie is happily running the magazine and I'm finishing a book," he says.

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CAPTION: On his online **Drudge** Report, Matt **Drudge** "outed" an unfinished story by a **Newsweek** reporter.

---- INDEX REFERENCES ----

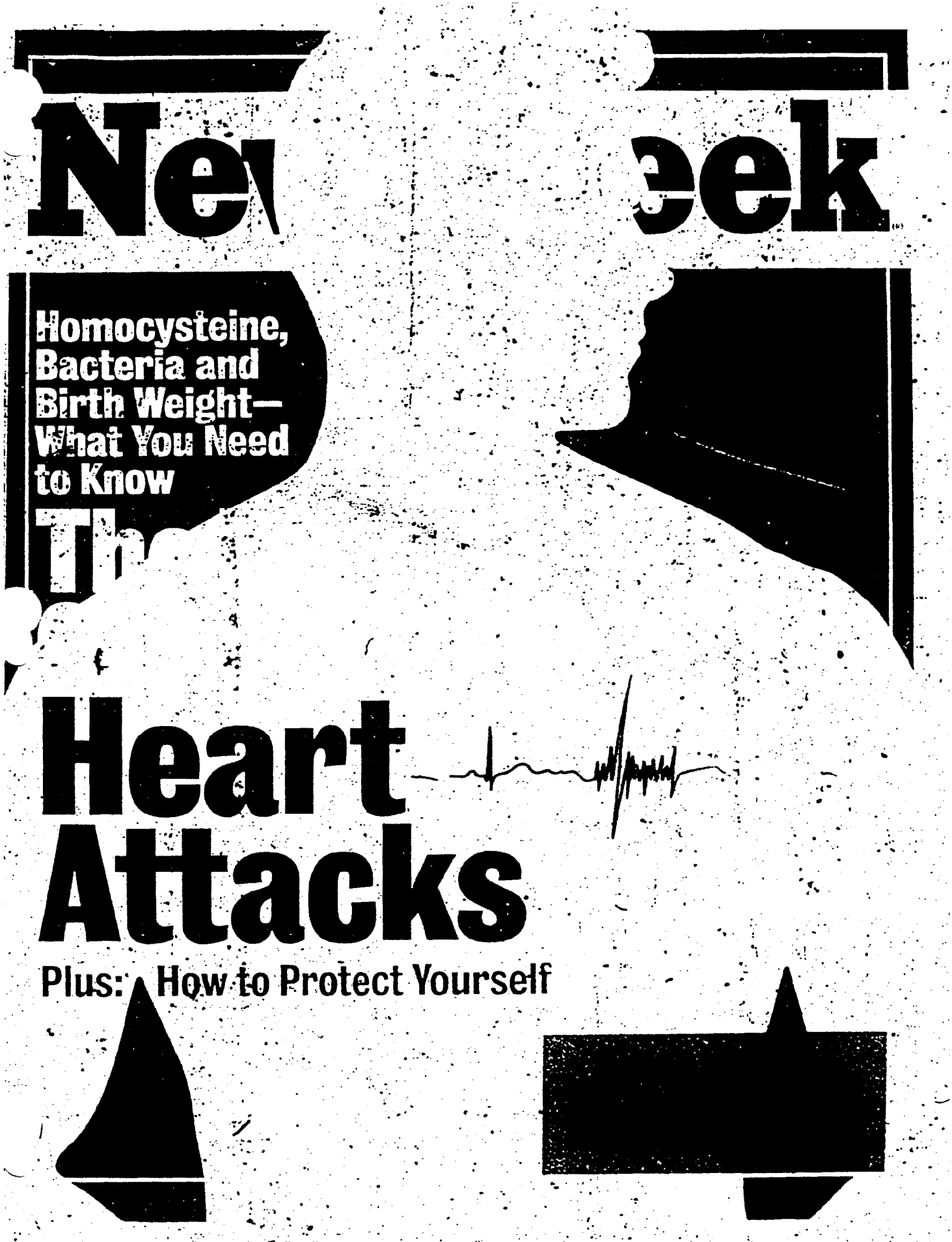
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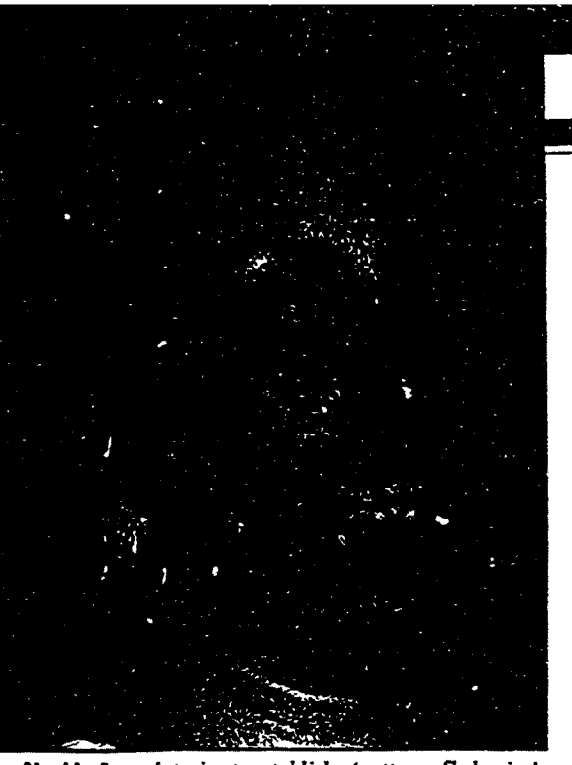
Tab 14


Ne eek
Homocysteine, Bacteria and Birth Weight— What You Need to Know
Th
Heart Attacks
Plus: How to Protect Yourself

A Twist in *Jones v. Clinton*

Her lawyers subpoena another woman





At odds: *Jones is trying to establish a 'pattern of behavior'*

By Michael Isikoff

THE PHONE CALL WAS PROVOCATIVE, to say the least. Early last January, Joseph Cammarata was preparing to help argue to the Supreme Court that his client Paula Jones should get a trial for her sexual-harassment suit against President Clinton, when—he says—the voice of a woman, distraught and hesitant, came on the line. "I had a similar thing happen to me in 1993," she said. She refused to give her name but offered enough details to allow Cammarata to track down the woman he believes made the call: Kathleen E. Willey, 51. Last week Cammarata subpoenaed Willey to question her about whether she had been the victim of an inappropriate sexual advance by the president in the White House. Willey's testimony is necessary, Cammarata argues, to establish a "pattern of behavior" by Clinton of sexually harassing women. An aggressive lawyer will try to tar his opponent any way he can, and Cammarata wants to use the threat of delving into Clinton's alleged sex life—and the resulting publicity—to force a settlement favorable to his client.

This game of hardball is the uncomfortable reality facing Clinton in the Paula Jones case. Kathleen Willey denies she made the call to Cammarata, and her lawyer, Daniel A. Gecker, says she "has no information relevant to the Paula Jones case," and will ask a judge to quash the subpoena. Willey's lawyer also said that she was "outraged" to be drawn into the case, and added that she "had and continues to have a good relationship" with the president. Her lawyer's statement does not address whether there was an alleged sexual encounter with Clinton. Gecker declined to comment on any part of this story to Newsweek, saying it was a "horrible injustice and invasion of privacy" to publish any details about his client's private life. For his part, the president, through his lawyer, Robert Bennett, "adamantly denies that at any time the president ever said or did anything that was at all improper."

The story behind last week's headlines is complicated and murky. Even in the most straightforward sexual-harassment cases, only two people know for sure what happened; motives and perceptions can be mixed, and change over time. Willey could be a shaky witness. She was suffering through a family crisis at the time of the alleged incident, and was later briefly treated for emotional distress. Whoever first called Cammarata told the lawyer that "her husband" had killed himself, and that the suicide had been reported in the conspiracy literature of the far right as one of the "strange deaths" that have befallen Clinton associates. This clue led Cammarata to the widow of a Democratic fund raiser named Ed Willey Jr.—who had killed himself on Nov. 29, 1993. Newsweek began investigating the allegations after getting a tip from Cammarata last January, but received no other help from Jones's lawyers and shared none of its findings with them. What, if anything, really happened between Clinton and Willey remains unknown. It is possible, however, to reconstruct how the charge arose, and to shed some light on credibility and motive.

A former flight attendant, Willey was married to the son of an influential Virginia state legislator. She drove expensive cars, skied at Vail and, with her husband, contributed to the Democratic Party. In 1992 she helped organize fund-raisers for the then candidate Bill Clinton. A friend of Willey's, Julie Steele, says she was present when Willey got a call at home from Governor Clinton on Oct. 14, 1992, the day before a presidential debate held in Richmond. According to Steele, Clinton told Willey he was suffering from laryngitis. Willey suggested chicken soup. Willey told Steele that Clinton asked, Why don't you bring me some? Willey declined, but she was "definitely flattered," said Steele.

Willey landed a volunteer job in the White House social office after the election and commuted from Richmond. About the same time, her husband, a lawyer deep in debt, was accused of embezzling $274,495 from a client. On Sunday, Nov. 28, 1993, there was a tense family discussion over how they were going to repay the money.

She needed a full-time, paying job. So the next day Willey came to Washington, and later told friends that she contacted Clinton's appointments secretary and secured time with the president that same afternoon. This is not as remarkable as it might seem: though a low-level volunteer, she did have longstanding fund-raising ties to Clinton. Linda Tripp, then an executive assistant in the White House counsel's office, recalls bumping into Willey in the West Wing after Willey had allegedly left the Oval Office. Willey was "disheveled. Her face was red and her lipstick was off. She was flustered, happy and joyful," Tripp told Newsweek. Willey said she had to talk to Tripp right away. According to Tripp, Willey said the president had taken her from the Oval Office to his private office, a small adjoining hideaway, and kissed and fondled her. She was not in any way "appalled," Tripp told Newsweek.

Tripp, who says she and Willey were once friendly but are no longer, agreed to speak to Newsweek "to make it clear that

FROM LEFT TO RIGHT: WIN MCNAMEE—REUTER; SARAH FRANSS—SABA

this was not a case of sexual harassment." Tripp's account, of course, is still damaging to the president. Bennett, Clinton's lawyer, says Tripp "is not to be believed." In 1994 she moved from the White House counsel's office to a higher-paying PR post at the Pentagon (a job she still holds). The next year she gave some testimony at the Whitewater hearings that was mildly embarrassing to the administration.

Willey's friend Julie Steele raises further doubt about Willey's description of the incident to her. At first, Steele told NEWSWEEK that Willey had graphically described being fondled by the president. Steele said that Willey had told her about the incident on the night it allegedly occurred, and that she had been distraught. But last week Steele admitted to NEWSWEEK that Willey had asked her to "lie" about what happened, in order to give credibility to the allegation that she had been harassed. (Willey's lawyer refused to comment to NEWSWEEK on Steele's charge, or on any other aspect of Tripp's or Steele's accounts.) In fact, said Steele, Willey had told her about the incident weeks after it happened, saying only that the president had made a pass at her. To Steele, Willey had not appeared upset by it at the time.

In December 1993, Willey got a paying job in the counsel's office that lasted 10 months. In 1995, at the White House's invitation, she served as a member of U.S. delegations to international conferences on social development in Copenhagen and one on biodiversity in Jakarta; State Department records show that she was the only American participant who had no apparent expertise in the issues under discussion. The cost of her trips to the taxpayers was about $7,000. Frank Provyn, the director of the State Department Office of International Programs, said he was "kind of surprised" to see her on the trip to Indonesia. But, he added, "a good way to get yourself into a jam is to ask too many questions when someone comes from the White House."

Through Bennett, Clinton says he has "no specific recollection of meeting [Willey] in the Oval Office." Bennett says that Clinton may have consoled her around the time of her husband's death, but it is "preposterous" to suggest that Clinton might have made a sexual advance. (According to police reports, Ed Willey's body was not found until the day after the alleged encounter.) Bennett says there is no record of Willey's entering the Oval Office, but he acknowledged that friends sometimes drop by. Willey has told others that she saw Treasury Secretary Lloyd Bentsen waiting to see Clinton when she left the president's office mid-afternoon. Bentsen's calendar shows him meeting Clinton at 3 p.m. that day. Who's telling the truth? It is always hard to know in these matters, and painful to find out. ■

CRIME

A Brush With Terror

They were making bombs in Brooklyn, their eye on a suicide subway attack. How did they get so far?

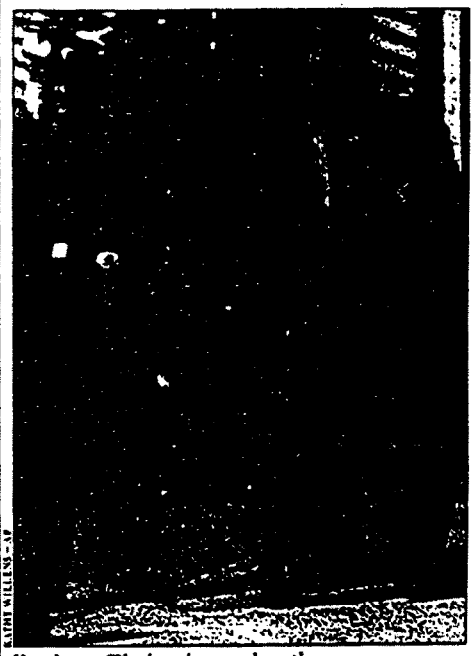
BY TOM MORGANTHAU AND GREGORY BEALS

THE PLAN WAS TO BOMB A SUBWAY station in Brooklyn—and the big question, after New York police narrowly averted a catastrophic act of terrorism last week, was how the prime suspect had gotten into the country in the first place. Ghazi Ibrahim Abu Maizar, 24, a West Bank Palestinian, tried three times to enter the United States from Canada and was jailed last January by the U.S. Immigration and Naturalization Service in Washington state. He then applied for political asylum because, he said, he would be persecuted by Israeli authorities. Despite all that, Abu Maizar was set free by a U.S. immigration judge in June after promising to leave the country voluntarily. He went to New York City instead—where, police said, he and another Palestinian immigrant built a powerful pipe bomb for a suicide attack much like last week's terror bombing in Jerusalem.

Tipped off by one of the suspects' friends, a heavily armed police SWAT team descended on their dingy Brooklyn apartment before dawn and caught Abu Maizar and 22-year-old Lafi Khalil sleeping. Both were shot and wounded when, according to police, they tried to trigger the bombs. One bomb was a nine-inch pipe packed with gunpowder, nails and 9mm bullets. The other was a four-pipe monstrosity that would have killed everyone within 25 feet if detonated in an enclosed space like a subway car. Police found hundreds of pages of Hamas propaganda and a portrait of Sheik Abdul Omar Rahman, the blind Muslim cleric convicted of inspiring the World Trade Center bombing. They also found what was described as a terrorist manifesto expressing hatred for the United States and Israel that was allegedly written by Abu Maizar. Hospitalized for their wounds—Maizar was shot twice and Khalil at least five times—both men were charged with conspiring to use explosives to destroy property. "I think we were close to a disaster," said James Kallstrom, head of the FBI's New York field office. "It didn't happen, and that's the good news."

The bad news, once again, was America's vulnerability to terrorism—which raises troubling questions about the federal government's inability to spot would-be terrorists at the border. In hindsight, anyway, Abu Maizar seemed an obvious security risk: he was briefly detained by Israeli authorities during the *intifada*, when he was about 15, and one of his brothers was once deported from Israel for supporting the Popular Front for the Liberation of Palestine. But his family now says it supports peace and that Maizar, who has denied that he is a member of Hamas, has ever been a political or religious militant. A spokesman for the INS says the case—including Maizar's release pending voluntary departure—was handled by the book. Like most Palestinians who come to this country, he was not on any U.S. "watch list" as a suspected terrorist. "This guy is kind of crazy," one law-enforcement official said. "He was just a wanna-be." But that doesn't solve the problem—because even wanna-bes can kill.

With DANIEL KLAIDMAN in Washington



KATHY WILLENS—AP

Heads up: *The bomb squad on the scene*

Tab 15

1ST STORY of Level 1 printed in FULL format.

Copyright 1997 The New York Times Company
The New York Times

September 13, 1997, Saturday, Late Edition - Final

SECTION: Section 1; Page 37; Column 1; Business/Financial Desk

LENGTH: 109 words

HEADLINE: COMPANY NEWS;
IMPERIAL HOLLY AND SAVANNAH FOODS SEAL MERGER PACT

BYLINE: Reuters

BODY:

Savannah Foods and Industries has accepted a $491 million bid from the Imperial Holly Corporation, ending a takeover battle. Under the deal, which is 70 percent in cash and 30 percent in stock, Savannah Foods' shareholders will receive $20.25 a share, a higher price than signaled a few days ago. Earlier this week, Savannah Foods, based in Savannah, Ga., terminated an agreement to merge with Flo-Sun Inc., the private holding company of the Fanjul family of Florida, and paid Flo-Sun an unspecified termination fee. Savannah Foods shares rose 93.75 cents, to $19. Imperial Holly, based in Sugar Land, Tex., near Houston, dropped $1.0625, to $13.50.

LANGUAGE: ENGLISH

LOAD-DATE: September 13, 1997

Tab 16

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Monday, September 22, 1997

Law and Issues

Privilege-seeking? If you want to understand government in the late 20th century, you had better know something about Gordon Tullock's concept of rent-seeking. It enables you to see Washington for what it really is: a powerful machinethat enables special interests to extract money from everyone else.
By Peter Brimelow

WHAT DO THESE PICTURES have in common?

n "Lobbying has become Washington, D.C.'s largest private employer.... There are 125 people working to influence government policy for every member of Congress, up from 31 lobbyists per congressman in 1964."

-From "Washington's Lobbying Industry: A Case for Tax Reform," a memorandum prepared by the office of House majority leader (and Ph.D. economist) Dick Armey (R-Tex.)

n "In 1989 we had essentially no compliance function. Then we hired our first compliance officer. He hired a staff of half a dozen. The whole focus changed from building the business to papering the files. Of course, when there was a [Securities & Exchange Commission] audit, he was a local hero. But it was of no benefit to the clients. We never had any intent to deceive them. And if we had, we could still have done it. He [the compliance manager] became a partner. I left."

-Disgruntled Wall Street money manager

n "I signed the Family Leave Act; it was my very first bill. And I'm proud of it because it symbolizes what I think we ought to be doing.... [It] has let 12 million families take a little time off for the birth of a child or a family illness without losing their job. ...I never go anywhere, it seems like, where I don't meet somebody who's benefited from the Family Leave Law. In Longview, Tex. the other day I met a woman who was almost in tears because she had been able to keep her job while spending time with her husband, who had cancer.

-Bill Clinton, in second presidential debate, Oct. 16, 1996

Answer: They all involve what economists call "rent-seeking"-the use

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political or institutional power to extract "rent" (essentially, unavoidable payments) from the rest of the economy.

("Rent-seeking-it's a terrible name," says economist David Henderson of the Naval Postgraduate School in Monterey, Calif. Henderson speculates that the name's repellent clunkiness may have delayed general recognition that rent-seeking, parasitic and pervasive, is a fundamental economic reality in the modern world. His suggestion: "privilege-seeking." Hey, these are economists, not poets.)

Whatever its name, this is how rent-seeking works:

n The Washington lobbyists are public-sector rent-seekers. They are being paid to extract rents by influencing legislation on behalf of their corporate clients.

And they succeed. One example from Congressman Armey's collection: Sugar import quotas raise the price American consumers pay for sweeteners by about $1.4 billion annually. This benefits a remarkably small number of sugar producers and processors. One family alone, the Fanjuls of Osceola Farms, Fla., earns an estimated $65 million annually in artificial profits because its lobbyists have persuaded Congress to make it possible for the family to sell sugar at more than its natural market price.

n The empire-building Wall Street compliance bureaucrat is a private-sector rent-seeker. He is diverting profits earned by the firm's productive activities to himself and his empire.

Note, though, that he is able to do so because of a sort of tacit alliance with the public-sector regulators. They make his job necessary.

n The First Rent-Seeker was congratulating himself on a newly popular subcategory of rent-seeking: so-called mandated benefits. The government uses political power to extract rents from the general public. Then it directs them to favored constituencies. The numbers can be very large: The Society for Human Resource Management estimated in 1989 that the Family Leave Act-no matter how nice a thought-would still cost nearly $440 million a year.

The government is still in effect buying votes with other people's money. But rent-seeking-in this case rent-giving-tactfully avoids the need to raise the money first through taxation, which often causes such distress. Employers and, ultimately, all consumers pay. A (relatively small) class of employees benefit. Plus, of course, the politicians. They can crow about how "caring" they are.

Rent-seeking matters-a lot. Its cost to society is not just the rents transferred but also "rent-avoidance"-resources expended in trying to

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el efforts to extract rents, for example, by hiring your own lobbyists. As Gretchen Morgenson showed in our last issue (Sept. 8), any business that neglects to hire a lobbyist is likely to become a victim of other rent-seekers who do have lobbyists.

Surprisingly, however, the realization that rent-seeking exists dawned on economists only quite recently. Too bad, because it's a valuable concept that helps us understand what the politicians are doing to us when they say they feel our pain and offer to assuage it.

The father of the rent-seeking concept is Gordon Tullock, a quizzical, quirky, somewhat owlish 75-year-old professor of economics and political science at the University of Arizona in Tucson. Tullock was long associated with Nobel economics laureate James M. Buchanan, now at Virginia's George Mason University, in the development of what is now called "Public Choice Theory," the application of economic analysis to political and governmental action.

Many observers were surprised that Tullock was not included in the Nobel Prize Buchanan received in 1986. The omission was particularly striking since Buchanan and Tullock had actually coauthored the classic public choice text, The Calculus of Consent (1962). Speculation continues that Tullock will eventually win a separate Nobel Prize for his work on rent-seeking. In January 1998 he will be made a distinguished Fellow of the American Economics Association. ("A plaque- no money," he says.)

Tullock was not trained as an economist-and beneficially, he argues with characteristic wryness. This, he argues, is an advantage in understanding economics. (He compares the economics profession's current preference for abstract mathematics to the drift from science to theology in classical Alexandria-and suggests that its function is merely to avoid political conflicts with noneconomists in the faculty lounge.) In 1947, after three years' wartime service as an infantryman, Tullock took a J.D. degree in a University of Chicago Law School accelerated program. He has no bachelor's degree because, in a decision possibly reflecting his Scottish heritage, he declined to pay the required $5 fee.

Tullock then joined the State Department and was posted to the Chinese city of Tianjin. He observed the city's fall to the Communists in 1949 and began his study of monetary cycles amid the disastrous inflation accompanying the Chinese Nationalist collapse. Thereafter, he was seconded to Yale and Cornell for three academic years to study Chinese. He notes gleefully that by reading Austrian economist Ludwig von Mises' Human Action in his spare time during this period, he found himself in key respects better prepared technically than an economics Ph.D. contemporary.

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t is universally agreed that Tullock does not have a diplomat's temperament. He eventually resigned from the State Department. In 1959, while a post-doctoral fellow at the University of Virginia's economics department, he began working with Buchanan on what became The Calculus of Consent.

In 1987 Tullock moved to his present post in Arizona. A lifelong bachelor, he spends holidays with his sister's family in Iowa. In an unusual departure for an academic economist, he is a major stockholder ("best investment I ever made") and longtime director of the family's Dodger Co., a small Iowa-based firm that makes sports clothing, and its Whink, Inc., which makes industrial cleaners. He says this experience contributed greatly to his education in economics.

Tullock's stint in China was crucial to his rent-seeking insight: "See, you go into these cultures where people have produced just immense cultural achievements but are living in bitter poverty, and you discover very quickly they have a dominant government and the government is corrupt. Conventionally, economists have argued that a corrupt government doesn't really cost anything because the man who receives the bribe gains what the man who pays the bribe loses. Well, you can't really believe that if you're in China."

Similarly, Tullock points out, China provided the evidence for a key ly effort by Anne Krueger-now an economics professor at Stanford University-to quantify his insight. (Krueger must also take the blame for coining the term "rent-seeking.") Krueger had estimated that the cost to Turkey and India of the bribes necessary to get around their various regulations amounted to 7% to 15% of GNP. This cost was not simply the expense of the bribe, but also the resources wasted by individuals in acquiring otherwise useless credentials and intriguing for appointments in the appropriate government bureaucracy.

Every major economics journal rejected "The Welfare Costs of Tariffs, Monopolies and Theft," Tullock's original article on rent-seeking. It was finally published three years later, in 1967, in the Western Economic Journal, then new and little-read.

As an intellectual pioneer, Tullock is a connoisseur of such rejections. (He began his 1980 presidential address to the Southern Economics Association by celebrating the fact that the association's journal would be compelled to publish it, after years of rejecting his submissions.) He savors the irony that because a standard textbook quickly picked up his rent-seeking concept, "there was a period when a lot of brand-new elementary [economics] students knew about it and no one else did."

Tullock's serene but somber conclusions on the inefficient nature of intellectual market: "The safe article for the young academic is one

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t makes a short, sound step forward in a well-established direction."

Sounds like good advice.

But it's advice that Tullock himself-author of 15 books (the sixteenth, On Voting: An Introduction to Public Choice, due January 1998) and over 150 papers, on subjects ranging from game theory to "The Coal Tit As Careful Shopper," part of his little-known, but highly respected, contribution to biological theory-has somehow never quite gotten around to taking.

---- INDEX REFERENCES ----

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Tab 17

As we observe National Children's Day this year, let us recommit ourselves to creating a society where parents can raise healthy, happy children; where every newborn is cherished, where every child is encouraged to succeed, and where all our young people are free to pursue their dreams.

Now, Therefore, I, William J. Clinton, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 12, 1997, as National Children's Day. I urge all Americans to express their love and appreciation for children on this day and on every day throughout the year. I invite Federal officials, State and local governments, and particularly all American families to join together in observing this day with appropriate ceremonies and activities to honor our Nation's children.

In Witness Whereof, I have hereunto set my hand this tenth day of October, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[Filed with the Office of the Federal Register, 11:16 a.m., October 14, 1997]

NOTE: This proclamation will be published in the *Federal Register* on October 15.

Digest of Other White House Announcements

The following list includes the President's public schedule and other items of general interest announced by the Office of the Press Secretary and not included elsewhere in this issue.

October 4

In the afternoon, the President and Hillary Clinton traveled to Beltsville, MD, to observe U.S. Secret Service tactical expertise and training exercises at the James J. Rowley Training Center. Later, they returned to Washington, DC.

In the evening, the President traveled to Arlington, VA. Later, he was joined by Hillary Clinton, and they traveled to Camp David, MD.

October 6

In the morning, the President and Hillary Clinton returned to Washington, DC. In the evening, the President hosted a dinner for President Ezer Weizman of Israel in the Blue Room at the White House.

The President announced his intention to nominate James C. Hormel to be Ambassador to Luxembourg.

The President announced his intention to nominate Gerald S. McGowan to be Ambassador to Portugal.

The President announced his intention to nominate Lyndon L. Olson, Jr., to be Ambassador to Sweden.

The President announced his intention to nominate Kenneth R. Wykle to be Administrator of the Federal Highway Administration at the Department of Transportation.

October 7

In the morning, the President attended a meeting with Northern Ireland Ulster Unionist Party leader David Trimble in National Security Adviser Samuel R. Berger's office at the White House.

In the afternoon, the President met with congressional Democrats to discuss fast-track trade legislation. In the evening, he met with representatives of State and local government and business and community leaders from the Midwest.

The President announced his intention to nominate Christopher Ashby to be Ambassador to Uruguay.

The President announced his intention to nominate James A. Larocco to be Ambassador to Kuwait.

The President announced his intention to nominate Mark Erwin to be a member of the Overseas Private Investment Corporation.

The President announced his intention to nominate James H. Bailey to serve as Deputy Director of the Federal Emergency Management Agency.

The President announced the nomination of Bill Richardson and A. Peter Burleigh to be U.S. Representatives and Richard Sklar,

Victor Marrero, and Nancy E. Soderberg to be U.S. Alternate Representatives to the 52d General Assembly of the United Nations.

The President announced the nomination of Nancy E. Soderberg to be Alternate U.S. Representative for Special Political Affairs at the United Nations, with the rank of Ambassador.

October 8

In the morning, the President traveled to Newark, NJ. In the afternoon, he traveled to West Orange and Florham Park, NJ. Later in the afternoon, he traveled to Philadelphia, PA, arriving in the evening.

In the evening, the President attended a Democratic National Committee reception at CoreStates Arena. Later, he returned to Washington, DC.

The President announced the administration's intention to appoint Rev. Jesse Jackson to be Special Envoy for the President and the Secretary of State for the promotion of democracy in Africa.

October 9

In the afternoon, the President had a telephone conversation with Prime Minister Tony Blair of the United Kingdom concerning the Prime Minister's recent visit to Russia and the President's October 7 meeting with Northern Ireland Ulster Unionist Party leader David Trimble.

Later, the President had a telephone conversation with retiring University of North Carolina men's basketball coach Dean Smith to commend him on his long and successful career.

The President announced his intention to nominate David B. Hermelin to be Ambassador to Norway.

The President announced the nomination of Betty Eileen King to be an Alternate U.S. Representative to the 52d General Assembly of the United Nations. Ms. King has also been nominated to be U.S. Representative on the Economic and Social Council of the United Nations, with the rank of Ambassador.

The President announced his intention to nominate Kevin Gover to be Assistant Secretary for Indian Affairs at the Department of the Interior.

October 10

The President announced the nomination of Mary Mel French to be Chief of Protocol at the State Department.

The President announced the nomination of Richard W. Fisher to be Deputy U.S. Trade Representative (Washington), with the rank of Ambassador.

The President announced the nomination of Robert T. Grey, Jr., to be U.S. Representative to the Conference on Disarmament.

The President announced the nomination of Joy Harjo to be a member of the National Council on the Arts.

The President announced the nomination of Ida L. Castro to serve as the Director of the Women's Bureau at the Department of Labor.

The President announced the nomination of Carl Spielvogel as a member of the Broadcasting Board of Governors for the International Broadcasting Bureau.

The President announced the nomination of Robert S. Warshaw to serve as Associate Director of the Office of National Drug Control Policy for the Bureau of State and Local Affairs.

The President announced the nomination of Thomas H. Fox to be Assistant Administrator for Policy and Program Coordination at the Agency for International Development.

The President announced the nomination of Donald C. Lubick to be Assistant Secretary for Tax Policy at the Department of the Treasury.

The President announced the nomination of Fred P. Hochberg to serve as Deputy Administrator of the Small Business Administration.

The President announced his intention to appoint Arthur M. Hamilton and Sally Ann Jochum as members of the President's Committee on Mental Retardation.

The President announced his intention to designate David J. Barram, in his capacity as Administrator of the General Services Administration, Andrew M. Cuomo, in his capacity as Secretary of Housing and Urban Development, and Rodney E. Slater, in his capacity as Secretary of Transportation, to serve as members on the Advisory Council on Historic Preservation.

In addition, I am also announcing today that I want to work with Congress to find a solution to the growing problem of future liabilities and extended delays in completing ongoing projects. Each year, Congress adds more and more projects without sufficient resources to complete existing projects in a timely way. Some of them include 50-year Federal commitments, involving hundreds of millions of dollars. The more projects are added, the longer the delays in finishing the existing ones.

Because of limited Federal resources, the gap between the number of projects that are approved and the number we can afford will keep growing. I believe that now is the time for the administration and Congress to address the problem. I have asked the administration's senior officials who work in this area to reach out to the key Member of Congress to work toward a solution.

NOTE: The reports detailing the cancellations were published in the *Federal Register* on October 20. H.R. 2203, approved October 13, was assigned Public Law Number 105–62.

Letter to Congressional Leaders on Line Item Vetoes of the Energy and Water Development Appropriations Act, 1998

October 17, 1997

Dear Mr. Speaker: (Dear Mr. President:)

In accordance with the Line Item Veto Act, I hereby cancel the dollar amounts of discretionary budget authority, as specified in the attached reports, contained in the "Energy and Water Development Appropriations Act, 1998" (H.R. 2203, approved October 13, 1997). I have determined that the cancellation of these amounts will reduce the Federal budget deficit, will not impair any essential Government functions, and will not harm the national interest. This letter, together with its attachments, constitutes a special message under section 1022 of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Sincerely,

William J. Clinton

NOTE: Identical letters were sent to Newt Gingrich, Speaker of the House of Representatives, and Albert Gore, Jr., President of the Senate. The reports detailing the cancellations were published in the *Federal Register* on October 20. H.R. 2203, approved October 13, was assigned Pub. Law No. 105 62.

Statement on the Death of James A. Michener

October 17, 1997

Hillary and I are greatly saddened by the loss of one of our country's most gifted storytellers, James A. Michener. Through his rich narratives woven on the grandest scale, Michener made our imaginations soar and our history come alive. From the sandy shores of the South Pacific to the barren tundra of Alaska, we followed Michener on epic journeys through time and place, along the way celebrating such time-honored virtues as patriotism, courage, and common sense. And even after achieving great fame and wealth, Michener never forgot his humble roots. He was a major benefactor to colleges and writers' groups, eventually donating much of his fortune for the benefit of others. America has lost a rich voice and a generous spirit.

Digest of Other White House Announcements

The following list includes the President's public schedule and other items of general interest announced by the Office of the Press Secretary and not included elsewhere in this issue.

October 12

In the morning, the President and Hillary Clinton traveled to Caracas, Venezuela, arriving in the afternoon.

In the evening, the President met with President Rafael Caldera of Venezuela in President Caldera's office at La Casona.

October 13

In the morning, the President participated in a wreath-laying ceremony at El Panteon.

In the afternoon, the President and Hillary Clinton traveled to Brasilia, Brazil, arriving in the evening.

October 14

In the morning, the President had meetings with President Fernando Cardoso of Brazil in the Qualienca Room and the Meeting Room at Planalto Palace.

In the afternoon, the President met with the leadership of the Brazilian Congress in Salon Nobre at the National Congress. Later, he greeted American and Brazilian personnel at the U.S. Embassy.

In the evening, the President and Hillary Clinton traveled to Sao Paulo, Brazil.

October 15

In the morning, the President traveled to Rio de Janeiro, Brazil, arriving in the afternoon. Later, he traveled to Buenos Aires, Argentina, arriving in the evening.

The President announced his intention to appoint Judith A. Scott as a member of the Advisory Committee to the Pension Benefit Guaranty Corporation.

October 16

In the morning, the President met with President Carlos Menem of Argentina in the Salon Blanco at La Casa Rosa. Later, he met with Argentine political opposition leaders in the Ceibo Room of the Sheraton Hotel.

In the afternoon, the President met with Argentine Jewish leaders in the Executive Room at the Sheraton Hotel.

October 17

In the afternoon, the President and Hillary Clinton traveled to San Carlos de Bariloche.

The President announced the appointment of Will Martin and J. Nussman as U.S. Commissioners of the International Commission for the Conservation of Atlantic Tuna.

Nominations Submitted to the Senate

NOTE: No nominations were submitted to the Senate during the period covered by this issue.

Checklist of White House Press Releases

The following list contains releases of the Office of the Press Secretary that are neither printed as items nor covered by entries in the Digest of Other White House Announcements.

Released October 12

Transcript of a press briefing by Press Secretary Mike McCurry

Released October 13

Transcript of a press briefing by National Drug Control Policy Director Barry McCaffrey on counter-drug-trafficking strategies with the Venezuelan Government

Transcript of a press briefing by Energy Secretary Federico Peña on Venezuela-U.S. energy, trade, and environmental agreements

Fact sheet: U.S.-Venezuelan Partnership for the 21st Century: Promoting Common Solutions for Energy and Development, Trade and Investment, and Protecting the Environment

Released October 14

Transcript of a press briefing by Press Secretary Mike McCurry and Deputy National Security Adviser Jim Steinberg on the President's meeting with President Fernando Cardoso of Brazil

Transcript of a press briefing by Office of Management and Budget Director Franklin Raines, National Security Council Director for Defense Policy and Arms Control Bob Bell, and Deputy Defense Secretary John Hamre on the President's line item vetoes of the Department of Defense Appropriations Act, 1998

Statement by Press Secretary Mike McCurry on the appointment of Special Assistant to the President and Legal Adviser

Fact sheet: The U.S. Brazil Partnership: Improving Education in the 21st Century

Fact sheet: U.S.-Brazilian Partnership for the 21st Century

term, so must our policies be. We have an opportunity to build a new century in which China takes its rightful place as a full and strong partner in the community of nations, working with the United States to advance peace and prosperity, freedom and security for both our people and for all the world. We have to take that chance.

Thank you very much.

NOTE: The President spoke at 2:50 p.m. in the auditorium at the Voice of America. In his remarks, he referred to Nicholas Platt, president, The Asia Society; and President Jiang Zemin of China.

Digest of Other White House Announcements

The following list includes the President's public schedule and other items of general interest announced by the Office of the Press Secretary and not included elsewhere in this issue.

October 18

In the evening, the President and Hillary Clinton traveled from San Carlos de Bariloche to Buenos Aires, Argentina. Later, they returned to Washington, DC, arriving the following morning.

October 21

The President announced his intention to nominate William J. Lynn III to be Under Secretary of Defense, Comptroller.

The President announced his intention to nominate Richard M. McGahey to serve as Assistant Secretary for Policy at the Department of Labor.

The President announced his intention to nominate Cyril Kent McGuire to serve as Assistant Secretary of Educational Research and Improvement at the Department of Education.

The President announced his intention to nominate Robert McNamara, Jr., to serve as General Counsel at the Central Intelligence Agency.

The President announced his intention to nominate Daryl L. Jones to be Secretary of the Air Force.

The President announced his intention to appoint former Representative John Bryant as head of the U.S. delegation to the International Telecommunication Union's 1997 World Radiocommunications Conference in Geneva, Switzerland, with the personal rank of Ambassador.

The President announced his intention to appoint Sam W. Brown with the personal rank of Ambassador during his service as the head of the U.S. delegation to the Organization on Security and Cooperation in Europe's Ministerial Preparatory Conferences in Vienna, Austria.

The President announced his intention to appoint Robert L. Baxter as a member of the Advisory Committee to the President's Commission on Critical Infrastructure Protection.

October 22

In the afternoon, the President met with Ecumenical Patriarch Bartholomew I in the Oval Office.

The President announced his intention to nominate John Charles Horsley as Associate Deputy Secretary and Director of Intermodalism at the Department of Transportation.

The White House announced the President's intention to appoint the following individuals as members of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters: Charles Benton, Frank Blythe, Peggy Charren, Harold C. Crump, Frank Cruz, Robert Decherd, Barry Diller, William Duhamel, Rob Glaser, Jim Goodmon, Paul La Camera, Richard Masur, Newton Minow, Shelby Scott, Gigi Sohn, Karen Peltz Strauss, Cass R. Sunstein, Lois Jean White, and James Yee.

The White House announced that the President received the final report of the Presidential Commission on Critical Infrastructure Protection on October 20.

October 23

The President announced his intention to nominate Mary Beth West for the rank of Ambassador to be Deputy Assistant Secretary of State for Oceans and Space.

Tab 18

LAT - 11/9/97 LATIMES A1
9/97 L.A. Times A1
WL 13998644
Los Angeles Times
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Sunday, November 9, 1997

National Desk

Lobbying for 'Fast-Track' Trade Power Intensifies Congress: Despite frenzy of action, little headway was made as countdown continues to today's vote to give Clinton authority he seeks. House, Senate also try to break deadlocks on other issues.

JANET HOOK; FAYE FIORE
TIMES STAFF WRITERS

WASHINGTON -- Both houses of Congress were pressed into service Saturday as lawmakers made a mad dash to wrap up the year's work and prepared for a cliffhanger vote on President Clinton's bid for expanded trade authority.

The Senate and House struggled to break deadlocks on a range of hot-button issues--from abortion funding to the 2000 census--that have stalled several funding bills that must be passed before Congress can adjourn for the year.

But much of the action occurred behind closed doors, as the countdown continued toward today's scheduled House vote on Clinton's request for "fast- track" trade negotiating authority.

e White House sent a phalanx of Cabinet officials and other top aides to make peace with jority of House Democrats furious about Clinton's efforts to woo Republican support for the fast-track trade legislation.

In addition, the administration pursued intensive, one-on-one negotiations in an effort to pick up fast-track votes from within a tiny and dwindling band of Democratic fence-sitters.

"This is a blitz," said U.N. Ambassador Bill Richardson, one of the administration officials on Capitol Hill to work the issue. "It's going down to the wire."

Clinton, in his Saturday radio address, made another appeal for House members to support the fast-track legislation, which would strengthen the president's hand in negotiating trade agreements by allowing Congress to accept or reject-- but not amend--the pacts.

"A 'yes' vote is a vote for confidence in the world's strongest economy," Clinton said. "But a 'no' vote says we don't want our country to negotiate lower trade barriers--we're pulling back."

The day's frenzy of lobbying did not seem to have much effect on undecided members, many of whom may be waiting until the roll is called today before making their positions known. Aides on both sides reported little movement in the head count, leaving the administration a few votes short of the majority needed for passage.

Nonetheless, House Speaker Newt Gingrich (R-Ga.) said he was encouraging the administration to remain committed to holding the vote today. "My advice is to go for it," he said.

But some lawmakers said the vote might be delayed if Clinton cannot round up the votes he needs. The House is scheduled to go into session at 2 p.m. EST, but a final vote on the -track bill is unlikely before the evening. If the ure passes the House, Senate approval is considered probable.

While the fate of fast-track remained undecided, Capitol Hill became a legislative

three-ring circus as House and Senate leaders pushed to wrap up the rest of this year's work today or Monday.

In major action Saturday, Congress sent to the White House two bills challenging presidential priorities. The Senate voted, 91-4, to join the House in passing an $80-billion social-spending bill that includes a rider delaying Clinton's plan to establish national education testing. The compromise was declared a victory by conservatives opposed to national testing, but Clinton has said he would accept it.

The House voted, 352-64, to approve a bill overturning Clinton's line-item veto of 38 military construction projects worth $287 million. The House's overwhelming vote, which followed a comparably strong vote in the Senate, suggests that Congress could override Clinton if he were to veto the overall measure, as he has promised.

In an effort to break the logjam on three remaining appropriations bills--for the District of Columbia, the departments of State, Commerce and Justice and foreign aid--the Senate Appropriations Committee passed a measure that combined all three bills into one. But House leaders said the combined legislation includes language on abortion and other issues unacceptable to the lower chamber.

The fast-track legislation had been scheduled to come to a vote in the House on Friday, but the White House requested a postponement until at least today so it would have more time to round up support.

The politics of the issue have become deeply entwined in the process of wrapping up annual appropriations bills. Many conservative House Republicans have declared they would not vote for fast-track unless the White House makes concessions on a number of fronts, including Clinton's proposal to establish national education testing, a dispute about the 2000 census and antiabortion restrictions on foreign aid.

House Democrats, most of whom oppose the fast-track legislation, have been furious at the e House for what they see as an effort to make concessions in those areas to pick up Republican votes.

They called top administration officials--including Treasury Secretary Robert E. Rubin and White House Chief of Staff Erskine Bowles--to an emotional meeting of the House Democratic Caucus, where members aired their fury at the maneuvering around fast-track.

Administration officials have denied that they are making deals to pick up fast-track votes, particularly on the contentious issue of abortion. Democrats who attended the closed-door meeting said Bowles reiterated the White House's commitment to veto foreign aid legislation if it includes antiabortion language.

The abortion dispute is one of the biggest obstacles to completing work on this year's funding bills. At issue is a provision of current law that prohibits international family-planning organizations from using U.S. aid for abortions.

Conservative Republicans in the House want to tighten that restriction to prohibit U.S. aid from going to any international group that uses even its own money for abortions. The Senate and the White House have opposed that.

On the census, leaders of the black, Latino and Asian congressional caucuses assembled in anger Saturday after hearing of the deal the White House struck with GOP leaders regarding the conduct of the population count in 2000.

The agreement, which would allow the Census Bureau to test a statistical counting method in Sacramento during a trial census in April, leaves GOP lawmakers ample opportunity next year to kill the sampling method, which they fiercely oppose.

ether sampling is used has great import for California, which was severely undercounted .990 and lost out on federal funding and one congressional seat as a result.

Leaders of the minority caucuses, who wanted broader use of sampling, thought Clinton had

conceded too much on the census in order to win votes for the expanded trade negotiating authority he desperately wants. They accused him of forsaking minority groups, children and poor, who were the most undercounted in 1990.

"Mr. President, don't sell us out over fast-track," implored Rep. Robert Menendez (D-N.J.).

Their ire won at least one concession. An oversight board set up to report on the census that had previously been Republican-dominated, will now be made up of an equal of Republicans and Democrats. It was unclear, however, whether Republicans would share the $3 million that would fund the board, money Democrats say will be used as a public relations machine to make sure census sampling is killed next year.

While the maneuvering on appropriations bills could help Clinton pick up Republican votes for fast-track, the White House turned up the heat in an effort to garner more support among the handful of fence-sitting Democrats.

Among them is Rep. Nita M. Lowey (D-N.Y.), a leader of abortion-rights forces who said she might be more inclined to oppose fast-track if Clinton compromised on his opposition to new restrictions on international family planning.

Clinton's aides have been wooing Democrats representing agricultural districts with promises of trade protections for commodities such as peanuts, citrus and tomatoes that might be hurt by expanded foreign trade.

Some Democrats said the White House had been promising presidential help in political fund-raising to those who come on board, and who fear a loss of labor contributions in retaliation.

The combined effect of White House promises and GOP leaders' control over congressional procedures could be enough to produce a come-from-behind victory, one fast-track opponent conceded.

"I fear that they will win," said Rep. Peter A. DeFazio (D-Ore.). "They always do."

* SANCHEZ IMPASSE: GOP leaders refused to debate the dispute over Rep. Loretta Sanchez's election victory. A38

* CLINTON DRIVEN: Washington is discovering how badly the president wants fast-track authority. A24

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PHOTO: Rep. Steny H. Hoyer (D-Md.), Treasury Secretary Robert E. Rubin and Agriculture Secretary Dan Glickman, from left, meet at Capitol to discuss fast- track trade authority President Clinton is seeking.; PHOTOGRAPHER: Associated Press

---- INDEX REFERENCES ----

KEY WORDS: CONGRESS (U.S.); LEGISLATION -- UNITED STATES; GOVERNMENT SPENDING; LOBBYING; UNITED STATES -- TRADE; ABORTION; CENSUS

NEWS SUBJECT: Politics; Trade Issues; Health (PLT TRD HLT)

STORY ORIGIN: WASHINGTON

NEWS CATEGORY: LEAD STORY

GOVERNMENT: Congress (CNG)

: United States; North America (US NME)

EDITION: HOME EDITION

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1/97 LATIMES A1
OF DOCUMENT

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Tab 19

BALTSUN - 11/14/97 BALTSUN 17A
11/14/97 Balt. Sun 17A
WL 5539638
T. Baltimore Sun
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Friday, November 14, 1997

NEWS

Zedillo champions free trade; Mexican president notes worry about future deals

REUTERS

WASHINGTON -- Mexico's President Ernesto Zedillo expressed Latin America's disappointment yesterday over the Clinton administration's failure to get special negotiating authority to extend free trade in the hemisphere.

At the start of a 36-hour visit to Washington, Zedillo told businessmen that the North American Free Trade Agreement has been a great success in expanding commerce, employment and investment in Canada, Mexico and the United States.

Mexican-U.S. trade has doubled since NAFTA was created in 1994 to $165 billion this year, the Mexican leader said.

Zedillo said Latin America had had "tremendous expectations" over free trade. President Clinton failed to gain Congress's approval of the so-called fast-track authority needed to keep his promise to build a free-trade area by 2005.

Zedillo was to dine privately with Clinton at the White House yesterday and return today for a session with Cabinet officials on drug trafficking, law enforcement, migration, trade and environmental issues.

U.S. and Mexican officials signed agreements to expand the extradition treaty between the two countries and to demarcate their maritime borders to allow exploration of potentially vast oil reserves in the Gulf of Mexico.

But they only provided a progress report on talks to devise a joint strategy to combat the flow of narcotics into the United States from Mexico -- the most critical issue between the two countries.

Today, Zedillo and Clinton will attend the signing of an agreement to combat trafficking in illegal firearms, explosives and ammunition, an initiative proposed by Mexico.

Pub Date: 11/13/97

---- INDEX REFERENCES ----

STORY ORIGIN: WASHINGTON

EDITION: FINAL

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Tab 20

1784

ation Search Result Rank 1 of 1 Database
15/97 WASHPOST A06 WP
11/15/97 Wash. Post A06
1997 WL 14713125

The Washington Post
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Saturday, November 15, 1997

A Section

Democratic Donor Chung Invokes 5th Amendment; House Members Informally Interview Businessman

Edward Walsh
Washington Post Staff Writer

Democratic contributor Johnny Chung invoked the Fifth Amendment against self-incrimination before members of a House committee yesterday, but then provided some information, not under oath, about his role as a major financial backer of President Clinton and the Democratic National Committee.

Chung spent about three hours yesterday morning with members ' investigators of the House Government Reform and Oversight Committee and continued the session after the committee held a public hearing on campaign financing improprieties during the 1996 election cycle.

"We did get some information we think will be helpful down the line," Chairman Dan Burton (R-Ind.) said of the informal interview with Chung. "We will pursue those leads."

But Rep. Henry A. Waxman (Calif.), the committee's ranking Democrat, said he had heard nothing to change his view that Chung was simply a political "hustler" who hoped to exploit his purchased access to the White House to advance his private business interests. Waxman said Chung earlier had submitted to similar informal interview sessions with investigators from the Justice Department and the Senate Governmental Affairs Committee. Chung was not called to testify before the Senate committee.

Chung, a California businessman, gave $366,000 to the DNC before the 1996 election. All of his contributions have been returned, including a $50,000 check that he handed to Hillary Rodham Clinton's chief of staff during one of his many visits to the White House complex in 1995. Two days after making that donation, Chung, with the help of DNC officials, escorted six Chinese businessmen to the White se to watch the president deliver his weekly radio address.

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11/15/97 WASHPOST A06

On Thursday, Nancy Hernreich, Clinton's appointments and scheduling aide, told the committee Clinton had expressed displeasure about the presence of the Chinese businessmen at the radio address. A month later, White House aides asked the National Security Council if they should give Chung photos from the visit showing Clinton with the businessmen.

Former NSC aide Brooke Darby testified that, based on information from Robert L. Suettinger, then the NSC's China expert, she recommended against giving Chung the pictures.

In what is now a well-known description of Chung, Suettinger told Darby release of the pictures would do no "lasting damage to U.S. foreign policy" but warned that Chung was a "hustler" who was trying to advance his business and would become "a royal pain" to White House officials.

Suettinger told the panel yesterday that he knew of or was able to verify that all but one of the Chinese visitors were officials of legitimate Chinese enterprises. The exception was James Y. Sun, described by Chung as a "young entrepreneur and self-made millionaire."

There are relatively few self-made millionaires in the [illegible]ple's Republic of China," Suettinger said in deadpan fashion.

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CAPTION: House panel Chairman Dan Burton, left, escorts **Democratic donor** Johnny Chung down Rayburn Building hall, where they faced throng of photographers.

---- INDEX REFERENCES ----

KEY WORDS: NATIONAL

EDITION: FINAL

Word Count: 450
11/15/97 WASHPOST A06
END OF DOCUMENT

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Tab 21

1788

AO 110 (Rev. 12/89) Subpoena to Testify Before Grand Jury GJ# 97-3 JD# A98-024

United States District Court

EASTERN DISTRICT OF VIRGINIA

TO: William Jefferson Clinton

SUBPOENA TO TESTIFY BEFORE GRAND JURY

SUBPOENA FOR:

☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

YOU ARE COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	COURTROOM
UNITED STATES DISTRICT COURT 401 Courthouse Square Alexandria, Virginia 22314	GRAND JURY ROOM DATE AND TIME January 27, 1998 9:30 A.M.

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

See attached rider.

☐ *Please see additional information on reverse*

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK	DATE
NORMAN H. MEYER, JR., CLERK OF THE COURT	January 20, 1998
(By) Deputy Clerk	(V002)

This subpoena is issued on application of the United States of America	NAME, ADDRESS and PHONE NUMBER OF ASSISTANT U.S. ATTORNEY
OFFICE OF THE INDEPENDENT COUNSEL KENNETH W. STARR	Kenneth W. Starr by DOB Office of the Independent Counsel 1001 Pennsylvania Ave, NW, Suite 490-N Washington, D.C. 20004 (202) 514-8688

Subpoena # V002

To: William Jefferson Clinton

SUBPOENA RIDER

A. Produce all documents and things referring or relating to Monica Lewinsky. These documents and things should include, but not be limited to, the following:

1. any and all gifts, presents, or things to or from Monica Lewinsky (directly or indirectly), including, but not limited to, any tie, mug, paperweight, book, or other article;

2. any and all cards, letters, notes, or other correspondence to or from Monica Lewinsky;

3. any and all photographs, videotapes, audiotapes, voice messages or other recording of or relating or referring to Monica Lewinsky;

4. any and all documents and things containing the handwriting, signature, or other mark of Monica Lewinsky; and

B. Any and all affidavits, depositions, pleadings, memoranda, notes, and other statements, including drafts, referring or relating to Monica Lewinsky or Linda Tripp.

C. Produce any and all diaries, journals, address books, and Rolodexes from January 1, 1995.

D. Produce any and all calendars or daytimers from January 1, 1995.

E. Produce any and all documents referring or relating to Monica Lewinsky's employment or her seeking employment since January 20, 1993. These documents should include, but not be limited to, resumes, correspondence, travel records, telephone records and message slips, applications, evaluations, letters of recommendation, and references.

F. Produce any and all documents referring or relating to McAndrews & Forbes or Revlon, Inc. and their employees, agents, or representatives, including, but not limited to, Vernon Jordan, Ron Perelman, Howard Gittes, and Barry Schwartz.

G. Produce any and all answers to interrogatories, requests for admission, affidavits, declarations, and depositions of William Jefferson Clinton in Jones v. Clinton and Ferguson.

Definitions and Instructions

1. Definitions

a. The term "document" or "documents" as used in this subpoena means all records of any nature whatsoever within your possession, custody or control or the possession, custody or control of any agent, employee, representative (including, without limitation, attorneys, investment advisors, investment bankers, bankers and accountants), or other person acting or purporting to act for or on your behalf or in concert with you, including, but not limited to, draft, pending or executed contracts and/or agreements, sample documents, insurance policies, financial guarantee bonds, letters of credit, communications, correspondence, calendars, daytimers, datebooks, telegrams, facsimiles, telexs, telefaxes, electronic mail, memoranda, records, reports, books, files (computer or paper), summaries or records of personal conversations, meetings or interviews, logs, summaries or records of telephone conversations and/or telefax communications, diaries, forecasts, statistical statements, financial statements (draft or finished), work papers, drafts, copies, bills, records of payments for bills, retainer records, attorney time sheets, telephone bills and records, telefax bills and records, tax returns and return information, employee time sheets, graphs, charts, accounts, analytical records, minutes or records of meetings or conferences, consultants' reports and/or records, appraisals, records, reports or summaries of negotiations, brochures, pamphlets, circulars, maps, plats, trade letters, depositions, statements, interrogatories and answers thereto, pleadings, docket sheets, discovery materials, audit letters, audit reports, materials underlying audits, document productions, transcripts, exhibits, settlement materials, judgments, press releases, notes, marginal notations, invoices, documents regarding collateral or security pledged, settlement statements, checks disbursed or received at settlement, inspection reports, title policies, financial statements and/or federal tax returns submitted by any person in support of any loan application, items related the repayment, if any, of any interest or principal on the loan, items relating to any default on the loan, commission records, evidence of liens, documents relating to filings under the Uniform Commercial Code and/or its equivalent, foreclosure and mortgage documentation, cashiers checks, bank drafts, money orders, bank and brokerage account statements, debit and credit memoranda, wire transfer documentation, opening account cards, signature cards, loan applications, any employment and bank account deposit verification documents, loan histories, loan files, records of loan repayment or any and all efforts to secure repayment, including foreclosure or records of lawsuits, credit references, board resolutions, minutes of meetings of boards of directors, opinion letters, purchases and sales agreements, real

estate contracts, brokerage agreements, escrow agreements, loan agreements, offer and acceptance contracts, or any other contracts or agreements, deeds or other evidence of title, escrow accounts and any other escrow documentation, savings account transcripts, savings account deposit slips, savings account withdrawal slips, checks deposited in savings accounts, checking account statements, canceled checks drawn on checking accounts, deposit slips and checks deposited into checking accounts, credit card accounts, debit and credit documentation, safe deposit records, currency transaction reports (IRS Forms 4789), photographs, brochures, lists, journals, advertising, computer tapes and cards, audio and video tapes, computerized records stored in the form of magnetic or electronic coding on computer media or on media capable of being read by computer or with the aid of computer related equipment, including but not limited to floppy disks or diskettes, disks, diskettes, disk packs, fixed hard drives, removable hard disk cartridges, mainframe computers, Bernoulli boxes, optical disks, WORM disks, magneto/optical disks, floptical disks, magnetic tape, tapes, laser disks, video cassettes, CD-ROMs and any other media capable of storing magnetic coding, microfilm, microfiche and other storage devices, voicemail recordings and all other written, printed or recorded or photographic matter or sound reproductions, however produced or reproduced.

The term "document" or "documents" also includes any earlier, preliminary, preparatory or tentative version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the terms of the draft are the same as or different from the terms of the final document.

b. The term "communication" or "communications" is used herein in its broadest sense to encompass any transmission or exchange of information, ideas, facts, data, proposals, or any other matter, whether between individuals or between or among the members of a group, whether face-to-face, by telephone or by means of electronic or other medium.

c. "Possession, custody or control" means in your physical possession and/or if you have the right to secure or compile the production of the document or a copy from another person or entity having physical possession, including, but not limited to, your counsel.

d. The term "referring or relating" to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject including, but not limited to, documents concerning the preparation of other documents.

e. The term "you" means yourself, any person or agent acting on your behalf or at your suggestion or direction, and any of your companies, partnerships and business entities with which you have been affiliated and any employees, partners, associates or members of any firm with which you have been affiliated.

2. Instructions

a. The originals of all documents and communications must be produced, as well as copies within your possession, custody, or control.

b. If any original document cannot be produced in full, produce such document to the extent possible and indicate specifically the reason for your inability to produce the remainder.

c. Documents shall be produced as they are kept in the usual course of business, as organized in the files.

d. File folders, labels, and indices identifying documents called for shall be produced intact with such documents. Documents attached to each other should not be separated.

e. In reading this rider, the plural shall include the singular and the singular shall include the plural.

f. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The use of the word "including" shall be construed without limitation.

g. In the event that any document, or portion thereof, called for by this subpoena is withheld on the basis of any claim of privilege or similar claim, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) any indicated or blind copies; (f) date; (g) a description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, has been disclosed, distributed, shown, or explained; and (k) present custodian. Each basis you contend justifies the withholding of the document shall also be specified. With respect to those documents or records as to which you may claim privilege, or attorneys' work product, set forth as to each such document the basis for such claim, including the purpose and circumstances surrounding the creation of the document, the identity of each person who has been privy to such communication reflected in the document, the identity of any person or entity instructing the

subpoena recipient or the attorney of the subpoena recipient to withhold production of the document, and whether you will submit the document to the Court for an in camera determination as to the validity of the claim. If the existence of a joint defense agreement or any agreement as to common interest is relevant to the assertion of any claim of privilege or similar claim, please provide a copy of that agreement; if any such agreement is not in writing, please set forth the date of the creation of the agreement, the identities of all parties to the agreement and the specific individuals who entered into the agreement on behalf of those parties, and the objects, purposes, and scope of the agreement.

h. In the event that any document called for by this subpoena has been lost, destroyed, deleted, altered, or otherwise disposed of, that document shall be identified in writing as follows: (a) author; (b) the position or title of the author; (c) addressee; (d) the position or title of the addressee; (e) indicated or blind copies; (f) date; (g) a brief description of the subject matter of the document; (h) number of pages; (i) attachments or appendices; (j) all persons to whom the document, its contents, or any portion thereof, had been disclosed, distributed, shown or explained; (k) the date of the loss, destruction, deletion, alteration, or disposal and the circumstances thereof; and (l) the reasons, if any, for the loss, destruction, deletion, alteration, or disposal and the person or persons responsible.

i. If any information or data is withheld because such information or data is stored electronically, it is to be identified by the subject matter of the information or data and the place or places where such information is maintained.

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
Suite 490-North
Washington, DC 20004
(202) 514-8688
Fax (202) 514-8802

January 21, 1998

VIA FACSIMILE

David E. Kendall, Esq.
Williams & Connelly
725 Twelfth Street, N.W.
Washington, D.C. 20005

Re: William Jefferson Clinton
Grand Jury Subpoena # V002

Dear David:

Pursuant to our telephone conversation this afternoon, enclosed please grand jury subpoena number V002. Also enclosed please find a copy of the Special Division's jurisdictional Order and its Order authorizing limited disclosure. Both Orders are under seal.

Thank you for accepting service on behalf of your client.

Sincerely,

Robert J. Bittman
Deputy Independent Counsel

Enclosures

01/21/98 WED 17:21 FAX 001

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*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	1925
CONNECTION TEL	94345792
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RESULT	OK

OFFICE OF THE INDEPENDENT COUNSEL
Suite 490-North
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004
tel (202) 514-8688
fax (202) 514-8802

fax transmittal

to: David E. Kendall, Esq.

fax #: 434-5792

from: Robert J. Bittman

date: January 21, 1998

re: President William Jefferson Clinton

pages: 10, including this cover sheet

Tab 22

1798

Citation Search Result Rank 1 of 1 Dat
1/21/98 WASHPOST A01 WP
1/21/98 Wash. Post A01
1998 WL 2463182

The Washington Post
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Wednesday, January 21, 1998

A Section

Clinton Accused of **Urging Aide** to **Lie**; Starr Probes Whether President To Woman to Deny Alleged Affair to Jones's Lawyers

Susan Schmidt, Peter Baker and Toni Locy
Washington Post Staff Writers

Independent counsel Kenneth W. Starr has expanded his investigation of President Clinton to examine whether Clinton and his close friend Vernon E. Jordan Jr. encouraged a 24-year-old former White House intern to lie to lawyers for Paula Jones about whether the intern had an affair with the president, sources close to the investigation said yesterday.

A three-judge appeals court panel on Friday authorized Starr to examine allegations of suborning perjury, false statements and obstruction of justice involving the president, the sources said. A Justice Department official confirmed that Attorney General Janet Reno had forwarded Starr's request to the panel that oversees independent counsels after Starr had asked her for "expeditious" consideration of his request.

The expansion of the investigation was prompted by information brought to Starr within the past few weeks by a former White House aide who surreptitiously made tape recordings of conversations she had with the former White House intern describing a relationship with Clinton.

The former intern, Monica Lewinsky, began work in the White House in 1995 at age 21 and later moved to a political job at the Pentagon, where she worked with Linda R. Tripp, who had moved there from an administrative job at the White House.

Sources said Tripp provided Starr with audiotapes of more than 10 conversations she had with Lewinsky over recent months in which Lewinsky graphically recounted details of a year-and-a-half-long affair she said she had with Clinton. In some of the conversations -- including one in recent days -- Lewinsky described Clinton and Jordan directing her to testify falsely in the Paula Jones sexual harassment case against the president, according to sources.

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1/21/98 WASHPOST A01

Lewinsky gave an affidavit in connection with the Jones case Jan. 7 and sources who have seen the sworn statement said she denied having an affair with Clinton. She is scheduled to be deposed by Jones's lawyers Friday. In his own deposition in the Jones case Saturday, Clinton was asked about Lewinsky and denied under oath having a sexual relationship with her, according to a source familiar with the testimony.

White House officials said they were unaware of the expansion of Starr's investigation and referred calls to Robert S. Bennett, the president's lawyer in the Jones case.

"The president adamantly denies he ever had a relationship with Ms. Lewinsky and she has confirmed the truth of that," Bennett said. "This story seems ridiculous and I frankly smell a rat."

Neither Bennett nor White House officials would comment on whether the president had conversations with Lewinsky about her testimony. Efforts to reach both Lewinsky and Tripp this week were unsuccessful.

William Ginsburg, an attorney for Lewinsky, confirmed that Starr is investigating his client's involvement with Clinton and said he has talked with Starr's staff. He would not discuss the substance of the case but portrayed his client as an innocent young victim of the political system. He would not comment on whether Lewinsky had a sexual relationship with Clinton.

"If the president of the United States did this -- and I'm not saying that he did -- with this young lady, I think he's a misogynist," he said. "If he didn't, then I think Ken Starr and his crew have ravaged the life of a youngster."

He added that a young person like Lewinsky can be devastated "if you're not terribly sophisticated and you're misled by the people at the center of the political system, and that includes the president and his staff and the special prosecutor."

William Hundley, who represents Jordan, said he was unaware of the investigation and declined to discuss it. "It's all news to me," he said. "I'm not disputing what you're telling me, but at this time I'm certainly not going to comment and I can assure you that Mr. Jordan would not comment. . . . You can rest assured that we're going to cooperate with the authorities."

On the tape recordings made by Tripp, sources said, Lewinsky described her sexual relationship with Clinton and said the president advised her not to worry about the Jones case because Jones's lawyers would not find out about the relationship. Lewinsky said that when she

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was notified by Jones's lawyers in mid-December that they wanted her testimony, she called the president and he advised her to deny the affair, the sources said.

She said that Clinton then told Lewinsky that Jordan would help figure out what to say, the sources said.

Jordan, a prominent Washington lawyer and civil rights figure, has been a regular Clinton golfing partner and among the president's closest advisers outside the White House.

He has come to Starr's attention before for helping another Clinton friend, former associate attorney general Webster L. Hubbell, line up lucrative consulting fees while Hubbell was under investigation for fraud and tax evasion. Starr wants to determine whether any of that money was intended to encourage Hubbell's silence about Whitewater matters.

While Starr's original mandate was to look at the complicated Whitewater real estate deal, it has been expanded several times by the court over the years to cover other incidents involving the president, including the firing of White House travel office employees and the improper collection of FBI background files on former Republican White House officials.

It was unclear last night how the new Starr inquiry might affect the Jones case, which has been moving toward a public trial scheduled for May.

In her suit, Jones alleged that Clinton crudely asked her for sex in a Little Rock hotel suite in 1991 while she was a state worker and he was governor. For several months, Jones's lawyers have been searching for women who could testify about experiences with Clinton that might prove a pattern of behavior.

Their research has led them to several women who have testified about sexual encounters with Clinton and ultimately to Lewinsky. In a deposition Saturday, Clinton was asked by Jones's lawyers about a number of women with whom he has been linked, according to a source.

The affidavit Lewinsky gave is sealed in federal court in Little Rock. In it, she is named only as a "Jane Doe" and says she should not have to testify in the Jones case because she had no relevant information, according to a source familiar with the document. Lewinsky said she never had a sexual relationship with Clinton, that he never asked for one and that she never benefited or suffered on the job as a result of any sexual overtures, the source said.

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1/21/98 WASHPOST A01

James Moody, a lawyer for Tripp, said last night that "Linda has been subpoenaed for the Paula Jones case and beyond that I cannot comment."

Tripp formerly worked in an administrative position in the Bush White House and then in the White House counsel's office during the first years of the Clinton administration. She joined the Pentagon press office in August 1994.

Last summer, Tripp was quoted in a Newsweek story about seeing a woman emerge from the Oval Office after she allegedly had a romantic encounter with Clinton. Tripp said Kathleen Willey, another White House aide, appeared in the hallway with her makeup smeared and clothing askew, Tripp said, and told Tripp she had just had an encounter with Clinton.

Willey was subpoenaed by Jones's lawyers and tried to resist testifying but ultimately was forced to tell her story under oath earlier this month. According to a source familiar with her account, she said she went to Clinton seeking a better job and he grabbed her, started kissing and groping her and said, "I've always wanted to do that."

Bennett, Clinton's lawyer, has denied that Clinton engaged in any improper behavior. After the Newsweek story ran, Bennett publicly questioned Tripp's credibility. Some time after that, Tripp began recording her conversations with Lewinsky, who coincidentally was working in the same Pentagon press office.

Lewinsky started at the White House as an unpaid intern in the office of then-Chief of Staff Leon E. Panetta in the summer of 1995 and impressed colleagues there with her dedication, according to a source familiar with her job history. During the government shutdowns several months later, she volunteered to come into work and manned phones left unattended, earning gratitude among White House officials, according to the source.

Lewinsky was hired in December 1995 as a staff assistant in the Office of Legislative Affairs, where she worked in the correspondence section opening and handling letters from members of Congress. At times, according to the source, she would be responsible for delivering correspondence to the Oval Office, usually leaving it with the president's confidential assistants, Nancy Hernreich or Betty Currie, and she sometimes ran into Clinton during these duties.

"She's like 10,000 other kids who come to the White House," said a colleague. "They're all star-struck and they all want to see him. . . . Did I notice that? Yeah. But I didn't see anything beyond that." She left the Pentagon several months ago to move to New York,

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associates said.

A Justice Department official said there was no question about approving Starr's request.

"Starr made it clear that he needed this," the Justice source said. "We did not want to look like we were slowing down the process." As a result, Reno made her decision "right away."

The source said that Justice officials were shocked by the allegations. "It was really a situation where people were floored," the source said.

Staff writer Dana Priest contributed to this report.

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1804

Tab 23

1806

INTERVIEW WITH PRESIDENT BILL CLINTON BY JIM LEHRER TO BE AIRED WEDNESDAY NIGHT ON **"THE NEWS HOUR WITH JIM LEHRER"** ON PBS WEDNESDAY, **JANUARY 21, 1998**

MR. LEHRER: Mr. President, welcome.

PRESIDENT CLINTON: Thank you, Jim.

MR. LEHRER: The news of this day is that Kenneth Starr, independent counsel, is investigating allegations that you suborned perjury by encouraging a 24-year-old woman, former White House intern, to lie under oath in a civil deposition about her having had an affair with you. Mr. President, is that true?

PRESIDENT CLINTON: That is not true. That is not true. I did not ask anyone to tell anything other than the truth. There is no improper relationship. And I intend to cooperate with this inquiry. But that is not true.

MR. LEHRER: "No improper relationship" -- define what you mean by that.

PRESIDENT CLINTON: Well, I think you know what it means. It means that there is not a sexual relationship, an improper sexual relationship, or any other kind of improper relationship.

MR. LEHRER: You had no sexual relationship with this young woman?

PRESIDENT CLINTON: There is not a sexual relationship; that is accurate. The -- we are doing our best to cooperate here, but we don't know much yet. And that's all I can say now. What I'm trying to do is to contain my natural impulses and get back to work. I think it's important that we cooperate, I will cooperate, but I want to focus on the work at hand.

MR. LEHRER: Just for the record, to make sure I understand what your answer means, so there's no ambiguity about it --

PRESIDENT CLINTON: There is no --

MR. LEHRER: All right. You had no conversations with this young

woman, Monica Lewinsky, about her testimony or possible testimony before -- in giving a deposition?

PRESIDENT CLINTON: I did not urge -- I did not urge anyone to say anything that was untrue. I did not urge anyone to say anything that was untrue. That's my statement to you. And beyond that --

MR. LEHRER: Did you talk to her about it?
Excuse me, I'm sorry.

PRESIDENT CLINTON: -- I think it's very important that we let the investigation take its course.
The -- the -- but I want you to know that that is my clear position. I didn't ask anyone to go in there and say something that's not true.

MR. LEHRER: What about your having had -- another one of the allegations is that -- that you may have asked, or the allegation that's being investigated is that you asked your friend Vernon Jordan --

PRESIDENT CLINTON: To do that.

MR. LEHRER: -- to do that.

PRESIDENT CLINTON: I absolutely did not do that. I can tell you, I did not do that. I was -- I did not do that, he is in -- in no way involved in trying to get anybody to say anything that's not true at my request. I didn't do that.
Now, I don't know what else to tell you. I've -- I -- I don't even know -- all I know is what I have read here. But I'm going to cooperate. I didn't ask anybody not to tell the truth. There is no improper relationship. The allegations I have read are not true. I do not know what the basis of them is, other than just what you know. We'll just have to wait and see. And I will be vigorous about it, but I have got to get back to the work of the country.
I was up past midnight with Prime Minister Netanyahu last night. I've got Mr. Arafat coming in. We've got action all over the world and a State of the Union to do. I'll do my best to cooperate with this, just as I have through every other issue that's come up over the last several years, but I have got to get back to work.

MR. LEHRER: Would you acknowledge, though, Mr. President, this is very serious business, this charge against you that's been made.

PRESIDENT CLINTON: And I will cooperate in the inquiry of it.

MR. LEHRER: Mm-hmm. What's going on? What -- what -- if it's not true, that means somebody made this up. Is that -- is that -- is that --

PRESIDENT CLINTON: Look. You know as much about this as I do right now. We'll just have to look into it and cooperate, and we'll see. But meanwhile, I've got to go on with the work of the country. I got hired to help the rest of the American people.

MR. LEHRER: Okay. All right, speaking of the work of the country, other news today -- the pope is arriving in Cuba almost as we speak.

PRESIDENT CLINTON: Good thing.

MR. LEHRER: All right. Is the time come, maybe, for the United States to also bury some economic and political hatchets with Cuba?

PRESIDENT CLINTON: Well, I think that our previous policy -- the one that we've had now and the one we've had through Republican and Democratic administrations -- of keeping economic pressure on and denying the legitimacy of the Cuban government has been a good policy. I have made it clear from the day I got here that we would be prepared to respond to a substantial effort at a political or economic opening by Cuba. And we have, as you know, a system for communicating with each other.
Nothing would please me greater than to see a new openness there that would justify a response on our part, and I would like to work on it. And I think Mr. Castro knows that. I've tried to proceed in good faith here.

MR. LEHRER: Have you thought about doing something dramatic? I mean, this is your second term. Getting on an airplane and going down there, or inviting him to come up here, something like that? Just like what the pope is doing?

PRESIDENT CLINTON: I'm glad the pope's going there. I hope that we will have some real progress toward freedom and opening there, and I'll work on it. But that's still mostly up to Mr. Castro. I hope --

MR. LEHRER: Why is it up to him?

PRESIDENT CLINTON: Well, because -- look what the pope is saying. The pope is saying I hope you will release these political prisoners. You know, no American president getting on an airplane and going down there or having him come up here is going to deal with that. I mean, the Cuban American community, I know a lot of people think they've been too hard on this, but they do have the point that there has been no discernible change in the climate of freedom there. And I hope that the pope's visit will help to expand freedom, and I hope that, after that, we'll be able to talk about it a little bit.

MR. LEHRER: The pope, in fact, was interviewed on his plane a while ago by some reporters. And they asked him what message would you give to the American people, and he said -- about the embargo. And he said, "Change. To change, to change." That would be his message to the American people.

PRESIDENT CLINTON: Well, His Holiness is a very great man, and he -- and his position on this is identical to that, as far as I know, of every other European leader. And only time will tell whether they were right or we were.

MR. LEHRER: Explain to Americans who don't follow the Cuban issue very carefully why Cuba is different, say, than China, a communist country, North Korea, a communist country. Vietnam, we had a war with Vietnam, as we did with Korea and, in some ways, China as well. We have relations with them. Why is Cuba different?

PRESIDENT CLINTON: I think Cuba is different in no small measure because of the historic legacy we have with them going back to the early '60s. I think it's different because it's the only communist dictatorship in our hemisphere, a sort of blot on our neighborhood's commitment to freedom and openness.
And a lot of Americans have suffered personal losses of significant magnitude. And I think, as a practical matter, we probably think we can have a greater influence through economic sanctions on Cuba than we can in other places.
Now, I have worked over the last five years, in a number of different ways, to explore other alternatives to dealing with this issue, and I wouldn't shut the door on any other alternative. But I believe that our denial of legitimacy to the government, and our economic pressure, has at least made sure that others didn't go down

that path, and that now -- I think it's one of the reasons that every country in this hemisphere is a democracy and a market economy, except for Cuba. And I think a lot of people forget what the impact of our policy toward Cuba, and what that highlighting of the Cuban policies, have done to change the governmental structures in other countries in our neighborhood.
So I am hoping -- nobody in the world would be happier than me to see a change in Cuba and a change in our policy before I leave office. But we have to have both. We just can't have one without the other.

MR. LEHRER: You don't see anything happening anytime soon as a result of the pope's visit?

PRESIDENT CLINTON: Oh, no, I am very hopeful. I was very pleased when I heard he was going. I wanted him to go, and I hope it'd be a good thing.

MR. LEHRER: The Middle East; as you said a moment ago, you met with Mr. Netanyahu twice yesterday and (you're meeting ?) Mr. Arafat tomorrow. First on Netanyahu, what is it exactly you want him to do?

PRESIDENT CLINTON: Well, let's talk about what he wants. What we want is not nearly as important as what he wants, what the Palestinians want, what the other people in the Middle East want. What we want is a just and lasting peace in the Middle East.
What I believe he and his government want is an agreement to go to final-status talks in the peace process under circumstances that they believe maximize their security. I think what the Palestinians want is an agreement that moves them towards self-determination under circumstances that maximize their ability to improve the lives of their people and the reach of their popular government.
And we've been out there now for a year -- I mean another year -- of course, five years since I've been president. But since the Hebron withdrawal, we've been out there for a year in the Middle East, looking around, listening, talking, and watching the frustrations, seeing the growing difficulties in the Middle East peace process. And we came up with an approach that we thought, in the ballpark, would satisfy both sides' objectives.
We worked with Mr. Netanyahu yesterday exhaustively to try to, you know, narrow the differences. And we didn't get them all eliminated, but we made some headway. And we're going to work with Mr. Arafat tomorrow to try to do that. And then we're going to try to see if there's some way we can put them together. And I'm very

hopeful, because I think it's not good for them to keep on (dealing/dueling ?) with this and not making progress.

MR. LEHRER: Why does it matter that much to an American president that these two men get together and make an agreement?

PRESIDENT CLINTON: Well, first of all, I think it matters in the Middle East, because of our historic ties to Israel and the -- the difficulty that it would cause us if there were another war in the region.
Secondly, of course, we have major energy interest in the region. It's -- a big part of our economy recovery is having access to it. The third thing is, we have a lot of friends in the region beyond Israel, and if they all fall out with one another, that's -- that's bad for America. And of course, then, if -- if deprivation among the Palestinians leads to a rise of violence and leads to a rise of more militant Islamic fundamentalism in other countries throughout the region, then that could be a destabilizing fact that could really make things tough, if not for me, then for my successors down the road and for the American people down the road, in the 21st century.

MR. LEHRER: So you believe with those who say only America can make peace in the Middle East?

PRESIDENT CLINTON: I believe America is uniquely situated to help to broker a peace in the Middle East. I actually believe only the parties can make peace in the Middle East. I think only Israel and the Palestinians and the -- Syria and Lebanon can join Jordan at that table. That's what I think. And so I think, in the end, we -- we need to be very aggressive in stating what our views are. And we need to fight hard to at least have our position taken seriously. But in the end, you know, they have to live with the consequences of what they do or don't do -- all of them do. And they're going to have to make their own peace.

MR. LEHRER: The word around, as I'm sure you know, is that you and Netanyahu really just don't like each other very much. Is that right?

PRESIDENT CLINTON: I don't think so. It's certainly not true on my part. But we have -- had differences of opinion on occasion in approach to the peace process. And then there -- you know, there's been a little smattering in the press here, there, and yonder about

those differences and whether they were personal in nature. But for me they're not personal in nature.
I enjoy him very much, I like being with him, I like working with him. We had a difficult, hard day yesterday; you know, we had a long session in the morning, and then he worked with our team, including the vice president, secretary of state, through much of the afternoon. Then, after my dinner last night, I came back and we worked again for a couple of hours. So, it's hard to do that if you don't like somebody.
I really believe that he is an energetic man, and I think that within the -- the limits of his political situation, I believe he's hoping to be able to make a peace and to get to the point where he and Mr. Arafat can negotiate that.
But our job is to see, if you will, from a different perspective the positions of both the Palestinians and the Israelis. You know, we -- it's sort of like standing too close to an Impressionist painting sometime; there's lots of dots on the canvas, and the people who are standing too close to it, even though they're painting the canvas, may get lost in the weeds. And then the people that are standing back can see the picture, and it's a beautiful picture, if it all gets painted.
And so that's what I'm trying to do. I've got to -- I have to keep backing the painters back so they can see the whole picture, and then getting to the details and trying to help them ram it home, you know, because the one thing that I worry about is that you just sit there and have the same old conversation over and over again till the cows come home, and it's easy to do.

MR. LEHRER: Oh, yeah. Yeah.

PRESIDENT CLINTON: And so that's what I'm trying -- I'm trying to broker this thing, be a catalyst, get the people together, and give an honest view of what the picture looks like from back here about what the two artists can live with.

MR. LEHRER: Well, some people say that it doesn't look like to the innocent observer that either one of these guys want to make peace, that you may be talking -- you may be forcing them to do something that deep down in their either political hearts, or otherwise --

PRESIDENT CLINTON: That could be. Yes, that could be.

MR. LEHRER: -- they just don't want to do it.

PRESIDENT CLINTON: That could be. And I don't know what to say about that.

MR. LEHRER: But you're not going to give up on it?

PRESIDENT CLINTON: No. No. You know, if I don't make any progress, I'll level with the American people and the rest of the world and tell them I'm doing my best but I'm not making any progress. But, you know, we were hitting it last night till late, and then we're getting ready now for Mr. Arafat to come, and we'll hit it hard tomorrow. And that's all I know to tell you. We're just going to keep hitting it.

MR. LEHRER: On Asia, the Asia financial crisis, what business is it of the United States to save these failing Asian economies?

PRESIDENT CLINTON: Well, first of all, we can't save the Asian economies if they won't take primary steps to help themselves, the way Mexico did. You remember, we loaned Mexico some money, and they paid it back early with interest, and we made about $500 million because they took tough steps to restore economic growth, create jobs, raise incomes, and get their financial house in order.

That's the first and most important thing the Asians have to do. But in order to make it, they also need the backup of the International Monetary Fund and a plan designed to deal with the particular problems of each country, and then the U.S. and Japan and Germany and the rest of the Europeans to stand behind that to say, if necessary, we'll put together a package to really restore confidence.

In most of these Asian economies, the problem is the financial system and people can't pay back their loans, or investors take their loans -- when their loans are repaid, investors take the money and go somewhere else.

What's that got to do with America? Well, every day now in some of our newspapers you can see what's happening in the Asian stock markets and the Asian currency markets. What happens when a country's currency drops? When a country's currency drops, it doesn't have much money in dollars, and therefore, it can't buy as many American exports. A big part of America's economic growth since 1993 has occurred from exports, a big part of that from exports to Asia. If all their -- the value of all their money goes down, they can't keep buying our exports, and that hurts us. Also if the value of their money goes down, everything they sell in other places in the world is all of a sudden much cheaper, so they can push us out of those markets.

MR. LEHRER: Cheaper than our stuff.

PRESIDENT CLINTON: Correct. So if you want to just look at the plain, brutal, short-term economic interest, that's the short-term economic interest. If you want to look at the long run, we've got an interest in Asia in having stable democracies that are our partners, that work with us to help grow the region and grow with us over the long run, to help shoulder burdens like climate change, cleaning up the environment, dealing with global disease, dealing with weapons of mass destruction, contributing to the efforts in Bosnia, ending the nuclear program in North Korea. All those things we depend on the Asian countries to be a part of. They can only do that if they're strong. So we live in a world that's so interdependent that we need them to be strong if we're going to be strong.

Q As you know, there are some members of Congress who are saying what this really boils down to is welfare for international bankers, that's what we're up to. How do you respond to that? That's going to get -- that seems to be growing, particularly in the last few days.

PRESIDENT CLINTON: It -- that bothers me a lot. First of all, there is some truth to it. That is, if a country like Indonesia gets money from the International Monetary Fund to deal with its financial problems, what are its financial problems? You've got to pay notes when they're coming due. And if somebody made a foolish loan that they should not have made in the first place, that's an only 90-day loan on a building that's going to last for 20 years, for example, you hate to see them get their money back plus a profit at someone else's expense.
On the other hand -- and let me say, we are sensitive to that. Secretary Rubin has done a very good job of trying to get these big banks to roll over their debt.

MR. LEHRER: Take some hits themselves?

PRESIDENT CLINTON: Take some hits; at least, ride the roller coaster. They'll actually to get their interest back --

MR. LEHRER: -- if they hang in there?

PRESIDENT CLINTON: -- and the principal if they hang here. But they need to hang in there. They don't need to just take the money

and run.
On the other hand, if you start saying, "Well, everybody is going to get half back of what they put in," that will actually speed the rate at which people take money out and reduce the rate at which people put money in. You don't rebuild confidence, and therefore, the collapse is more costly. That's what bothers me, and -- I mean, nobody likes the idea -- you know, I don't think any American likes the idea that, you know, every single banker in one of these countries that made every bad loan will get paid back. And that, in fact, won't happen.
But when you try to pay back most things to stabilize the situation, the reason you're doing it is not to give the people who made the loans their money back. The reason you're doing it is to send a signal to the world that business is back up and going, that you have to be more careful now, but you can trust this country now, and you can invest.
So I think -- you know, I am convinced we're doing the right thing for our own economy; I am convinced we're doing the right thing for our values and our principles, and I hope I can persuade the Congress that we are.

MR. LEHRER: All right. Another subject. Iraq.
Bad news today.

PRESIDENT CLINTON: Bad news.

MR. LEHRER: Apparently, Mr. Butler left. What can you tell us about where that thing stands --

PRESIDENT CLINTON: Well --

MR. LEHRER: -- in terms of whether the inspectors are going to be allowed to do what they want to do, et cetera?

PRESIDENT CLINTON: They seem to want to wait until early March to open the --

MR. LEHRER: Iraq does?

PRESIDENT CLINTON: -- Iraq -- that -- open the sites that Mr. Butler believes that ought to be opened.
That's a problem for us because we believe that we have to do everything we can, as quickly as we can, to check the chemical and

biological weapon stocks. And as I told the American people the last time we had this standoff with Saddam before he relented and let the inspectors go back -- you know, my concern is not to refight the Gulf War; my concern is to prepare our people for a new century, not only in positive ways, like creating a big international financial framework that works for them -- as we just talked about -- but also to make sure we have the tools to protect ourselves against chemical and biological weapons.

So I won't -- tonight, I can't rule out or in any options. But I can tell you I am very concerned about this. And I don't think the American people should lose sight of the issue. What's the issue? Weapons of mass destruction. What's the answer? The U.N. inspectors. What's the problem? Saddam Hussein can't say who, where, or when about these inspection teams. That has to be done by the professionals.

And sooner or later, something is going to give here, and I am just very much hoping that we can reason with him before that happens, but we've got to have those sites open.

MR. LEHRER: Now, Ambassador Richardson with the U.N., and others in the administration, have said the military option -- just to pick up, just to continue your sentence -- the military option remains on the table. The ambassador from Iraq to the U.N. was on our program recently, and he pretty much acknowledged that Iraq is banking on that not being real, that the U.S. alone is not going to go in there and take out -- you know -- some suspected anthrax facility, particularly if it's in a -- in the palace where Saddam Hussein lives, et cetera, et cetera.

PRESIDENT CLINTON: Well, the United States does not relish moving alone, because we live in a world that is increasingly interdependent. We'd like to be partners with other people. But sometimes we have to be prepared to move alone.

You used the anthrax example. Think how many people can be killed by just a tiny bit of anthrax. And think about how it's not just a question of whether Saddam Hussein might put them on a scud missile -- an anthrax head -- and send it to some city of people he wanted to destroy, but think about all the terrorists and drug runners and other bad actors that could parade through Baghdad to pick up their stores if we don't take the strongest possible action.

I far prefer the United Nations. I far prefer the inspectors. I have been far from trigger happy on this thing. But if they really believe that there are no circumstances under which we would act

alone, they are sadly mistaken. And that is not a threat. I have shown that I do not relish this sort of thing. Every time it's discussed around here, I say -- you know, one of the great luxuries of being the world's only superpower for a while -- and it won't last forever, probably, but for a while -- is that there is always time enough to kill. And therefore, we have a moral responsibility to show restraint and to seek partnerships and alliances, and I've done that. But I don't want to have to explain to my grandchildren why we took a powder on what we think is a very serious biological and chemical weapons program -- potentially -- by a country that has already used chemical weapons on the Iranians and on the Kurds, their own people.

MR. LEHRER: So you would order an airstrike, or whatever it would take, to take out some facility if you couldn't get rid of it any other way?

PRESIDENT CLINTON: Well, I'm going to stay with my tried and true formulation. I'm -- I'm not ruling out or in any option. I'm just -- I was responding to what you said that the --

MR. LEHRER: Sure.

PRESIDENT CLINTON: -- that the Iraqi official thought we were just talking because we wouldn't want to discomfit anyone or make them mad. That's not true.
This is a serious thing with me. This is a very serious thing. And you imagine the capacity of these tiny amounts of biological agents to cause great harm. It's something we need to get after.
And I don't understand why they're not for getting after it.
What can they possibly get out of this? He really cared about his people -- he's always talking about how bad his people have been hurt by these sanctions. If he really cared about his people, he'd open all these sites, let everybody go in and look at them.

MR. LEHRER: To get it behind him. Yeah.

PRESIDENT CLINTON: If he's telling the truth, there's nothing there.

MR. LEHRER: Yeah.

PRESIDENT CLINTON: And if he's not, he'd get it -- behind it one way or the other. And we could then -- he could say, "Okay, what grounds does the United States have now for stopping the U.N. from lifting the sanctions? I have done everything I've been asked to do." And that would be a hard question for us, even though we've got reservations now. We'd have a hard time answering that question.

MR. LEHRER: But would you go along with lifting the sanctions now?

PRESIDENT CLINTON: Right now -- well, our position is, if he complies with all the United Nations sanctions -- the conditions of all U.N. resolutions leading to sanctions, that -- that's what we want Iraq to do.
But what he wants is -- is he wants to have it both ways. He wants to get the sanctions lifted, because he thinks people want to do business with him, and he wants to be able to continue to pursue a weapons program that we think presents a danger to the region and maybe to the world and certainly to our own interests and values.
So I just want him to think about it again before they wait all this -- two months. I think that's a mistake. I want them to think about it and let these inspectors go back.

MR. LEHRER: One more foreign policy area, and that's Bosnia: That just hasn't worked out the way you had hoped, has it?

PRESIDENT CLINTON: Well, it hasn't worked out as fast as I'd hoped, but it actually is kind of working out the way I had hoped, in the sense that the Dayton peace agreement is very much alive and well. And we've separated the troops and the -- I mean the forces and the people. And we've got some relocation going on, and we've collected a lot of the bad weapons and destroyed them. And we -- we're making some progress on the joint institutions and other things. And we're trying to get that country together.
And I must say, I -- I was very impressed on my recent trip there by the level of support for the United States and the international community and our presence there, the level of support for our staying there, and the level of commitment of so many people to genuine pursuit of peace. And I think we can make it in Bosnia.
I do think -- I'm -- did I think we could all withdraw by now? Yeah, I did. But if you had told me, on the other hand -- that's the

downside. If you'd told me, on the other hand, "You can go there and stay a couple of years, and there won't be any gunshots fired, and the only people you'll lose will be in accidents of one kind or another, and you'll have an increasing amount of harmony in the urbanized areas that you hadn't imagined you would get," and some of the other positive things that have happened, I think we'd all have been very happy about that.
So I'm going to stay after this.
Again, this may be my congenital optimism, but I believe we're going to make the Bosnia peace process work.

MR. LEHRER: U.S. troops are going to have to be there a long time, aren't they, Mr. President?

PRESIDENT CLINTON: Well, that depends on how long it takes to achieve the mission. What I do think we should do since it just invites recalcitrance on the part of any parties in Bosnia that don't want to do something that's in the Dayton peace agreement, if the Americans say "Well, we're leaving in a year" and then the Europeans say "We're going to leave as soon as they do", then the people who have to make changes say "Well, all I've got to do is hang around for a year and I won't have to make any changes at all." So I think we should lift the sort of time certain --

MR. LEHRER: No more deadlines.

PRESIDENT CLINTON: -- for withdrawal. Yeah. Because it -- you know, the world community really hasn't done anything like this in a while. Not like this. And it's very complicated. But on the other hand at bottom it's about people getting along together and working together and serving together as citizens. And I have been quite impressed by how much has been done.

MR. LEHRER: We've been talking now about all these foreign policy things. And I was just -- if you'd go back through here, only the U.S. can keep peace in Bosnia, only the U.S. can make peace in the Middle East, only the U.S. can stabilize --

PRESIDENT CLINTON: Facilitate peace.

MR. LEHRER: Yeah. Facilitate peace.

PRESIDENT CLINTON: Facilitate peace.

MR. LEHRER: Okay, facilitate peace.

PRESIDENT CLINTON: They got to make the peace.

MR. LEHRER: Okay. Only the U.S. can help stabilize the economies of Asia. Only the U.S. can stare down Saddam Hussein and Iraq. If there are going to be any coalitions, the U.S. has to organize them and make them work. Is this the role of the United States of America for the immediate future?

PRESIDENT CLINTON: Well, it's a big part of it. But it also is a part of our role to put together a broad coalition on the climate change treaty to deal with global warming. It's also our role to put together global efforts to stiffen our efforts against biological warfare, to put together, you know, a global effort to support the International Monetary Fund and the nations themselves in dealing with the Asian financial crisis. We live in a world that's interdependent in two or three ways.
Number one, what happens in one country affects what happens in another one. We can see that.
Number two, what happens on economic issues increasingly have a security impact, and vice versa.
You know, I mean, I'll just give you the most blatant example is there's all these articles in the paper about all these countries that their currency dropped and, therefore, they can't buy jet airplanes for their air forces. That's the most obvious case.

MR. LEHRER: Thailand being an example of that, yeah.

PRESIDENT CLINTON: Yeah. And so there's the economics and the security, there's the national and the international -- there's all this interdependence. And I just think that in this world, if you happen to be at the moment it's occurring, that this huge new world of interdependence is occurring, and plus you've got all this interdependence at a citizen level with the Internet exploding and the information explosion, we're going to have all kinds of implications with the scientific explosions going on now, and we just happen to be, at this moment in history, the strongest and the wealthiest country around. It is a unique gift for our people. They've worked hard for it, but it's still a blessing. But it's also a unique responsibility.

And, you know, looking back over the last five years -- I just celebrated my fifth anniversary here -- I think that our administration has had good success in changing the role of government and changing the debate about government from -- you know, the debate I heard for the 12 years before I got here was the government was the problem versus as a solution. And we sort of come up with, "No, no. Government's neither. Government's a catalyst. It's got to give people the tools to solve their own problems. It's got to be a good partner. It's got to empower neighborhoods and people."
So we've got a smaller, more active government, and yet we've invested more in education, more in science and technology, more in the environment. And it's working. We've got good results.
We've not been as successful in convincing people in very practical terms about the interdependence of foreign and domestic policy, of economic and security policy. We just haven't been. But I'm hoping we can be more successful.

MR. LEHRER: Because the way it would come back to you would be this way, Mr. President. If there's a problem -- like if Asia has an economic problem, we're the folks that send the most money. You've got a problem in Bosnia, Somalia, a military problem, we're the ones who send the most troops. That's how it translates in --

PRESIDENT CLINTON: Yeah, but if you look at it, if you look at -- there are some areas in the Bosnia peacekeeping operation, like civilian police, for example, where the Europeans have nine times as many as we do -- we put up more money -- I mean, you look at the different allocations. If you look at what's going on in the United Nations, if the congressional position --which is that we ought to have our U.N. dues lowered to 20 percent -- prevails, since a lot of really poor countries pay even less than their fair share of the world's GNP, we'd actually be getting off light compared to many, many other countries -- really light.
So it's just not true that we always pay an unfair share. But it is true that we are called upon to bear the largest burden. If it helps us, I think if we ought to do it. And if it's right and we can do it at an acceptable price, we ought to do it, whether or not we're sure it helps us.
But if you -- it's hard to quarrel with the argument that we've been hurt by having 220-odd trade agreements in the last five years when you look at what's happened, and a third of our growth coming out of trade. It's hard to quarrel with the argument that we've been hurt by our leadership in Bosnia or the Middle East or Northern Ireland or

any of these other places. It's hard to quarrel with the fact that our efforts to work with other countries to deal with chemical and biological and nuclear weapons, to deal with climate change, to deal with global disease spread, those things are good for Americans right where they live.

And we just simply don't have an option to say, "Well, I'm sorry; it looks bad in the newspaper today, so I think I'll check out of this old world." But it looked pretty good there for a couple of years and we were getting a whole lot more than we were getting -- (giving ?), so we liked that. We've got to be consistent. And we've got to realize that there is an interdependence within our country on each other and beyond our country.

And I've been working on that, and I'm supposed to be a pretty good communicator, but I don't think I've done as well as I need to. I've got to do more to persuade people.

MR. LEHRER: On a domestic issue, one that you've also been talking about a lot -- recently, in particular, but you've always talked about it -- and that's the racial divisions in this country. Where would you put that in terms of your own concerns and the concerns that you think the average American should have about their country right now as we sit here?

PRESIDENT CLINTON: Well, I think the average American should be concerned about it particularly as it relates to the racial disparities and the results we get in living and working and educating in America. I mean, if you look at the number of minorities who are in poor inner city schools where the performance is lower than it should be, if you look at the number of people who either don't have jobs or are still underemployed, no matter how strong the economy is, if you look at the patterns of opportunity wherever there are differences, I think we should be concerned about that.

And we don't have to -- you know, we don't have to have a fight over affirmative action every time. We can actually say, you know, how are we going to make it possible for more people to live together, learn together, and serve together, work together, at the same level of excellence? I think everybody should be concerned about it. I think everybody ought to be concerned about discrimination where it still exists; and it still does.

And finally, you know, the vice president gave a brilliant speech on Martin Luther King's Day, Monday, down in Atlanta, talking about how profoundly embedded in the human heart and culture and history the feelings of racial prejudice are.

And I think it's really worth -- if we're going to be an interdependent country leading an interdependent world, then all this interdependence has got to work. And with all of our diversity, we've got to keep working on our hardest. It's not just a question of education. You got to really work at it all the time.

MR. LEHRER: Why are you having trouble getting some blunt talk started on this?

PRESIDENT CLINTON: I don't know. We finally got some blunt talk going on affirmative action. And there were some pretty compelling stories told in Phoenix the other day. But I would like to see some blunt talk, you know, we --

MR. LEHRER: On affirmative action?

PRESIDENT CLINTON: Well, we had some blunt talk on affirmative action. I don't think the whole debate ought to be about affirmative action. I mean, you know, look at what we've done, for example, with something that's supposed to have a civil rights impact that's largely economic -- the Community Reinvestment Act. Passed in 1977, over 20 years ago. Now, the Community Reinvestment Act was set up to say to the bank regulators: Look, you guys go in and look at these banks and tell them, you got to take some of your money and invest it in inner cities and neighborhoods, and with people who otherwise would not get it so they have a chance to build homes, to build businesses, to create jobs, to build neighborhoods.
In the 20-year history of the Community Investment Act, 85 percent-plus the money loaned out under it to poor inner city neighborhoods has been loaned in the five years since I've been president.

So I think there are things we can do to improve education, to improve job growth, to -- not just having jobs, but also income and ownership among minorities, to create opportunities for service that will bring people together that will also mean fewer racial discrimination claims that have to be dealt with by government, and also, I think will help to tame the savage heart that still lurks within so many of us.

MR. LEHRER: What should the American people think about their president right now? You're going into your -- the last three years of your administration, you've got all this controversy today, you've

got all kinds of things in the air --

PRESIDENT CLINTON: I think they ought to first of all think that -- I came to office in -- after the '92 election with a real theory of what I wanted to do to build America's bridge to the 21st century; that I wanted to strengthen our union, and I wanted to broaden our set of opportunities, I wanted to deepen our freedom, and I wanted to prepare for this modern world.

I had an idea about changing the philosophy of government, which I talked about earlier. I had an idea that all of our policies ought to be rooted in my three little words: opportunity, responsibility and community. We had a plan for changing the economic policy of the country, the welfare policy of the country, the crime policy of the country, the policy helping people balance work and family; integrating economic and other kinds of foreign policy -- we had all these plans. And I think you'd have to say, on balance, it's working pretty good.

So the first thing I would hope they say is, the president might be right about his philosophy of government and the values and the principles that we ought to be looking to, and about this whole interdependence business. Because we do have the lowest unemployment rate, the lowest inflation rate in a generation, the lowest crime rate in a generation, the biggest drop in welfare ever, dropping rates of juvenile crime, teen pregnancy, drug use. And we -- we're moving ahead in the world.

The second thing I'd like for them to say is, we've still got some significant challenges out there before we are completely prepared for this new era. We've got the entitlement challenge -- how are our parents going to be on Social Security and how are the baby boomers going to be on Social Security without bankrupting their kids? We've got the work and family challenge still there. How -- how can you do the most important work of society, raising children, and still be good at work? We've got the environment and economy challenge out there. How do you deal with climate change and clean air, clean water, safe food, diseases spreading, all this sort of stuff, preserving the environment, growing the economy? Those are just three of the big changes out there.

Look at the world. We all -- you know, in America we talk about diversity, and it's a real positive thing. We say we're going to get all these people together. In a world where the Internet can also give you information about how to make a terrorist bomb, and there's more and more diversity among religious and racial and ethnic hatreds, how can you make sure the world is about community, not conflict?

These are huge questions. And I don't think any serious person believes we've resolved all these questions.
So when I look at '98, yes, I want to balance the budget. Yes, I've got this great child-care initiative, which deals with work and family. I've got a Medicare initiative and the Medicare commission, which deals with our -- honoring our obligations to our parents. But we've still got a bunch of work to do.
So the second thing I want them to say is, "Yes, he was right at the first five years, and we're way ahead of where we were five years ago. But we've got a huge amount to do yet, a huge amount before we're really ready for the year 2000 and the 21st century."

MR. LEHRER: But on a more personal level, Mr. President, you're beginning -- you're a week from your State of the Union address, and here you've got -- you've been -- you're under investigation for a very, very serious crime and -- allegation of a serious crime. I mean, what does that do to your ability to do all of these things that we've been talking about, whether it's the Middle East or whether it's child-care reform or what?

PRESIDENT CLINTON: Well, I've got to do my best. You know, I'd be -- I'd be less than candid if I said it was, you know, just hunky-dory. You know, these -- but I've been living with this sort of thing for a long time. And my experience has been, unfortunately, sometimes, you know, when one charge dies, another one just lifts up to take its place.
But I can tell you, whatever I feel about it, I owe it to the American people to put it in a little box and keep working for them. This job is not like other jobs, in that sense.
You can't -- it's not -- you don't get to take a vacation from your obligations to the whole country. You just have to, you know, remember why you ran, understand what's happening and why, and, you know, go back and hit it tomorrow. That's all you can do.

MR. LEHRER: But going back to what we said at the beginning when we were talking about it, isn't this one different than all the others? This one isn't about a land deal in Arkansas, or it's not even about sex, it's about other things, about a serious matter. Do you -- I mean --

PRESIDENT CLINTON: Well, but all the others, a lot of them were about serious matters --

MR. LEHRER: Sure. I don't mean --

PRESIDENT CLINTON: -- they just faded away.

MR. LEHRER: I'm not suggesting that they weren't serious. But I mean --

PRESIDENT CLINTON: I don't mean -- I just -- all I can tell you is, I'll do my best to help them get to the bottom of it. I did not ask anybody to lie under oath. I did not do that. That's the allegation. I didn't do it. And we'll just get to the bottom of it, we'll go on.
And meanwhile, I've got to keep working at this. I can't just -- you know, ignore the fact that every day that passes is one more day that I don't have to do what I came here to do. And I think the results that America has enjoyed indicates it's a pretty good argument for doing what I came here to do.

MR. LEHRER: That whatever the personal things may be, the polls show that the people approve of your job as president, even though they may not have that high regard -- that high regard of you as a person.

PRESIDENT CLINTON: Well, hardly anyone has ever been subject to the level of attack I have. You know, it made a lot of people mad when I got elected president. And the better the country does, it seems like the madder some of them get.
But that's -- you know, that's not important. What's important here is what happens to the American people. I mean, there are sacrifices to being president, and in some periods of history, the price is higher than others. I'm just doing the best I can for my country.

MR. LEHRER: We're sitting here in the Roosevelt Room in the White House. It's 4:15 Eastern Time. All of the cable news organizations have been full of this story all day. The newspapers are probably going to be full of it tomorrow. And the news may -- this story is going to be there and be there and be there. The Paula Jones trial coming up in May. And you're going to be --

PRESIDENT CLINTON: I'm looking forward to that.

MR. LEHRER: Why?

PRESIDENT CLINTON: Because I believe that the evidence will show what I have been saying; that I did not do what I was accused of doing.
It's very difficult -- you know, one of the things that people learn is you can charge people with all kinds of things; it's almost impossible to prove your innocence. That's almost impossible to do. I think I'll be able to do that. We're working hard at it.

MR. LEHRER: What about the additional element here? You're the President of the United States. Certainly you've got personal things that you want to prove or disprove, et cetera. But when does it, just the process, become demeaning to the presidency? I mean, somebody said -- in fact, just said it on our program, that this trial in May will be tabloid nirvana and --

PRESIDENT CLINTON: Well, I tried to spare the country that. That's the only reason that we asked the Supreme Court to affirm that absent some terrible emergency the president shouldn't be subject to suits so that he wouldn't become a political target. They made a different decision. And they made a decision that this was good for the country. And so I'm taking it and dealing with it the best I can.

MR. LEHRER: And the new thing? They're going to be -- you know, pour it on, nothing's going to change?

PRESIDENT CLINTON: I have got to go to work every day. You know, whatever people say about me, whatever happens to me, I can't say that people didn't tell me they were going to go after me because they thought I represented a new direction in American politics and they thought we could make things better. And I can't say that they haven't been as good as their word every day, you know. Just a whole bunch of them are trying to make sure that get done. But I just have to keep working at it.
You know, I didn't come here for money or power or anything else. I came here to spend my time, to do my job, and go back to my life. That's all I want to do -- and that's what I'm trying to do -- for the best interests of America. And so far the results have been good, and I just hope the people keep that in mind.

MR. LEHRER: Mr. President, thank you very much.

PRESIDENT CLINTON: Thank you.

Tab 24

1830

INTERVIEW WITH PRESIDENT BILL CLINTON BY ROBERT SIEGEL AND MARA LIASSON
BROADCAST ON "ALL THINGS CONSIDERED" ON **NATIONAL PUBLIC RADIO**
5:07 P.M. EST WEDNESDAY, **JANUARY 21, 1998**

MR. SIEGEL:Mr. President, welcome to the program.
Many Americans woke up to the news today that the Whitewater independent counsel is investigating an allegation that you, or you and Vernon Jordan, encouraged a young woman to lie to lawyers in the Paula Jones civil suit. Is there any truth to that allegation?

PRESIDENT CLINTON: No, sir, there's not. It's just not true.

MR. SIEGEL: Is there any truth to the allegation of an affair between you and the young woman?

PRESIDENT CLINTON: No. That's not true either. And I have told people that I would cooperate in the investigation, and I expect to cooperate with it. I don't know any more about it than I've told you, and any more about it, really, than you do. But I will cooperate. The charges are not true. And I haven't asked anybody to lie.

MS. LIASSON: Mr. President, where do you think this comes from? Did you have any kind of relationship with her that could have been misconstrued?

PRESIDENT CLINTON: Mara, I'm going to do my best to cooperate with the investigation. I want to know what they want to know from me. I think it's more important for me to tell the American people that there wasn't improper relations, I didn't ask anybody to lie, and I intend to cooperate. And I think that's all I should say right now so I can get back to the work of the country.

MS. LIASSON: Mm-hm. But you're not able to say whether you had any conversations with her about her testimony, had any conversations at all.

PRESIDENT CLINTON: I think, given the state of this investigation, it would be inappropriate for me to say more. I've said everything, I think, that I need to say now. I'm going to be cooperative and we'll work through it.

MR. SIEGEL: But is the fact that in this case, as we understand it, a close friend of this young woman was outfitted with a wire, with a microphone, to record conversations with her at the instruction of the Whitewater counsel, does that disturb you? Do you regard that Mr. Starr is playing the inquisitor here in this case?

PRESIDENT CLINTON: Well, that's a question the American people will have to ask and answer, and the press will have to ask and answer, the Bar will have to ask and answer; but it's inappropriate for me to comment on it at this time. I just have to cooperate, and I'll do that.

MR. SIEGEL: And a broader question. I understand that you don't want to comment on this. There are some commentators -- on our network it would be Kevin Phillips -- who've said that the moral leadership of the presidency justifies the kind of scrutiny that you're receiving. Do you agree with that?

PRESIDENT CLINTON: Well, I think there has been -- there is a lot of scrutiny and there should be, and I think that's important. I'll leave it to others to define whether the kind we have received, in volume, nature and accuracy and sometimes downright honesty, is appropriate. That's for others to determine.
You know, I just have a certain number of days here. I came here as not a Washington person. I came here to try to change the country and to work to build the future of America and a new century. And I just have to try to put this in a little box, like I have every other thing that has been said and done, and go on and do my job. That's what I'm going to work at.

MS. LIASSON: Mr. President, earlier today you said you tried your best to contain your natural impulses and get back to work. Were you furious? Is that what you were referring to?

PRESIDENT CLINTON: I was. I was.

MS. LIASSON: And what were you furious about?

PRESIDENT CLINTON: Well, I worked with Prime Minister Netanyahu till 12:30 last night. I'm getting ready for prime -- for Mr. Arafat. I'm working on the State of the Union. And we've got a lot of big issues out there in the -- within and beyond our borders. And I don't think any American questions the fact that I've worked very hard at

this job. And anything that's a distraction, I dislike. And --

MS. LIASSON: Do you see this as a partisan attack? Is that what you were --
PRESIDENT CLINTON: I didn't say that. I don't know what the facts are. I don't know enough to say any more about this. I don't want to get into that. You know at least as much about it as I do. I worked till 12:30 last night on something else. I have -- that's why I have given the answer that I have given to your questions today.

MR. SIEGEL: Moving on to the matter you were working on late at night last night, first, it seems the message to Mr. Netanyahu from the U.S. was: We want to see you withdraw from some part of the West Bank.
First, what's the message to Arafat, if you could sum it up?

PRESIDENT CLINTON: Well, first of all, let's talk about what they want. What -- I think what Israel wants is a peace that moves -- a peace process that moves immediately to final status negotiations and has -- gives them a stronger sense of security. I think what the Palestinians want is a peace process that gives them a stronger sense of self-determination and of possibility and dignity.
So what we've tried to do is -- for 12 months now, ever since the Hebron redeployment, we have been out involved in the region talking to all the players -- I say -- that's not the royal "we" -- I mean me, the secretary of state, Mr. Ross, Mr. Berger, others involved -- trying to analyze what it would take to get the peace process back on track. And we formulated some ideas and we talked to the Israeli prime minister about them yesterday. We're going to talk to Mr. Arafat about them tomorrow.
We hope, by the time we finish the talk, that both sides will be closer together than they were before we started. And if they are, then we'll try to close.
But I think there may be circumstances under which we could take a real leap forward in the Middle East peace process, if we get a break or two.

MR. SIEGEL: This week?

PRESIDENT CLINTON: I wouldn't -- no, I wouldn't go that far. It takes -- it's going to take a while to -- we have to work the Palestinians tomorrow. Then we have to analyze where we are with both and whether we can go forward. And we may not make any progress at

all, and if we don't, I'll tell you that.

MR. SIEGEL: I'd like to ask you, though, after spending so much time with Mr. Netanyahu on this visit and on other visits -- some people regard him as a man who always opposed a land-for-peace settlement to the conflict with the Palestinians, certainly wouldn't have negotiated the Oslo accords, had he been in office then, has never liked them particularly. Some would say he's really trying to thwart that process and contain the damage, from his standpoint. Do you think so?

PRESIDENT CLINTON: No, I can't say that, based on what I've seen.
I do believe he's made no secret of fact that he has principal differences with the Oslo process, which he has pledged to support. And we all know he has a different political coalition and that indeed the political forces in Israel itself are different than they were even a few years ago, in terms of the composition of the population, the rise of these -- the small parties and immigrant-related intense groups and all that. So I think that's all there.
I think that historically there's been a little bit of difference in the -- kind of the texture of the relationship between the Likud Party and the Palestinians, and the Labor Party and the Palestinians. So there are a lot of layers here.
But the bottom line is, I think Mr. Netanyahu is an intelligent man who wants to make peace and understands that -- that there has to be some formula where -- that some marginal increase in territorial insecurity by giving up land is more than offset by a dramatic increase in security by a changing of the feelings of the people, the climate, the capacity for growth and opportunity.
When -- so we're just trying to hammer out what each side would have to do to take another step. I'm hopeful.

MS. LIASSON: Mr. President, in Iraq, diplomacy hasn't worked yet. UNSCOM is still barred from doing its job the way it sees fit, getting into the sites that it wants to inspect.
Yet, on the other hand, military action also has downsides. It might upset any progress you're making with allies on other issues. Do you think the U.S. has any good choices on Iraq?

PRESIDENT CLINTON: Well, there are no easy choices. If we define "good" as easy, the answer is no. But you know, let's -- let's (do ?) -- what is the problem? The problem is the weapons-of-mass-

destruction program, chemical and biological weapons, primarily. What is the solution? Letting the UNSCOM inspectors go wherever they want, and that means that Saddam Hussein cannot determine when, where and who, when it comes to the UNSCOM teams.
So now he says that he is going to determine that, and there's not going to be any "when" for a couple of months, during which time he'll be free to move whatever he wants wherever he wants. I think that this is a big mistake, and I believe that the United Nations will see it as such in the real thwarting of its position. And we just have to see where we go from here.

MR. SIEGEL: Do you feel that, even with the threat of military action -- possible military action -- that you have to be able to point to some progress in the Arab-Israeli negotiations in order to maintain the support of the U.S. friends in the region? Is there some linkage between the problems?

PRESIDENT CLINTON: No, not -- I don't think there is a linkage, a direct linkage. You know, it may affect the atmospherics; just, you know, the attitude about America. But I think it would be wrong to say there's a direct linkage.
The main thing is every country in the region, and throughout the world, has a vested interest in seeing that no one who would either use or sell weapons of mass destruction -- especially chemical and biological weapons, which could be carried around in small amounts and little releases -- that no one who would use or sell them has a big program of them, which is why the whole United Nations is against the Iraqi program. Now, they need to think long and hard, these countries that have been a little squeamish about being firm, whether or not it's possible that they could be the victims of this, if not directly from Iraq, from some group or another that Iraq sells to in the future. So I think we need to be firm, and I am going to do my best to keep rallying support and keep working ahead.
I'd prefer the inspections. I'd prefer the diplomatic pressure -- I am not a -- I have not been trigger happy on this. Some here in our country think that we should have acted before. But I don't think we can rule out any option.

MS. LIASSON: Mr. President, moving to domestic policy and the budget surplus; Republicans and Democrats on the Hill have already said what they want to do with it, either cut taxes or pay down the debt, or spend more money on social problems.
But so far, you've been silent on this. And I'm wondering if you are

ready to make a commitment to using whatever surplus there might be to shoring up the Social Security trust funds, making sure that safety net is there for the Baby Boom generation when it retires.

PRESIDENT CLINTON: Well, I'll make a commitment that in the State of the Union address, I'll announce what I think should be done.

MS. LIASSON: Well, what do you think should be done?

PRESIDENT CLINTON: I have decided, but I don't what to announce yet. I need to have something to say in the State of the Union that's new.
But let me say, before I say that, I would like to just caution -- we've had great -- we've had five great years, and we've always done better than we were predicted to do on the deficit. But I think I would still caution the Democratic and Republican leaders of Congress from passing some big five-year program to spend money through spending programs or tax cuts that hasn't yet materialized. We do not yet have a balanced budget. And I just -- we've worked so hard for so long to get this done, I'd sure hate to start counting our chickens before they hatch.
That's -- so I would like to start with that. And then when I speak at the State of the Union, I'll say what I think ought to be done.

MR. SIEGEL: Would you like to caution equally against shoring up the Social Security Fund in that case?

PRESIDENT CLINTON: Well, in general, I believe -- you know, my position on Social Security is that we need a bipartisan and fairly rapid process to work through the options and prepare for the long-term health and viability of the Social Security system along with the efforts that are going to made by the Medicare Commission, which I'm very hopeful about. I mean, I think one of the big things I hope to achieve before I leave office is entitlement reform in both major systems.
So I will -- I'll tell you, I think that that needs to done, and we're exploring how best to do that.

MS. LIASSON: Well, we don't want to let you off the hook too easily. You're not saying you're against using the surplus to shore up the Social Security Trust Funds?

PRESIDENT CLINTON: I'm not saying one way or the other. I'm saying I'd like to have something to announce on State of the Union night.

MR. SIEGEL: Mr. President, on tobacco, there's talk on Capitol Hill of writing and passing a "kids only" bill as opposed to seeking a huge global settlement. And that would achieve the aims, in theory, of raising the cost of a pack of cigarettes by so much that it would be beyond the reach of teenagers, achieve your major aim and not take companies off the hook for future liability. Are you in favor of such a bill?
PRESIDENT CLINTON: Now you'd have a children's only bill that did what? I'm sorry, I just -- you had a lot of points.

MR. SIEGEL: Yes, well, first it would raise the price of a pack of cigarettes simply to deter teenage purchases of cigarettes.

MS. LIASSON: And strengthen the hand of the FDA, do some marketing restrictions, but not be a complete global settlement.

PRESIDENT CLINTON: Well, I would favor doing something like that without committing to the specifics if we fail to get a global settlement. But I think we owe it to the attorneys general and the others who worked with us on this in good faith to try to achieve one. Because I think long term we need to deter teen smoking with more than just a higher price tag for cigarettes. I think there are lots of other things that can be done, and I think that we ought to have certain benchmarks of performance for the tobacco companies, too, which in my view will help, because then they'll be free to do more if they even have to spend a little more money than they're obligated to under the agreement. If they're not meeting the targets they may decide they ought to do that to save even more money down the road. So --
Now, I'm going to look for a global settlement in the tobacco case for the benefit of our children. If we fail, then I'll look at something else.

MS. LIASSON: Mr. Clinton, following up on that, you've cautioned Congress not to spend the surplus 'til they have it, yet you have committed $60 billion of some projected tobacco settlement bill before it's even passed to new spending. Do you think that's wise? And if you don't get a tobacco settlement, are you committed to those

programs? Will you cut elsewhere in order to keep that new spending?

PRESIDENT CLINTON: Well, let me just say this. I will not under any circumstances favor funding anything I have recommended with the surplus, with the projected surplus.

MS. LIASSON: So you'd -- if you don't get the tobacco settlement you'd fund it elsewhere?

PRESIDENT CLINTON: No, if I don't get it -- in other words, if we don't get the tobacco settlement we'll either have to cut the size of the child care initiative or cut elsewhere or do something else because I will not just on my own get up and propose that we spend the proposed settlement or part of it on these programs. I think they're terribly important, but right now we've got other fish to fry, and we've got to make sure --
The most important thing is to keep this economy growing, to keep discipline, to keep strong, to do what makes sense. And that's what's gotten us here: five hard years of that. And we don't want to forget that. So, well, we do have new spending in our programs, but it's new spending within the context of fiscal discipline, it's new spending with the smallest federal government since Kennedy was president and the size of it continuing to go down.

MR. SIEGEL: Federal prosecutors reportedly rejected a plea bargain agreement not long ago with Theodore Kaczynski, with his lawyers, at least, that might have guaranteed his imprisonment for life. Evidently they want the death penalty. Is it important to you, say, if he's convicted that there be an exercise of the federal penalty?

PRESIDENT CLINTON: Well, it's what's -- if he's guilty, he killed a lot of people deliberately. And therefore I think it's something that the jury should be able to consider.
From my point of view, I approve of the laws that we have in America now, this sort of two-tiered trial where you determine guilt and then you determine penalty.
And I would want to hear all the testimony before I decided how I'd vote in that case. But I do think it's -- should be presented to the penalty phase.

MR. SIEGEL: Even if you had a guilty plea that, as there is no parole in the federal system, guaranteed none, and spared any

possibility of an acquittal, you would still prefer to reject that plea, to offer the jury the option of the death penalty?

PRESIDENT CLINTON: I think the jury should have the option. Now, also, you know, as a practical matter, there aren't many inmates -- perhaps he would be one -- that actually do get life without parole. And that's probably not a terrible thing; that is, in a prison system where you don't want prison riots, you have to reward people who do, you know, an extraordinarily good job of being good inmates within the prison system. Perhaps the practice of allowing people who have life sentences to be paroled after quite a long period of time is a good one, or at least defensible. But juries know that, too.
I think the -- you know, it's just -- it's hard to generalize.
But this was a case where, based on what I know, I would consider it appropriate to present that to the jury.

MS. LIASSON: Mr. President, on the Asian financial crisis, a lot of Americans don't understand why taxpayers should help bail out banks and investors in the U.S. or Japan or in Europe who took a risk and made some mistakes. Don't they bear some responsibility?

PRESIDENT CLINTON: Absolutely.

MS. LIASSON: Don't they have to take some of the hit?

PRESIDENT CLINTON: They do bear some of the responsibility, and they shouldn't all be bailed out. And that's one of the most frustrating things about this.
On the other hand, what this is about is about rebuilding confidence in the investment climate of these countries. I don't think they ought to get one red cent unless the governments commit to do things for the future that will mean these banks will have to take a bigger risk and get their act cleaned up, unless their -- the International Monetary Fund plan is implemented, and then the U.S. and Japan and these other countries come in as a backup.
But if we refuse on the front end to do anything, the problem is it could hurt us a lot worse than it could hurt the odd banker that doesn't get his money back, because if a lot of people start not getting any of their money back, then other people say, "Well, I'm going to get my money out," and then others say, "Well, I'm not going to put my money in." And then all of a sudden, the value of the currency goes way down. Then what happens? They don't have any money

to buy American products, and all their products are cheaper competing against ours and other countries'.
So we have a big economic interest, as well as a huge interest in a stable, democratic Asia. And that's why I think we're doing the right thing. I hope in the State of the Union I can persuade the American people that it's the right thing.

MS. LIASSON: I want to ask you about "Clintonism." We've been hearing a lot about Clintonism lately -- a coherent political philosophy that may or may not be identified with you. Do you think there is such a thing? And what is it?

PRESIDENT CLINTON: Well, I do. I think, first of all, it's a very -- it's a future-oriented political philosophy that attempts to break the logjam between the 1980s and early '90s debate of the Republican position that government is the enemy and the Democratic position is --- sort of government is the solution if we do more of the same, we just need to do more. My position is we need a different kind of government for a different kind of society and a different kind of world, and we need to focus more on giving people the tools they need to make the most of their own lives, more on being a catalyst for good ideas, more on empowering the disadvantaged. That's -- and creating opportunity, enforcing responsibility, building community. I think that's what Clintonism is about, and I think it will get us to the 21st century.

MR. SIEGEL: Mr. President, thank you very much for talking with us.

PRESIDENT CLINTON: Thank you.

Tab 25

FNS Transcript HOME | HEADLINES

THE WHITE HOUSE WASHINGTON, DC REGULAR BRIEFING; BRIEFER: MICHAEL MCCURRY 12:22 P.M. EST WEDNESDAY, JANUARY 21, 1998

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MR. MCCURRY: Well, ladies **and** gentlemen.

We have all these concocted things that we could talk about, but it probably is not what you're interested in talking about, so whatever you want to talk about.

Q What about the statement?

Q Did Bennett see the president?

MR. MCCURRY: Not that I'm aware. I think the president spent some time with Mr. Kendall. Mr. Bennett was here **and** he talked to Mr. Ruff, **and** Mr. Ruff also talked to Mr. Kendall.

Q Bob Barnett was here. Was he also on this subject?

MR. MCCURRY: I didn't know he was here. I would have to check on that.

Q What is Chuck Ruff's role in all of this?

MR. MCCURRY: Well, the Office of **White House** Legal Counsel has throughout all the many inquiries that have occurred, including the Whitewater inquiry by Mr. Starr, works, as it has worked in every presidency, to protect the institution of the presidency itself, **and** there are times there are all kinds of issues that arise in which there are overlapping concerns about representation, **and** those have been adjudicated in courts. I think you're all familiar with that.

Terry?

Q Mike, you said this morning that the president did not have an improper relationship with his former intern. What do you mean by an improper relationship?

MR. MCCURRY: I'm not going to parse the statement. You all got the statement I made earlier, **and** it speaks for itself.

Claire?

Q Are you saying no relationship?

Q But would an improper relationship --

MR. MCCURRY: I am not going to parse the statement. You've got the statement I made earlier,

and it speaks for itself.

Q It doesn't speak for itself. I mean, we need a definition of what an "improper" relationship means.

MR. MCCURRY: I am not going to --

Q Are you standing by that statement?

MR. MCCURRY: That statement is where we are, and that's what I am -- that's what I said.

Q Does that mean there was a sexual relationship?

MR. MCCURRY: Claire, I am just not going to parse this statement for you. It speaks for itself.

Q Mike, has --

MR. MCCURRY: Wolf Blitzer!

Q -- has the president been informed that Kenneth Starr has now expanded his probe to look into these allegations?

MR. MCCURRY: Not that I am aware of. And I checked with White House legal counsel, and as far as they know, there's been no direct contact with the OIC on this matter that I am aware of.

Q To what extent will the president cooperate? This is a patsy question, I know. But to what extent will he cooperate --

MR. MCCURRY: A patsy question from Sam Donaldson!

Q -- with Starr?

MR. MCCURRY: He has cooperated fully with Mr. Starr and would cooperate fully if, in fact, any matter such as this was within the purview of the independent counsel.

Peter?

Q He will make -- excuse me -- he make available -- you will make available the White House logs that show the visitors?

MR. MCCURRY: I am not going to speculate on what the OIC might ask for.

Peter?

Q Mike, could you describe the president's demeanor when he discussed this story with you and how his demeanor has been through the morning?

MR. MCCURRY: Matter of fact. He approved the statement I gave you earlier today. And he's had to work on some other matters today. He spent time on the State of the Union address and on Iraq, particularly on Iraq, and spent a fairly significant chunk of time with Mr. Berger and Mr. Steinberg and others on that subject.

Q Mike --

Q Mike, you said he was --

MR. MCCURRY: Paul?

I'll come back, Scott.

Q -- outraged this morning, **and** now you say matter of fact --

MR. **MCCURRY**: Paul?

I'll come back, Scott.

Paul?

Q What kind of relationship did he have with her? Any?

MR. **MCCURRY**: I am not characterizing it beyond what the statement that I've already issued says.

Q Did they ever do anything socially at all or --

MR. **MCCURRY**: I am not going to parse this statement. I am not going to beyond what I said already.

Scott?

Q You said he was outraged this morning. Now you say his reaction is matter of fact. Which is it?

MR. **MCCURRY**: I've given you the statement. He's outraged about the allegations. I am telling you about the business that the president has attended to today on behalf of the American people.

Q How distracted is the president as a result of these allegations?

MR. **MCCURRY**: He's -- look, it's been five years, **and** there have been distractions of various types from time to time, **and** the president keeps on working on what he has elected to work on. **And** that's what he is going to continue to do.

Liz?

Q Mike, can you give us a sense of what the **White House** is like today? Have there been meetings on this? How many of them?

MR. **MCCURRY**: There's more of you around.

Q Other than that.

MR. **MCCURRY**: There's been -- you know, we had our first meeting to kind of talk about how we're going to prepare the rollout of the State of the Union next week. I think, you know, we have to continue to do the work that we are doing on behalf of the American people in fulfillment of the prerogatives **and** priorities of this president. That's what we get paid to do, **and** that's what we do on behalf of the American people.

Q Mike?

MR. **MCCURRY**: Yeah?

Q Is the president seeking to amend any part of his deposition from Saturday?

MR. **MCCURRY**: Not that I am aware of, but that should be a question you'd direct to Mr. Bennett.

Yeah?

Q Mike, would it be improper for the president of the United States to have had a sexual relationship with this woman?

MR. MCCURRY: Look, the president has made a statement that has expressed his outrage at allegations. I've made it very clear I'm not going to go beyond that statement, and you can stand here and ask a lot of questions over and over again which will elicit the exact same answer.

Q But, Mike, you're leaving -- you're willing to leave --

MR. MCCURRY: I'm not leaving any impression, David, and don't twist my words. It's very clear what the president has said in the statement. He said he has had no improper relationship with this woman. That clearly means that there would be things that would be improper, and I think you all know what they are and I don't need to, you know, parse it any further.

Scott?

Q Mike, the president is saying he did not commit perjury?

MR. MCCURRY: Look, the president has made it clear, and I've made it clear in the statement I've issued on behalf of what he's said. He tells people to tell the truth.

Yeah?

Q The president, and particularly Mrs. Clinton, have frequently said in matters like this that they believe that political enemies originate these kinds of stories. Is it his belief that this particular allegation is also part and parcel of a partisan, political attack on him?

MR. MCCURRY: I think when we have suggested that in the past, it's been on information that you know to be true, that has been reported, that is factual. And in this case, we have no information available to suggest what motive may have arisen for these outrageous allegations. I think it's -- those who have made the allegations, those who pursue them have to address the question of motive.

Karen?

Q Mike, does the White House consider this a legitimate avenue of inquiry for Ken Starr? By "this" I mean a further investigation into another --

MR. MCCURRY: That's a question that the OIC has to address, and they've made an application to the Justice Department, and the Justice Department can properly address that.

Helen?

Q Who is Linda Tripp?

MR. MCCURRY: I do not know. I mean, I don't know enough about --

Q And how long did she work here?

MR. MCCURRY: I don't have employment records on either her or the other one.

Q Why would she -- why would she -- (inaudible)?

MR. MCCURRY: I'm the last person on the face of the earth that can answer that question for you. But you should properly direct that question to the Office of the Independent Counsel, I would

think.

Q Mike?

MR. MCCURRY: Yeah?

Q Just for the record, the president is also saying he never encouraged anyone to commit perjury?

MR. MCCURRY: The president's statement speaks for itself. I'm not going to go beyond the statement that we've already issued.

John?

Q Mike, has the president, so far, or does he plan to speak with his own staff? I've talked to several people here at the White House today who have had their own confidence shaken just because of the nature of these allegations **and** the less than sort of blanket denial of them.

MR. MCCURRY: He's been working with his staff **and** I think, as you all know, he's got an opportunity to conduct some interviews later today. **And** my guess is that information will -- that question would probably come up.

Q Would you be able to say that you are absolutely confident these are not true? How about you personally?

MR. MCCURRY: Look, I -- my person views don't count. I'm here to represent the thinking, the actions, the decisions of the president. That's what I get paid to do.

Yeah?

Q Mike, part of what you get paid to do also is to make sure that the American people are informed correctly of what it is the **White House** is trying to say. So if --

MR. MCCURRY: I'm doing my best at that at the moment.

Q **And** that's why I'm asking you. Are you trying to leave us with the impression that a president could have a "proper" sexual relationship with this woman?

MR. MCCURRY: Of course not, David. **And** that's -- the question flies in the face of the statement you've gotten from the president that I think addresses that pretty clearly.

Yeah, Deborah?

Q Mike, I think what's puzzling us is that the president, we are told, on Saturday denied any sexual relationship with this woman.

You have said --

MR. MCCURRY: Well --

Q Let me just finish the question, **and** then --

MR. MCCURRY: I can't --

Q Mike, let me finish the question --

MR. MCCURRY: I can't speak to the deposition that the president gave, because of the gag order that the court has in place on that deposition, Deborah. So you know I can't even get into the

question.

Q Let me finish the question. What is puzzling to many of us is that we've invited you probably two dozen times today to say there was no sexual relationship with this woman, **and** you have not done so.

MR. MCCURRY: But the president has said he's never had any improper relationship with this woman. I think that speaks for itself.

(Cross talk.)

Q So there were no sexual relationships --

Q Add the word "sexual." Put the word "sexual" in. That's the problem.

MR. MCCURRY: I didn't write the statement.

Wolf --

Q Who wrote the statement, Mike?

MR. MCCURRY: It was prepared by the counsel's office, **and** I reviewed it with the president, to make sure that it reflected what he wanted me to say.

Q Why wouldn't the counsel put in the word "sexual"?

MR. MCCURRY: Because -- I don't know. I'm not a lawyer.

Yeah?

Q The president didn't write the statement; it was written by his lawyers. But you showed it to the president. What did the president say about it?

MR. MCCURRY: Oh, well, it was developed in consultations between the lawyers **and** the president clearly, Scott.

Wolf? (Cross talk.)

Q **And** when you showed it to the president --

MR. MCCURRY: I'll come back, Scott.

Wolf?

Q Monica Lewinsky's lawyer says she's distraught, she's been very upset about all of this. Does the president have anything to say to Monica Lewinsky? That she's been dragged into what is obviously a very unpleasant affair?

MR. MCCURRY: I have not discussed that with him, but I'm -- you know, the president always, when any member of this staff is distraught over any circumstances, is very compassionate. He's a very compassionate person.

Yeah?

Q Have you asked the president whether he knows Monica?

MR. MCCURRY: I've not questioned him directly on this matter **and** don't intend to.

Yeah?

Q Mike, do you know if anybody from the **White House** has done anything to get in contact with Monica Lewinsky?

MR. **MCCURRY**: I don't have any information on that.

Mr. Donvan?

Q Mike, how in the world could the president be matter-of- fact about anything he's doing today when this is blowing up around him?

MR. **MCCURRY**: He's matter-of-fact about, you know, getting the business done of addressing this question, given the outrageousness he feels about the allegation.

Yes, sir?

Q Would the **White House** be willing to make public the logs of the comings **and** goings of Monica Lewinsky --

MR. **MCCURRY**: Asked **and** answered.

Anything else? Yes?

Q Mike, when you showed the statement to the president, what did he say about it?

MR. **MCCURRY**: He said fine. (That ?) --

Q That's a direct quote? The president just said, "Fine"? That's all he had to say about that issue?

MR. **MCCURRY**: He said fine. He looked at it, **and** he said fine.

Q Mike, this morning, I kind of had the impression --

Q (Off mike) -- outraged, fine?

Q -- that the president really shaped that statement.

MR. **MCCURRY**: Oh, he did. I mean, it was prepared --

Q (Off mike) -- gave it to him.

MR. **MCCURRY**: No. No. It was prepared in consultation between the lawyers **and** the president. The counsel's office gave it to me. I wanted to, of course, verify that that's exactly what the president wanted me to say on his behalf.

James?

Q Will you describe what Monica Lewinsky's duties were at the **White House**?

MR. **MCCURRY**: I can't. I don't have her position description.

Q Can you describe the intern program?

MR. **MCCURRY**: The intern program, there are, you know, about 250 at any time of the year who are here as interns. They tend to be college-aged students between 18 **and** 23, equally balanced

male **and** female. They work full-time during the summer **and** up to 25 hours a week during the school year. There are two sessions of interns during the summer **and** one each in the fall **and** spring.

Q They don't get paid.

MR. **MCCURRY**: They go through the same kind of background checks **and** EOP checks that are required for other staffers.

Q Is this a paid intern?

MR. **MCCURRY**: Terry?

No, it's a volunteer.

Q In your statement when you say it's outrageous, does that mean the allegation about the sexual allegation or about the charge --

MR. **MCCURRY**: Terry, again, I'm not going --

Q -- or about the charge of obstruction of justice --

MR. **MCCURRY**: I'm not parsing the statement.

Q -- **and** perjury?

MR. **MCCURRY**: I'm not parsing the statement for you.

Mr. King?

Q Mike, do you know the last time the president spoke to Vernon Jordan, if he's had any discussions with Vernon Jordan, about this subject?

MR. **MCCURRY**: I know the answer to neither question.

Yes?

Q Mike, can you say why you're not going to ask the president about this subject?

MR. **MCCURRY**: Because I think it's proper for the counsel to deal with the president on that. **And** I will, as I often do, get the information that I need to pass on from counsel.

Yeah?

Q Mike, does the president appreciate that this is an order of magnitude different than the allegations --

MR. **MCCURRY**: Oh, I think the president is smart **and** would understand that of course.

Q Mike, what's your next move or counsel's next move or the president's next move?

MR. **MCCURRY**: My next move is to get off this podium as quickly as possible. (Laughter.)

Q What's the next step from the **White House**?

MR. **MCCURRY**: Well, the president -- you know, the president is, I imagine, going to want to address this. We have, you know, an interview with PBS, an interview with NPR, a fortuitous bit of

scheduling that's probably a lot better than the $25 pledge I sent in during pledge week. (Laughter.)

Yeah?

Q Beyond the interview, what do you do?

MR. MCCURRY: So, what do I do? What do you mean? We go about doing the business of the United States of America. **And** there's a lot other right now that we haven't talked about today.

Q What about this situation?

MR. MCCURRY: This situation, if it is in fact going to be explored by the independent counsel, will go into the same place that most matters go. It will become the province of lawyers **and** people who look into these things, **and** the amount that I talk about it here will be quite measured -- thankfully.

Q The statement that said that the president's always told everyone to tell the truth, or words to that effect.

MR. MCCURRY: The words were that he's made clear from the beginning that he wants people to tell the truth in all matters.

Q Is he now then directly saying to Ms. Lewinsky that he wants her to tell the truth?

MR. MCCURRY: He's said that to anyone who is ever in a position to be required to provide factual information.

Q Including her?

MR. MCCURRY: He has not directed any communication that I am aware of directly to her.

Yeah?

Q I'm asking (you to ?) do that now.

MR. MCCURRY: Yes?

Q Do you know -- does the first lady know Monica? Does the first lady know Monica Lewinsky?

MR. MCCURRY: I have no idea.

Yes?

Q Mike, how long --

Q **And** did she have any **hand** in terminating her duties?

MR. MCCURRY: I have no idea.

Q Mike, how long was the president with David Kendall?

MR. MCCURRY: I don't know the length. It was not -- it happened some time ago. I don't think it was extremely long.

Q Well, who's taking the lead in this case, David Kendall or Robert Byrd (sic) -- Bennett?

MR. MCCURRY: I've referred additional questions on this particular matter to Mr. Kendall --

Q Why?

MR. MCCURRY: -- although Mr. Kendall **and** Mr. Bennett, you know, have clearly talked to each other about the question.

Q Why (would he talk to ?) Kendall on this matter?

MR. MCCURRY: Because of the suggestion in news reports that it's in the province of Mr. Starr's inquiry.

Q **And** to follow that up, which lawyers prepared the statement -- Kendall, Bennett, or Ruff?

MR. MCCURRY: Oh, I think all three reviewed it.

(Cross talk.)

Q Does the president still have complete confidence in his legal team?

MR. MCCURRY: Sure. Absolutely.

Yeah?

Q Mike, there was a suggestion that Linda Tripp recorded these conversations because she was angry that Mr. Bennett had called her a liar over the Kathleen Willey matter. Does that have anything to do with this being the catalyst --

MR. MCCURRY: I have absolutely no basis upon which to speculate on any of that.

Yeah?

Q Mike, did Monica Lewinsky call the president, as I've seen reported somewhere, **and** talk about what she should say?

MR. MCCURRY: I have no information to answer that question, **and** I'd refer you to Mr. Kendall. I imagine, if it's in fact true, that that's going to be subject to inquiry by Mr. Starr. They're probably going to explore that matter.

Peter? **And** then I'll come back, Helen.

Q Mike, does the president have any intention of addressing the nation on this in a more formal way than through you or through interviews?

MR. MCCURRY: I -- not that I have heard of at this point. I think that he obviously is probably going to address it later today, in a fashion that people will be able to see what he has to say.

Helen?

Q Since we're all interested in whatever the president has to say, we'd like to have his answers, you know, sometime in the afternoon, after he gives this interview. I think it's only fair, since we're all asking the same question, **and** --

MR. MCCURRY: Helen, it's a good point --

Q It's not the question -- I know these were pre-arranged interviews **and** exclusive, but --

MR. MCCURRY: Right. It's a good point. These interviews were scheduled as part of our

buildup to the State of the Union **and** just happened to fall at this particular moment. But we'll contact the news organizations involved **and** see if they want to be helpful.

Q Is the president prepared to -- if it comes to that, to cooperate with an impeachment investigation on Capitol Hill?

MR. **MCCURRY**: There's no reason that I know of to think that we'll be dealing with something like that.

Mary?

Q Has the president given any thought of accompanying Mr. Arafat to the Holocaust Museum?

MR. **MCCURRY**: Not that I have heard. I think the president thinks it's very appropriate for him to be given a VIP tour of the museum. The president thinks that the museum makes a significant emotional impact on people who see it, **and** it will no doubt have that effect on the chairman as well.

The chairman has indicated, en route to Washington, that he is anxious to see the museum, if that is to be arranged.

Yeah?

Q Mike, when the president saw the statement, did he complain that it was not as broad a blanket denial as he would have liked?

MR. **MCCURRY**: He said -- I reviewed it with him. I said, "This is what I propose to say." **And** he said: "That's fine. Say it."

Q -- he wishes to have an addendum to that statement? (Laughter.)

MR. **MCCURRY**: I think he suspects he will be addressing this himself at some point.

Yeah, Carl?

Q Mike, do you know when -- if -- when the president plans a formal press conference --

MR. **MCCURRY**: We, you know, want to do one reasonably soon.

Q Mike, how is this matter different --

MR. **MCCURRY**: Oh, Carl, by the way, he will of course, have a press conference with Prime Minister Blair, at the conclusion of the working visit that Prime Minister Blair will have, at the end of the first week of February, February 5th -- official visit -- official visit.

Q Mike, how have these reports **and** dealing with a bevy of lawyers disrupted his day today? What was planned, **and** what did he end up doing instead?

MR. **MCCURRY**: It's his -- we've had -- we were going to do these interviews that I am talking about a little earlier in the day. So we've had to push them back. But, other than that, he's had to, you know, pursue the other matters that he would pursue on any given day.

Yeah, Deborah?

Q Mike, you were saying in regard to the impeachment question that that doesn't seem like a serious issue. But George

Stephanopoulos seems to think that might be an issue. Does that not concern you?

MR. MCCURRY: He says things all the time -- (laughter) -- assassinations, impeachments, you know --

Q We pay him well.

MR. MCCURRY: That's what -- Mr. Donaldson makes the point he gets paid well to say those things, and God love him for it.

Yes?

Q Mike, do you know by chance Monica Lewinsky's precise time was here at the White House and exactly what she did?

MR. MCCURRY: I don't have an employment record on her.

Yeah?

Q Can you get that for us?

MR. MCCURRY: I will see if that is something we can make available.

Yeah?

Q Taking into account that the White House is maintaining that these allegations are untrue, is the White House preparing any response to these people making the false allegations against the president?

MR. MCCURRY: Well, I think that's pretty much what I have been doing here.

Q No, but in addition -- in addition to just denying -- in addition to just denying the allegations.

MR. MCCURRY: Well, you know, there is a likelihood, if the news reports are correct, that Mr. Starr will be looking into it, that we'll probably have to provide extensive information on it -- so it goes.

Yeah?

Q Just one more stab at this. So is your interpretation of that statement that he meant to categorically deny that he had a sexual relationship?

MR. MCCURRY: I am not parsing that statement. The statement speaks for itself. I don't have anything to add to what I told you earlier.

Q Do you understand why a lot of us think it doesn't speak for itself?

MR. MCCURRY: I am not going to interpret statements for you.

I'm just going to give you the statements that I've been authorized to give.

Q Mike?

MR. MCCURRY: Yes, Mr. Pelley?

Q Who has told you that you can't say?

MR. MCCURRY: My own good judgment tells me not to try to parse this statement. So no one

has told me to do that. That's the way I'm electing to deal with your questions right now.

Q So Ruff's office, the other lawyers, haven't told you say this **and** say nothing else?

MR. **MCCURRY**: They trust my judgment, amazingly enough.

Q But it seems that -- you know, lawyers are very careful people, **and** they seem to have --

MR. **MCCURRY**: So am I.

Q -- picked a very imprecise word. So --

MR. **MCCURRY**: Well, look, I'm not going to characterize the statement for you.

Q Is this the low point in the Clinton presidency?

MR. **MCCURRY**: No. This --

Q Not yet. (Laughter.)

MR. **MCCURRY**: Look, you know, there have been for five years from time to time we go through episodic reports like this, **and** yet through all that period, this president has kept his focus on the work he's been elected twice by the American people to do. **And** the American people have indicated that they are more than satisfied with the work he's doing **and** they want him to continue to keep this economy strong, to make the kind of changes that we need to make to get this country prepared for the 21st century. They expect the president not to be distracted about allegations, however outrageous, **and** to keep his eye on the ball.

And that president has got a lot of work that he needs to do to do exactly that on this particular day. We've got a State of the Union address coming up. **And** we've got the chairman of a U.N. commission in Baghdad who's just had some difficult meetings that are going to have a lot of consequences, **and** we're going to have to deal with those consequences after Chairman Butler gives his report to the Security Council on Friday. **And** we're dealing simultaneously with issues related to a deployed force in Bosnia, which is going to occupy some of the president's time.

And we've got a lot of pretty interesting initiatives that we're laying before Congress, **and** beginning to do the work of trying to find a bipartisan coalition that will pass some of the president's ideas.

That's a lot of hard work ahead. **And** this president has always, when facing allegations, been able to sort of say that's over there **and** I've got to keep focused on what I need to do on behalf of the American people. **And** I think the American people expect him to do that.

Yeah, Skip?

Q The difference with these charges, though, is they stem -- of this personal -- (inaudible) -- they stem from actions that occurred here. I mean, is that going to affect his legislative agenda or his foreign policy agenda?

MR. **MCCURRY**: We've dealt with all manner of, you know, stories that have dealt with actions that occurred here. I mean, that's not -- that's happened from time to time.

Q Mike, has the counsel's office been officially notified that Starr's probe was exp**and**ed? **And** --

MR. **MCCURRY**: As I said earlier, Karen, not that I'm aware of, **and** I checked with the counsel's office **and** they didn't give me any indication that they had received that communication from OIC. I have -- you know, my assumption is that that will be a matter that Mr. Kendall will pursue.

Q Would such an expansion be appropriate, in the White House's opinion?

MR. MCCURRY: I already answered that question. I said it's in the province of the attorney general upon application of the OIC to make that determination.

David?

Q Why are these allegations outrageous?

MR. MCCURRY: Look. You've tried now I think a dozen different ways to get me to amplify on the statement. I'm clearly not going to do it. I'm sorry if you're disappointed that I'm not doing it. I don't want to render my own personal opinion about the nature of these charges. **And** so we are where we are. There's nothing more to say.

Scott?

Q Mike --

MR. MCCURRY: Scott?

Q Mike, has the **White House** received any subpoenas from the FBI related to this case?

MR. MCCURRY: Not that I'm aware of.

Q Mike, are they "outrageous" because they're not true or are they outrageous because it would be morally reprehensible if they were true?

MR. MCCURRY: There are probably many different reasons why they are outrageous in the mind of the president. But having not explored the degree of outrageousness that the president attaches to the allegations, I'm not going to amplify on the statement that he's made.

Yeah?

Q Let me bring up a subject from last week, which now is particularly germane -- the president's ability to pay for his legal expenses.

MR. MCCURRY: Oh.

Q Has there been now some movement on a new effort to get some money in, because this clock this morning was running with all these lawyers. (Laughter.) **And** they don't work cheap.

MR. MCCURRY: They get paid when they talk to you, too. Did you know that? That makes it -- adds to the expense.

I did check -- you asked me to check on that. **And** they are -- our understanding is that some of the president's supporters on the outside have begun some efforts to establish some kind of fund. They are not in a position yet, that I'm aware of, to make any formal declarations on that. In any event, they would have to be in contact at some point with the president's legal counsel on that so that the president's legal counsel could render an opinion to the president on whether the establishment of any such fund would be ethical **and** proper under law.

Q But Mike, don't these --

MR. MCCURRY: Yeah?

Q When did the president **and** his legal advisers know that this was -- that this story was coming?

Did they have advance knowledge? Or after the meeting last night with Netanyahu? When?

MR. MCCURRY: I don't -- I personally don't know that anyone that I deal with here knew much about it before late yesterday.

Yeah?

Q Mike, you were talking about the president's need to deal with major foreign policies in Iraq and Bosnia, elsewhere; he's meeting with Middle East leaders. But don't these kinds of accusations impair, hurt his ability to deal effectively with these kinds of critical national security issues?

MR. MCCURRY: He has faced allegations somewhat like this in the past and they have not impacted on his ability to do the job that he constitutionally must do as president on behalf of the American people.

Q Allegations like perjury and obstruction of justice, Mike?

Q Let me go back to the fund, if I may. Are you -- am I correct in that until the legal counsel has made a ruling, until that is done formally, there are no contributions actually being made, and certainly no money is being expended? Or are they being made now?

MR. MCCURRY: Yeah, my understanding and belief would be that until such a fund was constituted, there would be no ability for it to receive any contribution. The previous fund, which was not allowed to solicit contributions, has now ended its operations. So there wouldn't be any entity to which one would make a contribution.

Q What could be different, though? I mean, the previous fund was thought not to be proper. What could be different that would now make a new fund proper?

MR. MCCURRY: No, it was thought to be very proper, it was just hobbled by the rules that applied to it on interpretation of the Office of Government Ethics that made it impossible to solicit any contributions. People were not aware of it, therefore, you know, revenues did not match the costs --

Q Expectations?

MR. MCCURRY: Expectations, costs. Whatever.

Jeff?

Q Mike, you said that you don't see an impairment on his constitutional duties. But how concerned are you as to how he might be perceived by these other world leaders, in spite of these domestic issues?

MR. MCCURRY: I don't speak for other world leaders, I speak for Bill Clinton the world leader.

Yeah?

Q When I asked if the White House logs will be made public -- of Monica Lewinsky's coming and going -- you said, "Asked and answered."

Yet there's a contingent in this area that doesn't know what the answer was.

MR. MCCURRY: Didn't get it? Oh, okay.

Q Was it that it will be made available to Kenneth Starr or to the press and the public?

MR. MCCURRY: I said we want to cooperate with the inquiry by the independent counsel. **And** if in fact this is a matter the independent counsel is pursuing, **and** if in fact he pursues evidentiary material like that, I know that the president would expect the **White House** to cooperate it (sic) **and** provide it. **And** I think until that question is (resolved ?), it's going to be hard to satisfy a lot of the news organizations who have been asking for that.

Yeah?

Q You can't give it to us **and** then give it to him --

MR. MCCURRY: I think until the question is resolved of whether or not this is something that the office of independent counsel is seeking, it would be difficult for us to satisfy requests.

Q Why? Mike, but why does -- (off mike) --

MR. MCCURRY: Because we clearly want to cooperate with the OIC.

Yeah?

Q Mike, has the president asked his lawyers -- either here or his private lawyers -- to appeal to Starr not to pursue this issue, because both parties deny it?

MR. MCCURRY: I don't know the answer to that question.

Yeah?

Q Mr. Netanyahu said that he would look favorably on -- (inaudible) -- suggestion of the meeting between him **and** Chairman Arafat. Does that change the **White House**'s **stand** on if the meeting should be arranged between --

MR. MCCURRY: Well, I think he's indicated that he would want such a meeting to be substantive. So we would we. I'm not aware of any plans for such a meeting at this point. You know, clearly, at some point, we will have to get these parties talking to each other directly, but we want to do that at a time that the parties are likely to make progress.

Q So that could be this week?

Q Do you mean to tell me that if reporters talk to sources who perhaps should not talk because of the gag order -- **and** I'm not saying they do -- but should they talk to us anyway, that in fact if they are -- **and** I'm not saying they are -- (scattered laughter) -- members of the president's team -- they CHARGE the president for talking to us in violation of the gag order? (Scattered laughter.)

MR. MCCURRY: That's a complicated question of legal billing that I would have to direct to the attorneys involved. (Laughter.)

Q I would say if there are any attorneys --

MR. MCCURRY: But I would be interested in the answer.

Q If any attorneys like that exist, they would be shameful to charge the president --

Q (Gasps.)

MR. MCCURRY: Or to be running the meter --

Q Gag order!

(Cross talk.)

MR. MCCURRY: Yeah?

Q I guess I won't get invited to the Christmas party next year.

Q Mike, maybe you were asked this before, but could you clarify -- did the president know of the stories out today last night, before he spoke at the fund-raiser? When did he first learn --

MR. MCCURRY: I'm not sure when he first heard about the particular story, the Washington Post story, we're dealing with. There was a fair amount swirling around in the ether yesterday, but at what point he focused in on it I can't tell you.

Q Did he huddle in a meeting when he got back? Did he have any time to talk to Podesta or anybody when he got back?

MR. MCCURRY: I don't know the answer to that.

Yeah?

Q Mike, Mr. Bennett says he smells a rat in this situation. Do you smell anything?

MR. MCCURRY: How does one smell a rat? What does a rat smell like?

Q How would I know? (Laughter.)

Q Do you smell anything? A rat or anything?

MR. MCCURRY: I smell the lights in here cooking fiercely everyone who's standing here.

Q It's ?? who smells a rat.

MR. MCCURRY: Anything else?

Yes?

Q Mike, tomorrow is the 25th anniversary of Roe v. Wade. Does the president have anything to say on this occasion beyond his desire to keep abortion safe and legal?

MR. MCCURRY: Well, the president's views on the issue are very well known. He continues to believe that abortion needs to be safe and legal in the United States of America, but it ought be rare. And that is the position he has frequently articulated, and we have done things in furtherance of exactly that policy by the president.

Q Any message to the opponents -- thousands who are going to be here tomorrow?

MR. MCCURRY: The president respects the views of those, as a matter of conscience, take a different point of view on such fundamentally important issues. But I think the president believes it is a matter that should be decided as a matter of conscience, and based on the private reasoning of the people who have to struggle with complicated questions of life and death, and the president will always respect the right of a woman to make that choice free and of her own volition. And the president does not believe, in any event, that it's something that the government should dictate answers to.

Yeah?

Q What's on tap for tomorrow with Chairman Arafat? And what can you tell us about the package

that President Clinton will be discussing with him, however provisional that may be?

MR. MCCURRY: I've got a lot of great -- you know -- foreign policy diplospeak about what we're going to do, but I won't satisfy your desire for details on what ideas the president presented. I think we provided you a pretty good series of briefings **and** briefers during the course of the day yesterday **and** they made it clear what they're willing to say about the substance of the dialogue, which is enough that you get some general idea of the subjects being covered, but not enough that you have any explicit review of the diplomacy we're pursuing.

We obviously will need to take the discussions that we've had with Prime Minister Netanyahu, ask Chairman Arafat to reflect on them, **and** to gain his thinking **and** perspectives on the issues that have been addressed now in the meetings with the government of Israel, **and** then see if there's a way to bridge some of the differences that clearly exist. That may or may not be possible, **and** at this point it's impossible to predict whether or not these discussions can lead to the kind of progress that the United States so fervently desires.

John?

Q Mike, do you have anything on another report that Ambassador Richardson offered Miss Lewinsky a job?

MR. MCCURRY: I don't. I don't have anything on that.

Yeah?

Q Mike, on -- back to Roe v. Wade, do you have any comments on a group of anti-abortion protestors who took the public tour this morning?

They said -- they complimented the Secret Service on their treatment, **and** they said it was rather uneventful. Did you know about this ahead of time?

MR. MCCURRY: We had heard that there was some interest on the part of people to freely express themselves during the course of a tour, **and** I think the service **and** the uniformed division always **handles** such matters with sensitivity but also consistent with what their law enforcement responsibilities are.

John?

Q Who makes the final judgment about the perhaps conflicting goals of the president's defense in this? As a legal matter, lawyers always want to be absolutely as circumspect as possible. As a public **and** political matter, obviously the president would like to get his side of the story on this as quickly **and** as explicitly as possible. How do you balance those two, **and** who makes the final judgment?

MR. MCCURRY: Well, the balance is always a delicate one because there are sometime conflicting aims. But the president, as president **and** as client, is the one that ultimately has to reconcile differing point of views. **And** we, you know, in each **and** every case weigh the difference exigencies that arise.

Yeah?

Q Mike, what can you tell us about Linda Tripp's work here at the **White House**? **And** what led to her moving over to the Pentagon?

MR. MCCURRY: I don't have her employment record here, nor her position description.

Q Can you get that for us?

MR. MCCURRY: I've already said that I would see if -- look into seeing if I can.

Q Back on the protesters. Do you think a public tour of the White House is an appropriate venue for making political statements?

MR. MCCURRY: I think that in and around the White House, people find this a platform for expressing views. And that's as it should be. I think it should be done with respect for a house that all the American people own and enjoy seeing.

Q Was anyone arrested?

MR. MCCURRY: You'd have to ask. I gather from Jeff not.

Yeah?

Q Mike, you said earlier that Chuck Ruff was involved in the discussions today because he represents the institution of the presidency. In what way is this issue and these allegations -- how are they impinging on the institution of the presidency and the official business of the White House?

MR. MCCURRY: Well, we've spent a lot of time -- you know, you've spent a lot of time asking me questions today that demonstrate it very vividly. I've been asked for employment records, I've been asked for appointment records here at the White House, all of which are the custody of the White House and the presidency itself, and it's exactly the protection of that institution that the White House Legal Counsel is charged with. So, I mean, there are a number of examples even arising here in the briefing that indicate what the interests would be in the White House lawyers in these types of discussions.

Q Was the president asked about it, or did he have any comment about whether Tripp's allegation that she saw Kathleen Willey leaving the president's office and making an allegation that she had been kissed or fondled?

MR. MCCURRY: I think we dealt with that matter a long time ago, if I recall correctly.

Yeah.

Q Did the president send any message to the pope, or do we have any independent observers there?

MR. MCCURRY: The president did not send a direct personal message. But on behalf of the administration, on behalf of the president our diplomats have had good and detailed conversations with the Holy See in advance of the pope's visit in which we have certainly wished the holy father well for the trip that he is making. And we have expressed our views that we hope that the outcome of his visit will be better respect for the rights of people to worship freely according to their own conscience in Cuba, a right that has been too long denied to the people of Cuba.

Q Is our ambassador there?

MR. MCCURRY: Say again?

Q Is our ambassador there?

MR. MCCURRY: We do not have an ambassador to Cuba. We have an interests section there, and we -- we have an interests section there.

Q Not Cuba, our ambassador to the Vatican.

MR. MCCURRY: Oh, to the Vatican. She's --

(To staff) She's part of the trip?

STAFF: No. She's in Rome.

MR. MCCURRY: She's in Rome.

Q Her daughter is in Cuba.

MR. MCCURRY: Her daughter spends a lot of time with Sam. (Laughter.)

Q Ways **and** Means chairman Archer today suggested using a budget surplus to lower taxes **and** reduce the debt as well as create a cushion in case projection of the revenue is off. **And** it looks as if the administration thinks it's a prudent approach.

MR. MCCURRY: Well, the administration **and** the president believe it would be prudent to see what kind of surplus we're talking about before we spend it **and** give it away. It might -- there might be some interest in some quarters for spending money that we may or may not have, but I think the president is more interested in seeing if we can secure the surplus, making absolutely sure we keep strongly committed to the path to a balanced budget **and** to keeping fiscal discipline sort of at the top of our minds as we make budget policy. **And** then, as to any future surpluses, I think the president will be interested in seeing that they address the long-term needs of this country. **And** I think the president will want to say more about that during the State of the Union.

Yeah.

Q Mike, is there any directive written, verbal or otherwise circulating in the **White House** instructing people not to talk about the Monica Lewinsky allegations or not to talk about her or not to talk about anybody else involved?

MR. MCCURRY: I'm not aware of anything. **And** I think that, you know, that you rely on common sense to prevail. People shouldn't be talking about this if it's in the province of the president's attorneys **and**, you know, a future -- likely future inquiry by an independent council.

Q Has the Iraqi situation worsened now?

MR. MCCURRY: I think that the situation in Iraq certainly has not got to the point where the president or the United Nations wants it to be, which is full compliance by the government of Iraq with the requirements of the U.N. Security Council. What we've had today is a lot of excuses, but no compliance. **And** I think it's time for the government of Iraq to recognize that when Chairman Butler says "Here's what I need in order to fulfill the **mand**ate of the Security Council", they'd better listen **and** stop trying to dictate to him the terms that would govern inspections. We expect Chairman Butler to make a full report to the Security Council Friday, **and** then we will pursue our diplomacy **and** perhaps other options beyond.

Yeah.

Q Has the **White House** been briefed by Butler at all on the conversations?

MR. MCCURRY: My understanding from our U.S. U.N. mission is that he has had a brief conversation with the president of the Security Council, the French permanent representative, **and** that has been passed on to other permanent members of the Security Council. But a fuller report will await Chairman Butler's return to New York Friday.

Yes?

Q Did anyone in the U.S. government send a message through the Pope to Fidel Castro?

MR. MCCURRY: I'm not aware of any channel for such a communication. We have a diplomatic channel, and that is the one which any exchanges with the government of Cuba would occur.

Yeah?

Q Do you have any more information on the tourist incident earlier?

(Pause.)

Q Guatemala?

Q Spray paint.

Q Spray paint.

MR. MCCURRY: Oh. Oh. Oh, no I don't. I'd have to refer you. I understand the U.S. Attorneys Office is the one pursuing that now.

Q Thank you.

MR. MCCURRY: Thank you, Helen.

Q Now you print up our colloquy, distribute it, we saved the president thousands of dollars in legal fees, and I want a cut! (Laughter.)

END.

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Tab A

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Wednesday, January 21, 1998

Excerpts of Telephone Interview of Clinton by Roll Call

WASHINGTON, Jan. 21 /U.S. Newswire/ -- Following was released today by the White House:

EXCERPTS OF TELEPHONE INTERVIEW OF THE PRESIDENT BY ROLL CALL

4:26 P.M. EST

THE PRESIDENT: Hello. How are you?

Q Hello, Mr. President. How are you? A few questions about the breaking news. Do you think that this Monica Lewinsky story is ing to overshadow your State of the Union address?

THE PRESIDENT: Well, I hope not. But you guys will have to make that decision. The press will make that decision.

Q Some Republicans have been talking about impeachment for months now. And even your former advisor, George Stephanopoulos, mentioned it this morning, that it could lead to that. What is your reaction to the suggestion that this may lead to impeachment?

THE PRESIDENT: Well, I don't believe it will. I'm going to cooperate with this investigation. And I made it very clear the that allegations are not true. I didn't ask anybody not to tell the truth. And I'll cooperate. So I think that there will be a lot of stirring and there will be a lot of speculation about how this all was done and what it means and what it portends, and you all will handle it however you will. I'm just going to go back to work and do the best I can.

Q Do you think you have to refer to it in some way in the speech on Tuesday?

THE PRESIDENT: I've given no thought to that, no.

Q Will this cloud your ability to get anything done with this gress as you head into the new session?

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THE PRESIDENT: Well, that will be up to them. I don't think so. It's election year; they'll want to get some things done, too. And we've got a lot to do. I'm going to give them the first balanced budget three years ahead of time, and a great child care initiative, and an important Medicare initiative. We've got a Medicare commission meeting. We're going to be able to actually see this budget balanced and start to run a little surplus. We've got a lot of things to do around the world, so I think this is quite important.

Q Okay. Let me just ask you one more question about this. You said in a statement today that you had no improper relationship with this intern. What exactly was the nature of your relationship with her?

THE PRESIDENT: 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. So let's just --

Q Was it in any way sexual?

THE PRESIDENT: The relationship was not sexual. And I know what you mean, and the answer is no.

---- INDEX REFERENCES ----

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Tab 26

REMARKS BY PRESIDENT CLINTON AT PHOTO OPPORTUNITY WITH PALESTINIAN AUTHORITY CHAIRMAN YASSER ARAFAT
THE WHITE HOUSE
10:22 A.M. EST THURSDAY, **JANUARY 22**, 1998

PRESIDENT CLINTON Let me say before we begin that I am very pleased to welcome Chairman Arafat back to the United States as our partner in the peace process. As I did with Prime Minister Netanyahu, I want to emphasize what a critical time this is in the process and the importance of both parties' meeting their obligations.

I also would like to take just this second to underlie (sic) the principles of the peace process; mutual obligations and the concept of land for peace so that Israelis can live in security, recognized by all their neighbors, and the Palestinians can realize their aspirations to live as a free people. If we can focus on these principles, I am convinced we can make some progress.

I am going to give Chairman Arafat a little report on my meeting with Mr. Netanyahu, and then we're going to go to work.

Q Mr. President, when do you think the Israelis will finally meet their U.N. obligations, their treaty obligations, to give back conquered land?

PRESIDENT CLINTON: Well, we're going to discuss that. We're working on it. You know, we believe, you know, the Oslo process sets out a schedule for redeployment, and that's obviously one of the major issues to be discussed.

Q But they're not going to meet it, are they?

PRESIDENT CLINTON: Well, let -- give us chance. We're working on it.

Q (In Arabic.)

CHAIRMAN ARAFAT: (In Arabic.)

Q Mr. President, what's the next step now? And is there a time frame where you want things to (word inaudible)?

PRESIDENT CLINTON: Well, we're going to have a -- after this meeting, then what we'll do is to see whether we have moved the

parties closer together.
And if we have, then we'll try to figure out how to close the loop and get an understanding on what the next steps are. And if we can do that, we want to do it, obviously, fairly quickly. We don't want to just keep dragging this out. I think we -- we have a sense of urgency here.

(Cross talk.)

Q (Through interpreter.) What would you be asking President Clinton for?

CHAIRMAN ARAFAT: (In Arabic.)

PRESIDENT CLINTON: One more.

Q Mr. Arafat, do you believe progress was made with Prime Minister Netanyahu? Do you believe progress has been made this week? And would you agree to a (few-stage ?) withdrawal?

CHAIRMAN ARAFAT: (Through interpreter.) As long as there is pressure and efforts by President Clinton, I'm fully confident that the peace process will be protected and will be succeeded.
And we should not forget that the president also has sent Madeleine Albright, secretary of state, and Mr. Ross to the region many times to push the peace process forward.

Q So you believe Mr. Netanyahu will stand by his commitment?

CHAIRMAN ARAFAT: We hope so -- he would do so.

PRESIDENT CLINTON: Thank you.

STAFF: Thank you, Mr. President.

(Cross talk.)

Q Mr. President -- (inaudible) -- important issues in the Middle East --

PRESIDENT CLINTON: Go ahead.

Q -- but could you clarify for us, sir, exactly what your

relationship was with Ms. Lewinsky and whether the two of you talked by phone, including any messages she may have left?

PRESIDENT CLINTON: Let me say, first of all -- I want to reiterate what I said yesterday -- the allegations are false, and I would never ask anybody to do anything other than tell the truth. Let's get to the big issues there -- about the nature of the relationship and whether I suggested anybody not tell the truth. That is false.

Now there are a lot of other questions that are, I think, very legitimate. You have a right to ask them. You -- that -- you and the American people have a right to get answers. We are working very hard to comply, 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 -- what I've -- I've talked with our people. I want to do that. I'd like for you have more rather than less, sooner rather than later. So we will work through it as quickly as we can and get all those questions out there to you.

(Cross talk.)

Q Mr. President, would you comment --

PRESIDENT CLINTON: Thank you.

Q Mr. President, would you comment --

STAFF: Thank you.

PRESIDENT CLINTON: Thank you

Q Did the pope in Cuba, Mr. President --

PRESIDENT CLINTON: Thank you.

STAFF: Thank you.

PRESIDENT CLINTON: What about the pope in Cuba?

Q What are your impressions of the remarkable scenes of the pope in Cuba? And what about his call for an end to the embargo?

PRESIDENT CLINTON: Well, first of all, I am glad he went to Cuba. I think it's a wonderful thing, and I am glad Mr. Castro invited him to come. I am glad the Cuban government let the Christian people in Cuba celebrate Christmas last Christmas, acknowledge it in the explicit and open way.

And I hope that this trip will lead to some reassessment on the part of the Cuban government, that would enable us to move closer together in many ways, and maybe it will.

Q (Inaudible) -- Netanyahu --

(Cross talk.)

STAFF (?): (Do you think we ?) -- can get out of here, ladies and gentlemen. Thank you very much.

Q (Inaudible) -- do you want to talk about your comment --

PRESIDENT CLINTON: (Inaudible.)

STAFF (?): Thank you, again.

STAFF: Thank you. Thank you.

(Cross talk.)

PRESIDENT CLINTON: Thank you all. We've got to go to work. Let us hit it.

Tab 27

1876

By Michael Isikoff

Last weekend, there were two extraordinary dramas playing out in Washington. On Saturday, at the offices of his attorney Robert Bennett, President Clinton was being questioned, under oath, by Paula Jones's lawyers as a media army waited outside. Clinton was asked if he had ever had a sexual encounter with Jones. As he has before, Clinton denied it. But unknown to the reporters in the street, the president was also asked about a woman named Monica Lewinsky. Eager to prove a pattern of sexual harassment, Jones's lawyers were searching for other women who might have been the subject of Clinton's advances. Under oath, the president denied ever having had a sexual relationship with Lewinsky.

Across town, in a small apartment at the Watergate, Lewinsky was in a bind. She had been informed the day before that Whitewater special prosecutor Kenneth Starr was investigating her for perjury and obstruction of justice in the Paula Jones case. Lewinsky had signed an affidavit swearing that she had never had a sexual relationship with the president. But, Starr's deputies had informed her, they had tapes of her suggesting that her denial was a lie--and that they suspected she had been advised to lie by the president and by the president's friend and adviser, Washington superlawyer Vernon Jordan. Now Starr's people offered her a tough choice: cooperate with prosecutors and turn against the president, or face the possibility of criminal charges herself.NEWSWEEK was aware of Lewinsky's situation. For nearly a year, NEWSWEEK's Michael Isikoff had been aware of allegations that Clinton was ving a sexual relationship with Lewinsky. That Wednesday, January 14, koff learned that Starr was investigating obstruction of justice and jury in the Paula Jones case, and that Lewinsky was a target of the investigation. For the next three days, Isikoff continued to report the story. On Saturday at 12:30 a.m., Isikoff and NEWSWEEK editors heard a tape of conversations between Lewinsky and a woman named Linda Tripp. NEWSWEEK could not independently verify the authenticity of the recording, and some of the statements on the tape raise questions about Lewinsky's credibility.

But the tape seems to confirm that Lewinsky told at least one friend on repeated occasions that she was having an affair with the president, and that she had discussed with Clinton and Jordan the fact that she had been subpoenaed in the Paula Jones case. On the tape, Lewinsky sounded distraught but not unbalanced. She talks spontaneously about what she suggests is a sexual relationship with the president, expresses her anguish about being brought into the Paula Jones case, and plaintively declares her wish that the president would "settle" the case. Dejectedly, she says that Clinton is "in denial. He'll never settle." Lewinsky affirms to Tripp that Lewinsky will deny any sexual relationship when she is deposed by Jones's lawyers. "Look," she says, "I will deny it so he will not get screwed in the case, but I'm going to get screwed personally," Lewinsky says. When Tripp asks why, Lewinsky replies, "because it will be obvious... it will be obvious to him... that I told you." However, there was no clear evidence on the tape that would confirm or deny Tripp's allegation that Clinton or Vernon Jordan had coached Lewinsky to lie.

Because the magazine did not have enough time for sufficient independent porting on Lewinsky, her credibility, and her alleged role in the drama--and in hopes of learning more about the truth by not interfering with Starr's probe at a critical juncture --NEWSWEEK decided to hold off publishing the story last week. Above all, because Lewinsky's name had not surfaced, NEWSWEEK's editors felt there was insufficient hard evidence to drag her into the media maelstrom.

On Tuesday, Jan. 20, the story began to leak out to a number of news organizations. On Wednesday, Jan. 21, NEWSWEEK obtained what may be an important new piece of evidence. It is a written document allegedly given to Tripp by Lewinsky. The document coaches Tripp on "points to make in affidavit" in order to contradict the account of another former White House staffer, Kathleen Willey, who recently testified in her own deposition to unsolicited sexual advances made by the president in 1993. It was Tripp who partly confirmed Willey's claims that she had had a sexual encounter with Clinton--as reported in a NEWSWEEK story in August. In these talking points, Tripp is urged to undercut Willey's credibility, be a "team player" and submit an affidavit for review to "Bennett's people"--Clinton's lawyers. It's not clear who prepared these talking points, but Starr believes that Lewinsky did not write them herself. He is investigating whether the instructions came from Jordan or other friends of the president. President Clinton has denied all allegations of a sexual relationship with Lewinsky or a cover-up; Jordan refused to comment on Wednesday and his lawyer did not return repeated phone calls.

NEWSWEEK will have full coverage of this entire story in its next issue, on newsstands Monday, January 26. But because NEWSWEEK and others have been able to confirm further details of the investigation--and because the magazine has developed exclusive reporting on the nature of the evidence--the editors of NEWSWEEK have decided to publish this chronology of events on NEWSWEEK Interactive on AOL :

Monday morning, January 12. Linda Tripp, met with her lawyers in Washington. She had been subpoenaed in the Jones case and needed to prepare her testimony. She had a disagreement with her lawyers, whom she feared were too close to the White House. Angrily, she left her lawyers' office and called the office of Whitewater independent counsel Kenneth Starr. Within a few hours, there were federal prosecutors and an FBI agent sitting in Tripp's living room in Columbia, Md. They heard Tripp tell an extraordinary story--and much of the drama that follows is based on Tripp's version of events.

She told the FBI agents and Starr's deputies that she had been a friend of Monica Lewinsky, 24. Lewinsky and Tripp worked together in the public affairs office at the Pentagon. Tripp described Lewinsky's background: Lewinsky had gone to work at the White House as an intern in the summer of 1995 shortly after graduating from Lewis and Clark College in Oregon. In December 1995, Lewinsky had been given full-time job as a staffer in the legislative affairs office in the White House. The previous month, Lewinsky allegedly told Tripp,

e had begun having a sexual relationship with President Clinton. Lewinsky s 21 at the time. As Lewinsky told the story to Tripp, Lewinsky had been ...tracted to the president. At a White House party in mid-November 1995, Lewinsky wore a revealing dress and made eye contact with Clinton as he worked the crowd. The president and the young staffer had begun a consensual affair shortly thereafter. The president and Lewinsky allegedly had a number of sexual encounters, most of them during late-afternoon or weekend visits (and one late at night in a small private study off the Oval Office). Lewinsky told Tripp that she was flattered and excited by the attention from the president. She told Tripp that the president would sometimes ignore her frantic phone calls, but at other times he would call her in the middle of the night. Tripp told Starr's staff that she had personally heard messages from Clinton on Lewinsky's answering machine.

Tripp also told Starr's deputies that she had been angered and offended by what she considered the president's "callous" behavior toward Lewinsky. Tripp, a longtime federal employee who had begun work at the White House in the Bush administration, had had a number of run-ins with the Clinton White House. In 1993, Tripp was an executive assistant to Bernard Nussbaum, then the White House counsel. Early in the Whitewater probe, she had testified before a federal grand jury and the Senate Whitewater investigating committee about the so-called Travelgate affair, the firing of staffers in the White House travel office by the Clinton administration in 1993. She told Starr's assistants that she had been urged by her lawyers--whom the White House arranged to represent r--not to volunteer information she had about Hillary Clinton's role in avelgate. Tripp also talked to Starr's deputies about Kathleen Willey. In fall of 1993, Tripp said, she had seen Willey, a White House aide, shortly after Willey emerged from the Oval Office with her make-up smeared and her clothing askew. Willey told Tripp that she had just had a sexual encounter with the president. In late July, Tripp had told this story to NEWSWEEK, which published it in an issue the first week of August. At the time, Bennett, Clinton's lawyer, publicly questioned Tripp's credibility. Tripp became concerned that she would be put in a compromised position if she was later subpoenaed by Jones's lawyers: either perjure herself, or tell the truth and be attacked by the White House--possibly at the cost of her job at the Pentagon. It was then, Tripp said, that she began to secretly record her phone conversations with Monica. Tripp's lawyer, Jim Moody, denied that his client has a personal vendetta against the president. "She is not an enemy of this administration. She is a proponent of the truth."

As she anticipated, Tripp had been subpoenaed in mid-December by Jones's lawyers, who were trying to locate any and all alleged paramours of the president to bolster their sexual harassment case against Clinton. Realizing that she would have to testify under oath, Tripp told Lewinsky that she was going to tell the truth--that Lewinsky had told her that she was having an affair with the president. According to Tripp, Lewinsky responded that she intended to lie. She told Tripp that Clinton had told her not to worry about the Jones case because Jones's lawyers would never find out about the relationship. According to Tripp, Lewinsky said that Clinton had advised her

deny the affair. Tripp also reported that Lewinsky had told here that she had met with Vernon Jordan, Clinton's old friend and personal adviser. Lewinsky first went to see Jordan at the instruction of Betty Currie, Clinton's personal secretary, last November. Jordan asked her to take her frustration and anger at Clinton and vent it at him. Lewinsky told Jordan she was worried about a subpoena from Jones's lawyers. Jordan offered to set Lewinsky up with an attorney, Frank Carter. (Carter declined comment.) According to Tripp, Lewinsky assured Jordan she would stick with "the cover story." Lewinsky said, "This is what I signed up for when I began the relationship."

Tripp told Starr that Lewinsky met again with Jordan at a later date in the back of his limousine. Jordan advised Lewinsky to remain silent. "They can't prove anything," Jordan allegedly told her. "If they thought they could, your answer is it didn't happen, it wasn't me." He told her that witnesses are never indicted for perjury in civil cases. He also promised to help Lewinsky get a job in the private sector. Earlier this month, Lewinsky responded to a subpoena in the Jones case by signing a sealed affidavit swearing that she had no relevant information to offer. In the affidavit, Lewinsky swore that she never had had a sexual relationship with Clinton.

At that first meeting on Monday, January 12, Starr's deputies listened to Tripp's story with great interest. After four years and at least $30 million, the investigation by the independent prosecutor's office is still moving slowly. Starr's deputies believe that they are being stonewalled by the White use at every turn. Here was an opportunity to get inside the president's otective circle. Jordan was of particular interest to Starr. Jordan is eady under investigation by Starr in another matter, involving former Deputy Attorney General Webster Hubbell. Jordan is one of several friends of Clinton who helped get Hubbell lucrative consulting fees when Hubbell was under investigation by the Whitewater special prosecutor in 1994. Starr is investigating whether Jordan and others were funnelling hush money to Hubbell.

Starr's interest was also piqued by Tripp's tapes of her conversations with Lewinsky, which Tripp turned over to Starr in response to a subpoena. There are 17 of these audio tapes, consisting of about 20 hours of surreptitiously-taped phone conversations. Most of the tapes were made from Tripp's home in Maryland, a state which generally prohibits taping unless all parties to the conversation consent. (Tripp argues that the tapes were justified because she was trying to protect herself against allegations of perjury, according to her lawyer.) NEWSWEEK has heard several of these conversations. On the 90-minute tape, Lewinsky can be heard weeping and clearly intimating that she had a sexual relationship with the president. She says that she intends to lie about it if questioned by Paula Jones's lawyers. She never directly names the president, referring instead to "the big he" and "the creep," but it is obvious from the tape that she is referring to Clinton. She ponders telling Clinton that she has revealed the affair to others, including Tripp. She hopes that, somehow, Clinton can be persuaded to settle with Jones. Maybe, Lewinsky wonders, she should threaten to tell all--tell Clinton that she intends to tell the truth if she is questioned by Jones's

yers. "Look," Lewinsky says to Tripp, "Maybe we should just tell the creep. ybe we should just say, don't ever talk to me again, I f----d you over [by telling others about the affair], now you have this information, do whatever you want with it." Linda says, "Well, if you want to do that, that's what I would do. But I don't know if you're comfortable with that. I think he [the president] should know." But Monica, sounding despairing, responds, "He won't settle [the Paula Jones case]. He's in denial." At another point in the tape, she says she simply cannot tell Clinton that she has revealed the affair to several others. "If I do that," she moans, "I'm just going to f---ing kill myself."

On the tape, Lewinsky can also be heard saying, "I have lied my entire life." In the context of the conversation, she is saying that it wasn't hard for her to conceal her sexual relationship with Clinton. But the statement raises the possibility that the affair itself was a lie, an exaggeration of a flirtatious moment, perhaps, that grew into a big lie. Still, Lewinsky sounds truly worried that her alleged relationship with Clinton will be exposed. She begs Tripp to lie about it. She speaks of exchanging gifts and letters with the president and worries that Jones's lawyers will find them and use them as incriminating evidence. At one point she says, "I was thinking about the fact that I sent a note to Nancy [Hernreich, as assistant to the president], a note to Betty [Currie, the president's personal secretary], and a note to creep to thank them all for when my family came for the radio address. The note I sent to him, 'Dear Schmucko, thank you for being, as my little nephew said, it was eat to meet the principal of the United States.'" Later she says that inton gave her a dress, and she makes a vague reference to an official otograph that Clinton sent her, apparently with some kind of personal inscription. She suggests to Tripp that, in response to the subpoena from Jones's lawyers, which asks for any letters, photographs, gifts, etc. that she received from Clinton, that she turn over a different photograph that the president gave her, one without the inscription.

NEWSWEEK has obtained receipts from a Washington messenger service showing that Lewinsky sent packages addressed to the White House on nine separate occasions between October 7, 1997, and December 8, 1997. The contact number on the packages is 456-2990, the phone number of Clinton's personal secretary, Betty Currie. According to Tripp, Lewinsky told her that the packages were letters and in one case a sexually-provocative audio tape for President Clinton. Asked about the deliveries last week by NEWSWEEK, Currie said she didn't recall them, but that she would look into the matter and get back to a reporter. Contacted again on Wednesday, Jan. 21, Currie said, "I have no knowledge whatsoever," and hung up the phone.

Another piece of key evidence would be secret service logs that would show whether Lewinsky came and went from the White House at odd hours. Jones's lawyers have subpoenaed secret service records, but the Justice Department has moved to quash that subpoena, citing in part executive privilege. Sources say that records show a "pattern of visits" by Lewinsky to the White House "in the late afternoons and evenings," with Currie listed as the contact.

Other administration aides wondered about Lewinsky, who was moved to the

ıtagon in 1996. Lewinsky told Willie Blackwell, former deputy assistant ⌣ɔretary of defense, that she lost her job at the office of White House legislative affairs when Evelyn Lieberman, then deputy White House chief of staff, twice spotted her hanging around the West Wing and questioned why she was there. A spokesman for Lieberman said that Lieberman was displeased with Lewinsky's performance in part because she was spending a lot of time in the Rose Garden and at White House events rather than doing her job. It was the run-in with Lieberman, Lewinsky told Tripp, that prompted White House personnel to arrange a job for Lewinsky with Pentagon spokesman Ken Bacon. Lewinsky told Tripp that the president had assured her that he would "get her back" after the election, but it never happened.

On the tape recorded conversations that NEWSWEEK listened to--a conversations that happened shortly before Christmas--there is at least two references to Jordan's first name, Vernon. It appears that Lewinsky did meet with Jordan, or at least claims to have met with him. The references to Jordan are cryptic, however, and neither support nor contradict the allegation that Jordan was encouraging Lewinsky to lie. She talks about acting "based on what Vernon said," but it's not clear what Jordan told her to say. At another point in the tape, in an apparent reference to the multiple subpoenas from Jones's lawyers, Tripp says, "Maybe Vernon was right, it's a huge fishing net because of the rumor." On Wednesday, Jan. 21, William Hundley, Jordan's lawyer, did not return repeated phone calls.

Tuesday, January 13. As she recounted her story to Starr's team on Monday, pp said that she was meeting with Lewinsky for drinks at the Ritz Carlton ⌣ar at Pentagon City the next day. Starr's deputies set up a sting operation. On Tuesday, the FBI agents working for Starr wired Tripp with a secret listening device. When Tripp met with Lewinsky around noon, there was a team of FBI agents and prosecutors listening as a hidden tape recorded the conversation. According to knowledgable sources, Lewinsky again discussed conversations with Jordan about keeping quiet in the Jones case. She also talked about Jordan's efforts to get her a job in New York. (Lewinsky quit her Pentagon job on December 26; MacAndrews & Forbes, a New York firm that owns Revlon, confirmed that they offered Lewinsky a public relations job this month after she was referred to the company by Jordan, a member of Revlon's board of directors.) The incriminating tape gave Starr's deputies hope that they could "flip" Lewinsky and make a her a witness for the prosecution. They hoped to "sting" Jordan or Currie by getting Lewinsky to place phone calls to them that Starr's staff would monitor.

Wednesday, January 14. Lewinsky picks up Tripp at the Pentagon and offers to drive her home. Lewinsky gives Tripp "talking points" about how she should respond to questions from Jones's lawyers in the Willey matter. NEWSWEEK has obtained the document. "Points to make in affidavit," it reads. Tripp is to modify comments she had made to NEWSWEEK back in July--that she had seen Willey coming out of the Oval Office with her make-up smeared. Tripp is now to ⌣ell Jones's lawyers that "you do not believe that what she claimed happened

ılly happened. You now find it completely plausible that she herself smeared : lipstick, untucked her blouse, etc." The document also seems to reflect concerns that Tripp has already told others about Lewinsky's claims of a sexual relationship with the president. In case Tripp is questioned about the rumors about Lewinsky by Jones's lawyers, the talking points suggest that she say Lewinsky "turned out to be this huge liar" who "left the White House because she was stalking the P or something like that."

At about this time, NEWSWEEK learned that Starr was investigating Lewinsky, Jordan, and Clinton. NEWSWEEK told Starr's deputies that the magazine was planning to run with the story in the issue that appeared that Monday. NEWSWEEK needed to get a response from the people involved. Starr's deputies asked NEWSWEEK to hold off. The investigation was at a delicate stage. Starr was hoping to confront Lewinsky and persuade her to cooperate as a witness for the prosecution. Starr's deputies did not want to tip off Lewinsky or Jordan or the White House. NEWSWEEK agreed to wait until Friday afternoon, in part because the magazine was reluctant to interfere with an ongoing federal investigation and in part because the editors believed that NEWSWEEK would learn more about the truth behind the story by waiting.

Friday, January 16. Starr decided to formally expand his inquiry to investigate subornation of perjury and obstruction of justice in the Paula Jones case. In conversations the previous day, Starr's deputies had described Jordan as a principal target of the probe, and got Justice Department approval seek a formal expansion of his jurisdiction. The three-judge appeals court nel that supervises the independent counsel gave its authorization. That e day, Starr's deputies had Tripp lure Lewinsky to another meeting at the Ritz Carlton. As the two were sitting down for lunch, FBI agents for Starr moved in and asked Lewinsky to step upstairs for a talk.

Friday-Saturday, January 16-17. Starr's deputies tried to "flip" Lewinsky. Obviously, she was in a fix. If she admitted to the affair, she would be contradicting her own sworn affidavit. But if she denied it, she would be vulnerable to criminal prosecution. Lewinsky called her mother in Los Angeles. At the urging of Starr's staff, NEWSWEEK decided to wait one more day before contacting Lewinsky and Jordan for comment.

Saturday, January 17. A Los Angeles lawyer, William Ginsburg, flew to Washington to represent Lewinsky. Still uncertain about whether Lewinsky was telling the truth about a sexual relationship with Clinton and a White House cover-up, and running out of time to reach the major players in the story--or assess Lewinsky's credibility or role--NEWSWEEK, whose deadline is Saturday night, decided to hold off publication.

Monday, January 19. Negotiations between Starr's staff and her attorneys broke down. On Monday morning, Lewinsky's name surfaced in the Drudge Report, a widely read but somewhat unreliable gossip column on the Internet. Drudge had picked up rumors that NEWSWEEK was debating whether to run a piece about

insky, and reported that after a "screaming fight" in the editors' offices Saturday night, the story had been spiked. (There had been no screaming; the story was not spiked but put on hold while NEWSWEEK's reporters continued to gather information.) According to Starr's deputies, the fear that Lewinsky's name would become widely known was enough to torpedo the negotiations between Starr and her Lewinsky's lawyers. As of now, Lewinsky is not cooperating. According to knowledgeable sources, Starr is now considering whether to indict her for perjury. Lewinsky is scheduled to be deposed by Jones's lawyers on Friday. Sources tell NEWSWEEK that she will take the Fifth Amendment.

Newsweek Interactive Special Report: Nation/Diary of a Scandal

Tab 28

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Page 1 of 5

On (date) 1-7

Time: 5:00pm

Item(s) listed below were:
- ☐ Received From
- ☐ Returned To
- ☐ Released To
- ☑ Seized

(Name) SEARCH

(Street Address) [redacted]

(City) [redacted]

Description of Item(s):

1 of A

★ Item # 1 - electric records
2 - Book Manuscript [illegible]
3 - computer diskette (1)

Item D

→ Item # 1 - Brown envelope w/tape
2 - manila w/residential seal
3 - clear glass w/residential seal
4 - Glass bottle of Kinkel fruit w/seal
5 - Glass bottle of Kinkel fruit w/seal
6 - Glass bottle of Kinkel fruit w/seal
7 - clear glass w/residential seal
8 - 1 pack of cigarettes and matches
9 - 3 photos; envelope label; document from center & various

FROM E

Item # 1 - AMEX statement
2 - card file
3 - 1997 pocket calendar
4 - computer diskette
5 - Seven (7) clear micro tapes

from N

Item # 1 - computer diskette
2 - fedex envelope w/File
3 - Book "Presidential Sex"

Received by: SA [redacted] (Signature)

Received from [redacted] (Signature)

FD-597 (Rev. 3-29-66)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Page 4 of 5

On (date) 22 JAN 93

Time: 5:00pm

Item(s) listed below were:
- ☐ Received From
- ☐ Returned To
- ☐ Released To
- ☐ Seized

(Name) Tarrel

(Street Address) FCCM Hospital Annex Apt 114

(City) Lorton, VA

Description of Item(s):

FCCM C - Additional Item
#4 - Blue Flower dress
FCCM C
- Item #1 - shirt (wide flowered)
FCCM L
Item #1 - yellow computer disk
FCCM A
Item #1 - coat and pants
FCCM J
Item #1 - black dress
#2 - Blue dress
#3 - Blue Blouse

Received by: SA [redacted] (Signature)

Received from [redacted] (Signature)

FD-597 (Rev. 3-28-03)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Page 3 of 5

On (date) 30 JAN 9-

Time: 5:00pm

Item(s) listed below were:
- ☐ Received From
- ☐ Returned To
- ☐ Released To
- ☐ Seized

(Name) Seized

(Street Address) 700 New Hampshire Ave N.W. Apt 114

(City) Washington D.C.

Description of Item(s):

From M- cont.

#9- Self-pic; photo card; Black Leg tag; white House ID

#10- Cassette Tape

#11- Rolodex

#12- Phone notes and addresses

#13- Affidavit draft

#14- CD Label; business card; Hand written note; letter

#15- letter; cellular One bill with hand written notes; receipt sheet

#16- Sony Microcassettes (2)

#17- Tape recorder and tape

#18- letter dated 12/29/98

#19- Lease Statement

#20- Folder marked Clinton

#21- Financial and work records

#22- Framed photograph

From K

Item # 1 - Envelop w/hand written note

2 - Box of computer diskettes; 2 loose diskettes

Received by: SA [redacted] (Signature)

Received from [redacted] (Signature)

FD-597 (Rev. 8-11-94)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Page 2 of 5

On (date) 22 JAN 98

Time: 5:00 pm

Item(s) listed below were:
- ☐ Received From
- ☐ Returned To
- ☐ Released To
- ☒ Seized

(Name) ISAACS

(Street Address) 700 New Hampshire Ave NW Apt 114

(City) Washington DC

Description of Item(s):

ROOM N - cont

#4 - Computer Diskette
#5 - Fuji - card / world travel journal
#6 - Miscellaneous Documents (6)
#7 - Computer Diskettes (4)
#8 - Computer Diskettes (4)

ROOM O

Item #1 - one pair of blue jeans
#2 - letter
#3 - letter; monthly planner Oct, Nov 1997; video tape; lexis / nexis printout
#4 - Ralph Lauren Blue Jersey Shirt

ROOM M

Item #1 - plastic box containing photographs and White House memorabilia
#2 - Black or dark garment
#3 - Answering Machine (Panasonic)
#4 - Master photograph
#5 - photographs
#6 - Computer diskettes; White House material
#7 - FEDEX receipt (2); photos of Monica / w/ WJC
#8 - Note pad

Received by: SA [redacted] (Signature)

Received from [redacted] (Signature)

FD-597 (Rev. 3-29-93)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Computer Materials

Page 1 of 5

On (date) 1/22/98

Item(s) listed below were:
- ☐ Received From
- ☐ Returned To
- ☐ Released To
- ☐ Seized

Time: 1210pm

(Name) MARCIA LEWIS ~~Marsha Lewinsky~~ ptp

(Street Address) Watergate South 700 New Hampshire Ave NW Apt 114

(City) Washington, D.C.

Description of Item(s):

1- Apple Personal Laser Writer 300 printer Ser# 35265
1- Apple Keyboard II Ser# 3284A603N
1- Apple Desktop Mouse Ser# LT3298ART18
1- Practical Peripherals Modem Ser# A10552510.63204.0945
1- Apple Color Monitor Ser# CY4411AJ152
1- Apple Macintosh LC3 CPU Ser# CG3346WLVA2
4- Cables
13- 3½ inch floppy diskettes

No Nothing else on this page

-91 WFO-03C

Received by: SA [redacted] (Signature)

Received from [redacted] (Signature)

Tab 29

1894

TRANSCRIPTS - 1/22/98 ABCNWSSPR
2/98 ABC News - Special Rep. (Pg. Unavail. Online)
98 WL 8056093
ABC News - Special Report
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Thursday, January 22, 1998

NEWS

ABC NEWS SPECIAL REPORT WHITE HOUSE BRIEFING
SAM DONALDSON / JACKIE JUDD, PETER JENNINGS

PETER JENNINGS: You know these allegations that President Clinton had an affair with at young White House intern, which also involve his close friend Vernon Jordan, and then is accused of having asked her to lie about it have very much consumed the Washington political establishment, so the President is again in potentially serious trouble.

We've interrupted regular programming because the President's spokesman, Mike McCurry, is about to hold his daily briefing for the

White House Press Corps, and the President, as you may also know, said yesterday and again today these stories involving Monica Lewinsky are not true. But for a variety of reasons, the matter will not rest.

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TRANSCRIPTS - 1/22/98 ABCNWSSPR
But what Ken Starr's office believes is this -- that the Lewinsky investigation is part of the broader investigation. That is looking into the question of whether this White House has obstructed justice by trying to silence witnesses who would be harmful to the President and to the administration. Silence them through hush money, offering them promotions, etc. And so that's how Starr will justify him taking over this aspect.

PETER JENNINGS: OK, Jackie, thanks very much. There was some tumultuous reception for Mr. Starr this morning when he came out.

This is different, as many people have noted today, because the President and his friend Vernon Jordan have been accused of supporting perjury -- the penalty for that might be five years -- and for obstructing justice, as well. And Mr. Jordan, one of the most powerful men in Washington, very close friend to the President, been at the President's side in all sorts of difficulties, is going to issue a statement at 3:30 this afternoon, and we'll be here to tell you what that is.

And here, finally, is a glimpse of the President today in a meeting with the Palestinian chairman Yasser Arafat at the White House, being asked again in person whether or not he's going to shed any light today on these allegations that he had an affair with this young woman and

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TRANSCRIPTS - 1/22/98 ABCNWSSPR
these allegations that he had an affair with this young woman and attempted to cover it up.

Pres. BILL CLINTON: The allegations are false, and I would never ask anybody to do anything other than tell the truth. Let's get to the big issues there about the nature of the relationship and whether I suggested anybody not tell the truth. That is false. 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 -- 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.

PETER JENNINGS: Very difficult time for the President, very difficult time for the country. And we're going to continue our coverage of this story throughout the day on abcnews.com. We'll be here when Mr. Jordan makes his statement at 3:30. We'll have a complete roundup on World News Tonight.

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TRANSCRIPTS - 1/22/98 ABCNWSSPR
'm Peter Jennings in New York. Thank you for joining us.

ANNOUNCER: For continuing coverage of this story, stay with ABC News and abcnews.com on the Web and AOL. This has been a Special Report from ABC News.

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Word Count: 5131
1/22/98 ABCNWSSPR (No Page)
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TRANSCRIPTS - 1/22/98 ABCNWSSPR
ut as Mike McCurry said at the end of that briefing, it is extremely difficult to get the nation's business done when so much of the nation is focused currently on this.

I'm Peter Jennings in New York. Thank you for joining us.

ANNOUNCER: For continuing coverage of this story, stay with ABC News and abcnews.com on the Web and AOL. This has been a Special Report from ABC News.

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NEWS CATEGORY: PACKAGE

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1900

Tab 30

1902

LEVEL 1 - 2 OF 9 STORIES

Copyright 1998 Roll Call, Inc.
Roll Call

January 22, 1998

LENGTH: 443 words

HEADLINE: Partial Transcript Of ClintonInterview

BODY:
ROLL CALL: A few questions about the breaking news. Do you think that this Monica Lewinsky story is going to overshadow your State of the Union address?

President CLINTON: Well, I hope not. But you guys will have to make that decision. The press will make that decision.

ROLL CALL: Some Republicans have been talking about impeachment for months now. And even your former advisor, George Stephanopoulos, mentioned it this morning, that it could lead to that. What is your reaction to the suggestion that this may lead to impeachment?

CLINTON: Well, I don't believe it will. I'm going to cooperate with this investigation. And I made it very clear that the allegations are not true. I didn't ask anybody not to tell the truth. And I'll cooperate. So I think that there will be a lot of stirring and there will be a lot of speculation about how this all was done and what it means and what it portends, and you will all handle it however you will. I'm just going to go back to work and do the best I can.

ROLL CALL: Do you think you have to refer to it in some way in the speech on Tuesday?

CLINTON: I've given no thought to that, no.

ROLL CALL: Will this cloud your ability to get anything done with this Congress as you head into the new session?

CLINTON: Well, that will be up to them. I don't think so. It's election year; they'll want to get some things done, too. And we've got a lot to do. I'm going to give them the first balanced budget three years ahead of time, and a great child care initiative, and an important Medicare initiative. We've got a Medicare commission meeting. We're going to be able to actually see this budget balanced and start to run a little surplus. We've got a lot of things to do around the world, so I think this is quite important.

ROLL CALL: OK, let me just ask you one more question about this. You said in a statement today that you had no improper relationship with this intern. What exactly was the nature of your relationship with her?

CLINTON: 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 it is. But let me answer - it is not an improper relationship and I know what the word means. So let's just...

ROLL CALL: Was it in any way sexual?

CLINTON: The relationship was not sexual. And I know what you mean, and the answer is no.

and Damon Chappie

LANGUAGE: ENGLISH

LOAD-DATE: January 22, 1998

Tab A

1906

Citation Search Result Rank 140 of 144 Data
1/22/98 STLTI A17 USNE
1/22/98 Seattle Times A17
1998 WL 3135298

The Seattle Times
Copyright 1998

Thursday, January 22, 1998

NEWS

CLINTON'S ANSWER TO QUESTION TODAY

AP

Comments by President **Clinton** today on allegations that he had an affair with former White House intern Monica Lewinsky. The question was asked during a photo session with PLO Chairman Yasser Arafat:

Question: "Could you clarify for us, sir, exactly what your relationship was with Ms. Lewinsky and whether the two of you talked by phone, including any messages she may have left?"

President **Clinton**: "Let me say, first of all, I want to reiterate what I said yesterday. The allegations are false, and I would never ask anybody to do anything other than tell the truth. Let's get to the big issues there - about the nature of the relationship and whether I suggested anybody not tell the truth. That is false.

"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, 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 talked (about) with our people. I want to do that. I'd like for you to have **more rather** than **less**, **sooner rather** than **later**."

---- INDEX REFERENCES ----

NEWS CATEGORY: TEXT OF STATEMENT

EDITION: FINAL

Word Count: 233
1/22/98 STLTI A17

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1908

Tab 31

1910

FD-597 (Rev. 3-29-83)

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

Page 1 of 1

On (date) 1/23/98

Time: 1:55 pm.

Item(s) listed below were:
- ☒ Received From
- ☐ Returned To
- ☐ Released To
- ☐ Seized

(Name) Atty. Karl N. Metzner (Jenis, Schuelke, & Wechsler)

(Street Address) 1728 Mass Ave, NW

(City) Washington, D.C. 20036

Description of Item(s): Please see attached sheets

Received by: SA [redacted] (Signature)

Received from _____ (Signature)

LAW OFFICES
JANIS, SCHUELKE & WECHSLER
1728 MASSACHUSETTS AVENUE, N.W.
WASHINGTON, D.C. 20036

KARL N. METZNER

TELEPHONE
(202) 861-0600

TELECOPIER
(202) 223-7230

January 23, 1998

BY HAND DELIVERY

Kenneth W. Starr, Esq.
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W., Suite 490-N
Washington, D.C. 20004

Re: Subpoena Duces Tecum to Betty W. Currie, Grand Jury # 97-3

Dear Mr. Starr:

In response to the above-referenced subpoena duces tecum to Ms. Betty W. Currie, enclosed please find the following:

One copy of the State of the Union address dated January 23, 1996, in a brown envelope.

One autographed photograph of President Clinton, held between two cardboard panels.

One green dress with a "Black Dog" logo, size L.

One turquoise T-shirt with a "Black Dog" logo, size L.

One white T-shirt with a "Seal of the Black Dog of Martha's Vineyard" on the front, size L.

One blue baseball cap with a "Black Dog" logo.

One three-page facsimile message.

Two twenty-page newspaper inserts from the *Washington Post*, February 14, 1997.

One jewelry pin in "Casual Corner" box. Actually two pins in one box. POP 8/17/98

One hatpin with a globe-like base in a black box with gold stars on it.

One framed signed picture of President Clinton and Monica Lewinsky.

One bottle, in its box, of Tiffany Spa Moisturizing Hand Cream.

One bottle, in its box, of Tiffany Spa Refreshing Body Mist.

One sympathy card, with envelope.

One card with joke re snowman and carrot, with envelope.

One thank-you card dated September 17, 1997, with envelope.

Four pages of handwritten notes. (Copies redacted by attorneys)

Sincerely,

Karl Metzner

Enclosures

1914

Tab 32

1916

24TH STORY of Level 1 printed in FULL format.

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CBS News Transcripts

SHOW: SATURDAY MORNING (8:00 AM ET)

January 24, 1998, Saturday

TYPE: Newscast

LENGTH: 955 words

HEADLINE: FEDERAL PROSECUTORS SUBPOENA SWORN STATEMENTS THAT PRESIDENT CLINTON GAVE IN DEPOSITIONS IN THE PAULA JONES AFFAIR

ANCHORS: RUSS MITCHELL

REPORTERS: SCOTT PELLEY

BODY:

RUSS MITCHELL, co-host:

Washington awakens this morning suffering from something of an information hangover. The flurry of allegations and leaks and rumors was downright dizzying over the past three days. And it is not over yet. CBS News White House correspondent Scott Pelley joins us with the latest.

Good morning, Scott.

SCOTT PELLEY reporting:

Morning, Russ.

And there's more information this morning. CBS News has learned that federal prosecutors have now subpoenaed at least some of the sworn statements of the president, statements the president gave in depositions and in interrogatories in the Paula Jones affair. The subpoenas went out yesterday--late yesterday and demand all affidavits and depositions of William Jefferson Clinton.

You will recall that on Saturday, the president gave a sworn deposition here in Washington and CBS News is told that in that deposition he denied ever having a sexual relationship with Monica Lewinsky. Now that statement would appear to be at odds with Lewinsky's contention on secretly recorded audiotapes that she did indeed have an affair with the president.

Also, CBS News has learned that last week Lewinsky was offered complete immunity from prosecution if she was willing to cooperate with independent counsel Kenneth Starr in an undercover sting operation. But while Lewinsky was thinking about that offer, her name became known and the offer was withdrawn.

Last week, the FBI swept Lewinsky into a hotel room filled with agents and

prosecutors. She was shown surveillance photos of herself meeting with former co-worker Linda Tripp. Tripp had recorded Lewinsky's admission that she had lied under oath about an affair with Mr. Clinton. Lewinsky's lawyer, Bill Ginsburg, says she was offered a deal.

Mr. WILLIAM GINSBURG (Lewinsky's Attorney): They wanted to suggest to her, and they did suggest to her, as I understand it, frankly, from them, that she be wired, to have conversations with other people, that she intervene on telephone conversations that might well be recorded. They wanted her cooperation.

PELLEY: You say 'conversations with other people.' You're talking about the president of the United States?

Mr. GINSBURG: I--I don't know that. But I would assume, based on everything that I've seen in the media, that the president of the United States, Vernon Jordan, and others would have been among their--their guest list.

PELLEY: In secretly recorded tapes, Lewinsky told her friend Tripp there had been a long affair and she had been encouraged to cover it up. But in a sworn affidavit, she insisted there was no sexual relationship.

When you say that your client stands by the affidavit, you are telling us that the affidavit is true. It is the truth?

Mr. GINSBURG: No, I am telling you--I am telling you that my client stands on the affidavit at this time.

PELLEY: At this time. If it's true, how could there be any question about whether she's going to stand by it today, tomorrow, the next day?

Mr. GINSBURG: I am not prepared to do anything except say, as a professional, that she is standing by her affidavit at this time.

PELLEY: Sources tell CBS News FBI agents had Lewinsky's consent to search her apartment in the Watergate Complex. The agents had a list of items they wanted and left with Lewinsky's computer, some of her clothes and the gifts. CBS News has also learned Lewinsky claims to have received from the president several items from the Black Dog gift shop in Martha's Vineyard plus a dress, gold broach and a book of poetry by Walt Whitman.

And now Lewinsky's parents have been drawn into this investigation. Prosecutors now consider them to be material witnesses because of things Lewinsky might have told them. On Tuesday, here in Washington, a federal grand jury will meet in the case and will begin taking testimony from the president's friend Vernon Jordan and the president's personal secretary. That is the very day that Mr. Clinton will be delivering the State of the Union address. Russ.

MITCHELL: Scott, yesterday there was talk that the president would make a statement, maybe even give a news conference to kind of diffuse these charges before his State of the Union address. Anything new on that?

PELLEY: Russ, we are being told at this moment that the president does not plan to address the charges in any significant way before the State of the Union address. I hesitate to predict the future on this because this is a very

dynamic situation. There are a number of people here at the White House who have been urging that the presi--the president should go out on the press. But at the moment, the lawyers are prevailing and they are saying for the moment he should stay silent.

MITCHELL: Yesterday, four members of the president's Cabinet came out in a show of support. But from all accounts, it appears that there are a lot of long faces at the White House these days. How would you describe the mood there this morning?

PELLEY: Well, I'll--I'll tell you, I spoke to a high administration official yesterday who described the first two days of this as bleak. He said it was like a hurricane had gone through the White House and knocked everybody off their feet. He sa--he told me that the White House staff now is trying to get back on their feet, dust themselves off, and get back to work.

MITCHELL: Scott Pelley at the White House, thank you very much.

Scott will return in our next hour with more on this still-unfolding story. And we'll have more from the White House with Mark Knoller a bit later. Plus, we'll talk with reporter Carl Bernstein. We'll see how he compares thi--if--if he compares this at all--with Watergate.

LANGUAGE: English

LOAD-DATE: January 24, 1998, Saturday

1920

Tab 33

1922

Citation Search Result Rank 46 of 450 Database
5/98 FACENATION ALLNEWS
1/25/98 Face Nation (Pg. Unavail. Online)
1998 WL 9105888
(Publication page references are not available for this document.)

Face The Nation
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Sunday, January 25, 1998

Interview: Representative Henry Hyde discusses the allegations against President Clinton from a legal perspective

BOB SCHIEFFER, host:

For some perspective from the legal point of view, two people who know a lot about these things. Here in the studio, the chairman of the House Judiciary Committee, Henry Hyde, who would have the responsibility of calling impeachment hearings if it came to that, and in our Washington newsroom, former independent counsel Joe diGenova.

I begin with you, Mr. Chairman. As I understand it, the law is quite specific. If the independent counsel should come up with evidence that he considers evidence of an impeachable offense, he is compelled by law to refer that to you.

Representative HENRY HYDE (Republican, Illinois; Chairman, Judiciary Committee): That's correct. To Congress, actually, the statute says. If he comes up with substantial and credible evidence of a crime or of an impeachable offense or offenses, he is obliged to report promptly to Congress.

SCHIEFFER: And then Congress, I take it, has to vote on whether to begin an impeachment hearing.

Rep. HYDE: Well, not necessarily. If a bill of impeachment is filed, that would be a sign to the Judiciary Committee if precedent follo--is followed, and we would--we would begin taking action on that. But I want to emphasize, right now all we're dealing with are allegations and charges, not proof. And it's in the bosom of the independent counsel. He has the resources, the personnel, the deposition authority, access to the grand jury, immunity power. Let him do his job and then, when he does that, we will then do ours.

SCHIEFFER: Mr. Chairman, what is an impeachable offense?

Rep. HYDE: Well, it's deliberately vague in the Constitution: treason, bribery, high crimes and misdemeanors. A high crime is at

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(Publication page references are not available for this document.)

one end of the s--spectrum and a misdemeanor is certainly a crime of lesser import. So you have to look at--at precedent, but it has to be something that's very serious--and I can't stress this too much--it has to elicit bipartisan support. Because at the end of the day, the Senate has to vote on whether or not to remove the person from office by a two-thirds vote.

SCHIEFFER: Mm-hmm.

Rep. HYDE: ...so nothing much will happen until the Democrats decide something should happen.

SCHIEFFER: Let me just ask you quickly. If a president tried to encourage someone to commit perjury or if a president committed perjury, would that be considered, in your view, an impeachable offense?

Rep. HYDE: I d--really don't like to answer 'what if' questions.

SCHIEFFER: OK.

Rep. HYDE: But, certainly, it is serious and would be considered.

SCHIEFFER: I think everybody in Washington understands this to be a--a--a problem of some gravity, a very serious matter. If it came to impeachment hearings, do you think the Democrats in Congress would let it go that far?

Rep. HYDE: Again, that's speculating, but I think, as with President Nixon, nobody wants a--long, attenuated hearings that bring out sordid, lurid charges and accusations. So I think Democrats would appropriately make suggestions to the president. But, again, I--I really am crossing the line there. We don't have any proof now. We have allegations, and we should wait because the--the presumption of innocence belongs to the president.

SCHIEFFER: But what--what you seem to be saying is, there'd be such an overwhelming appealing in the Congress, you think that Democrats would just urge the president to leave rather than go into something like that?

Rep. HYDE: I can speculate that that might happen, although I hate to speculate.

SCHIEFFER: All right. Mr--Mr. Hyde, the president goes to the Capitol on Tuesday to give his State of the Union message. What do think the reaction up there is going to be?

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(Publication page references are not available for this document.)

Rep. HYDE: I really don't know. I've thought about that. I've thought that the Democrats may have an exaggerated enthusiasm in an effort to be defensive and protective. On the other hand, it may be just civilized restraint. I think it's one of the interesting spectacles to see what the reaction's going to be.

SCHIEFFER: This one's going to be different though, isn't it?

Rep. HYDE: Oh, very much so.

SCHIEFFER: Mr. Chairman, thank you very much for joining us this morning.
Program Time: 10:30-11:00 AM
Nielson Rating 2558000
Reference: 980125

Word Count: 700
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1926

Tab 34

1928

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26/98 Nightline (Pg. Unavail. Online)
1998 WL 5372969
(Publication page references are not available for this document.)

Nightline

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Monday, January 26, 1998

NEWS

CRISIS IN THE WHITE HOUSE

--

WILL THE PRESIDENT'S WORD BE ENOUGH?

JOHN DONVAN / CHRIS BURY / DAVE MARASH, TED KOPPEL

ANNOUNCER: January 26, 1997.

TED KOPPEL, ABC News: (voice-over) Monica Lewinsky meets with her lawyers. President Clinton prepares for tomorrow's State of the Union address but takes a few seconds out to respond forcefully to his critics.

res. WILLIAM J. CLINTON: 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. I never told anybody to lie, not a single time, never. These allegations are false and I need to go back to work for the American people.

TED KOPPEL: (voice-over) Tonight, crisis in the White House -- will the president's word be enough?

ANNOUNCER: From ABC News, this is Nightline. Reporting from Washington, Ted Koppel.

TED KOPPEL: It is not easy to make sense out of what is happening in Washington these days and for the moment at least it is next to impossible to determine the truth. Yesterday, ABC News Correspondent Jackie Judd quoted unnamed sources as saying that there may have been a witness, possibly a secret service agent, to an intimate encounter between President Clinton and Monica Lewinsky. This morning, as you have just heard again, President Clinton angrily denied any sexual relationship with Ms. Lewinsky. Now comes tomorrow's edition of the Dallas Morning News, not only citing sources confirming Jackie Judd's report of yesterday, but adding new details. The Dallas paper cites its own sources as stating that a secret service agent witnessed the r sident and Ms. Lewinsky in a compromising situation and that the t has already been in communication with the office of the

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(Publication page references are not available for this document.)

Independent counsel, Ken Starr.

Only a couple of hours ago, though, I spoke with a member of Ms. Lewinsky's legal team who said, speaking on behalf of all her lawyers, we know nothing about this agent who has alleged to have witnessed an intimate moment.

A senior law enforcement source whom we contacted late tonight did little to unravel the confusion. It would be highly unusual, he indicated, for a secret service agent to reveal private information about any president, unprecedented to do so about a sitting president. Having said that, he acknowledged that there was no statute that would prevent it.

On Wednesday, President Clinton will visit LaCrosse, Wisconsin. That trip was planned a long time ago, but as John Donvan now reports, it has taken on a whole new flavor.

JOHN DONVAN, ABC News: (voice-over) It is, to say the least, getting awkward for LaCrosse. Government class this afternoon at Logan High.

1st LaCROSSE RESIDENT: It's a disgusting display of morals for us young kids that maybe look up to the president.

2nd LACROSSE RESIDENT: Does he claim that she has this dress that's seamy? It's kind of disgusting.

JOHN DONVAN: (voice-over) Yes, it's getting awkward.

(on camera) Because tonight as they begin building the stage that the president will speak from on Wednesday and as the town began filling up with White House advance people and reporters, it wasn't really clear what this presidential visit means to LaCrosse anymore. It was supposed to be a moment of pride and celebration. Now, it's a lot more complicated than that.

(voice-over) Listen to the mayor, John Medinger, a lifelong Democrat.

JOHN MEDINGER: The most frenzied part is hoping that it all comes together and that we have a successful event here on Wednesday afternoon. I expect it's going to happen, but I'm not sure anymore.

JOHN DONVAN: (voice-over) Eleven days ago, it was a different story.

SCOTT HACKWORTH, News 19 Reporter: More information tonight about President Clinton's visit to LaCrosse next weekend, where you can get tickets.

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1/26/98 NIGHTLINE
(Publication page references are not available for this document.)

JOHN DONVAN: (voice-over) The story then was that LaCrosse had been given the duty and the honor of welcoming the president of the United States. Six days ago, the scandal broke.

REPORTER: A controversy surrounds President Clinton as he tries to continue his presidential duties...

JOHN DONVAN: (voice-over) And two days ago, Saturday, as the mayor bounced between meeting with the White House team and the five block long Packer parade, he also had to deal with the first serious backlash against the president's coming here. It was about money and the standard letter that the White House had sent the mayor last Friday explaining that, "Costs incurred in connection with the staging of any events are the host's responsibility." In other words, LaCrosse was being asked to pay an estimated $40,000 for the president's visit. The mayor knew that was not going to get through the city council.

JOHN MEDINGER: And in light of what was going on I indicated to him that I was getting calls from members of the city council saying why should we pay these bills. They're getting calls from their constituents, you know, indicating the same thing, we don't want the taxpayers to spend any money for that person in the White House.

OHN DONVAN: (voice-over) He says he warned the White House advance team this could be trouble.

JOHN MEDINGER: I says, you know, this isn't a slam dunk in the city council. We may have some problems. And it finally, you know, a light went on and they says you mean like they might vote it down? And I says yeah, like they might vote it down. And they says well, we can't let that happen.

JOHN DONVAN: (voice-over) The White House got the message and at Saturday's council meeting, Medinger was able to announce that the federal government will pay most of the cost.

JOHN MEDINGER: There will be no cost to the city of LaCrosse for any of this stuff that's on here.

JOHN DONVAN: (voice-over) Crisis averted, the visit is still on. But as the president tried again today to bailout his sinking reputation, the people of LaCrosse watched and mostly they seemed embarrassed, some embarrassed for the president, others embarrassed by the president. There was P.J. Jacobs, a short order cook at Mr. D's.

P.J. JACOBS: What he did was wrong, that's for sure. But I think t they're doing to him is even worse. I don't know. It's the man's vate life. As far as I'm concerned, leave him alone. And maybe I'm

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(Publication page references are not available for this document.)

e only woman in the United States who would say something like that.

LAURIE MINSNER: (ph) Now the children made pictures and wrote his name and this is a present for him.

JOHN DONVAN: (voice-over) Over at city hall, Laurie Minsner came by with her five -year-old son Zack. (ph) They were dropping off a sign that Zack's class had made for the president's visit.

LAURIE MINSNER: And he was asking what that meant, what sexual relations meant. I told him the best that I could that he understands that people are married and that meant perhaps having some sort of relationship with someone other than a wife. And he understands that and he knows in his mind so far what's right and wrong.

JOHN DONVAN: (voice-over) Chip Denure, (ph) a probation officer, says he's just disgusted.

CHIP DENURE: I'd prefer that he stayed home and resigned. That's just my opinion. I know he'll probably get a good crowd here in LaCrosse, but people shouldn't read too much into that because I think mostly a lot of the people will just be going down to see a president of the United States.

JOHN DONVAN: (voice-over) That much is probably true. When they started handing out tickets on Saturday, there were people lined up outside the doors.

3rd LACROSSE RESIDENT: We felt it was really IPO whenever we have a chance to let our teenage daughter see something as important as the president of the United States and his entourage, that we be a part of it.

4th LACROSSE RESIDENT: It's just exciting for the kids to be able to see the president.

JOHN DONVAN: Are they all excited about it?

4th LACROSSE RESIDENT: Oh yeah.

JOHN DONVAN: How do you guys feel about having the president come to LaCrosse?

5th LACROSSE RESIDENT: It's pretty cool.

JOHN DONVAN: (voice-over) It was, said the lead man in the White House vance team, heartening to see.

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(interviewing) Do you have any doubts or have you had any doubts about how this event is going to go in light of what's happening in Washington?

RICK JASCULCA, Presidential Advance Team: Never.

JOHN DONVAN: But you know what it's like back in Washington right now.

RICK JASCULCA: Well, this isn't Washington, John.

JOHN DONVAN: No, it's not, and as someone who has been in both cities this week, I can report that LaCrosse is not nearly as obsessed with this story as Washington is. Here there is little fever for catching the president in a lie. Here it's much more a fervent prayer that he's telling the truth.

John Donvan for Nightline in LaCrosse, Wisconsin.

TED KOPPEL: ABC News has conducted another poll on how the American public at large is reacting to ongoing news of the allegations and denials. On the question of whether the allegations are interfering with the president's ability to serve, 58 percent said yes, 41 percent said no.

A new snippet of news together with a newly surfaced videotape are not likely to help. In some video taken at a Democratic National Committee fundraiser on May 9th of 1996, the president is seen once again on what is called a rope line meeting and hugging Monica Lewinsky. She is also seen in the front left in white as the president speaks at the Democratic National Committee fundraiser in Washington. Ms. Lewinsky wrote a $250 check to attend the event.

Meanwhile, ABC News learned today that Ms. Lewinsky is heard on one of her tape recorded conversations with her friend, Linda Tripp, telling Tripp that she placed a personal ad in the Washington Post last Valentine's Day and that it was intended for the president. The ad, addressed to Handsome and quoting from Romeo and Juliet is signed simply, "M". Tomorrow morning's Washington Post reprints this copy of the ad.

(Commercial Break)

TED KOPPEL: White House officials with daily access to the president are in the all but impossible position of wanting to defend him but making themselves subject to subpoena and the likelihood of huge legal expenses if they actually talk to Mr. Clinton about the case. Indeed, the president himself may be inhibited for legal reasons from saying all that he might want to say in public. Today, as Nightline's

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1/26/98 NIGHTLINE
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Correspondent Chris Bury reports, the president made as categorical a denial as he could.

Pres. WILLIAM J. CLINTON: I did not ask anyone to tell anything other than the truth. There is no improper relationship and I intend to cooperate with this inquiry.

CHRIS BURY, ABC News: (voice-over) If the president's first, somewhat subdued explanation last Wednesday failed to clear the air, then his guarded response the following day during a photo op with Yasir Arafat only made matters worse.

Pres. WILLIAM J. CLINTON: (January 22) You and the American people have a right to get answers. We are working very hard to comply, 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.

CHRIS BURY: (voice-over) Only today, five days after the allegations first surfaced, did the president, with Hillary Rodham Clinton close at his side, look squarely into the camera, clench his jaw and show some anger in his voice.

PRES. BILL CLINTON: 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. I never told anybody to lie, not a single time, never. These allegations are false and I need to go back to work for the American people.

CHRIS BURY: President Clinton's reluctance to make that kind of forceful response before today has been one of the most damaging factors in this scandal. After all, the Clinton team perfected the war room and those rapid response counter attacks during previous crises. This time, the president's defenders have been uncharacteristically slow off the mark and their familiar tactics are just now beginning to emerge.

ANN LEWIS, White House Communications Director: I can say with absolute assurance the president of the United States did not have a sexual relationship because I have heard the president of the United States say so.

CHRIS BURY: (voice-over) In the last few days, Mr. Clinton's most trusted political advisers have fanned out across the air waves. Tactic number one, if the president said so, it must be true.

PAUL BEGALA, Clinton Adviser: (Courtesy "This Week with Sam and Cokie") Like, you know, I'm like Dale Evans with the Bible -- God wrote

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, I believe it and that settles it.

JAMES CARVILLE, Clinton Adviser: (Courtesy NBC's "Meet The Press") He's denied it to his staff, he's denied it to the news media, he's denied it to the American people and denied it to his cabinet and denied it to his friends. Can't be any more emphatic about that.

CHRIS BURY: (voice-over) But none of those defenders could say they had personally asked the president a single question about Monica Lewinsky.

HOWARD FINEMAN, "Newsweek": (ph)I think the performance by the spin doctors yesterday was pretty darned weak.

CHRIS BURY: (voice-over) Howard Fineman is chief political correspondent for Newsweek.

HOWARD FINEMAN: They weren't able to go on the air and say look, we are good friends of Bill Clinton's, we've looked him in the eye and we are here to tell you that that's a man who's telling the truth. All they said was we heard the same denials on TV that you all did, and that's not very convincing.

CHRIS BURY: (voice-over) Tactic number two, the lawyers won't let us k.

ANN LEWIS: We had some very educational meetings with the lawyers.

The legal counsel has explained to us...

Our lawyers have explained to us that when such serious charges, words like subornation of perjury, when those kinds of charges are in the air, your first obligation is to cooperate fully with the investigation.

CHRIS BURY: (voice-over) Nightline reviewed the White House public relations performance with Stuart Taylor, a lawyer who writes for the National Journal.

STUART TAYLOR, "National Journal":Innocent people with nothing to hide who tell the truth don't need to surround themselves with phalanxes of lawyers. They simply tell the truth. They rely on that rather than on their ability to construct a story with elaborate help from experts at constructing stories after they've studied everything everybody else might say.

GEORGE STEPHANOPOLOUS, ABC News Consultant: I know that if I were inside and I asked the president a question and then I came out and ked to you, the next call I would make would be to my lawyer because this world we're in now, a super heated world of special prosecutors,

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conversation with a person involved in the investigation becomes subpoenable, becomes actionable in court and I perfectly understand why the president's spokespeople over the weekend took that stance.

CHRIS BURY: (voice-over) Tactic number three, go after independent counsel Kenneth Starr.

JAMES CARVILLE: This started out as a $40,000 land deal that lost money and about $50 million and five years later, after nobody could find anything we're wiring up people in hotels and feeding 'em whiskey trying to get 'em to talk and everything else. This is a scuzzy investigation.

RAHM EMANUEL, Senior Presidential Adviser: (From CNN's Late Edition) Ken Starr, for three and a half years, has been walking around with a loaded subpoena. He started investigating a 24-year-old real estate deal and now he's investigating a 24-year-old young lady and the only common thread I can find, and I'm not a lawyer, is that they're both 24-years-old.

STUART TAYLOR: It's all Kenneth Starr, Kenneth Starr, Kenneth Starr. Kenneth Starr didn't make these audiotapes. Kenneth Starr didn't put Linda Tripp up to it. Kenneth Starr didn't tell Monica Lewinsky what to on the audiotapes.

HOWARD FINEMAN: If you look at Bill Clinton in crisis, you see a pattern. First, the silence. Then the angry denials. Then this hair splitting. And then the full bore attack on whoever the accusers happen to be. They did it to Gennifer Flowers in '92 with some success. They did it to critics on the draft in those days. Now they're looking for enemies and they've found one in Ken Starr.

CHRIS BURY: (voice-over) Perhaps even more critical than what the president and his defenders are saying is what they are not.

(interviewing) The White House has not yet put forward some kind of plausible story line or explanation, which is a huge omission, it seems.

GEORGE STEPHANOPOULOS: That's the big one. You know, in the end, I think this is one of those stories where spin is essentially meaningless, in the long run, because in the end, only one question matters, is the president telling the truth, the whole truth and nothing but the truth? And if he is, everything will be okay. If he's not, no spin will help.

CHRIS BURY: (voice-over) Today, on that one big question.

OLF BLITZER, CNN WHITE HOUSE CORRESPONDENT: (from White House press

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ference) Why is it so hard then to simply explain to the American public what was the nature of their friendship or relationship?

CHRIS BURY: (voice-over) The White House spokesman simply would not answer.

WOLF BLITZER: Why is that such a difficult question to answer?

MIKE McCURRY, White House Press Secretary: It's not difficult, I just don't think it needs to be done here.

WOLF BLITZER: Why?

MIKE McCURRY: Because the president's been very straightforward and very clear about what he said and I think most Americans heard him and they know exactly what he means and I don't want to get into, you know, a description of different permutations on what is very clearly an unambiguous statement.

CHRIS BURY: So no one at the White House, from President Clinton down to his press secretary, has yet given a straightforward plausible account describing exactly his relationship with Monica Lewinsky. And all the president's denials, no matter how often they are repeated by supporters, may never be taken at face value until that fundamental question is answered, too.

This is Chris Bury for Nightline in Washington.

TED KOPPEL: The issue of Kenneth Starr and his motives, when we come back.

(Commercial Break)

TED KOPPEL: What about Kenneth Starr, the independent counsel? We asked that in our ABC News poll. Is he trying to hurt the president politically? And 56 percent said yes; only 30 percent said no.

If anyone is saying less publicly than President Clinton these days, it is Judge Starr, who is sitting in the middle of his web, encouraging evidence to be brought to him. Here's Nightline correspondent Dave Marash.

WILLIAM GINSBURG, Monica Lewinsky's Attorney: We have made a complete proffer to the office of the independent counsel.

DAVE MARASH, ABC News: (voice-over) In the midst of typical Washington media mayhem tonight, Monica Lewinsky's attorney announced he had just played what may be his final card, a formal proffer, a promise of

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exactly what his client will say in court.

WILLIAM GINSBURG: We are now in a position where the ball is totally in Judge Starr's court and Judge Starr has to tell us what he wants to do.

DAVE MARASH: (voice-over) What will Ms. Lewinsky testify? Ginsburg wouldn't say. What does the lawyer want in exchange? Full immunity for Lewinsky, not more limited use immunity. What's the difference?

MICHAEL ZELDIN, Former Special Prosecutor: Use immunity essentially is that you can't be prosecuted for the words out of your mouth. It's a more limited form of immunity. Full immunity immunizes you from all criminal conduct save perhaps for perjury.

DAVE MARASH: How will Starr respond? No answers yet tonight, but there was this hint that prosecutors may already be reorganizing their case. Nightline has learned tonight that Monica Lewinsky's grand jury appearance, scheduled for tomorrow, has been postponed until Wednesday at the earliest.

WILLIAM GINSBURG: If these allegations are true then I have to be extremely, extremely angry, and I am.

AVE MARASH: (voice-over) From the moment he arrived in Washington, attorney William Ginsburg has followed what many fellow lawyers consider a peculiar strategy, all but conceding that the allegations his client had a sexual relationship with President Clinton are true and that Ms. Lewinsky perjured herself in her affidavit in the Paula Jones lawsuit.

WILLIAM GINSBURG: Her greatest fear is wearing the proverbial scarlet letter of indictment and conviction for the rest of her life and the possibility of spending some very unsavory time in a prison.

DAVE MARASH: (voice-over) While Ginsburg's poor little rich girl Lewinsky portrait may have won public sympathy, few lawyers consider that jail threat credible.

JOHN BARRETT, Former Special Prosecutor: The reality is that there's no real threat of her prosecution. There's just no jury appeal. There's no serious reason why she deserves the full prosecutorial resources of the government focused on her. She's a much better witness and if that leads to other people, that's clearly what Starr wants to do.

KENNETH GORMLEY, Duquesne Law School: It's hard to imagine how Kenneth Starr goes forward without her and it's also hard to imagine why he ·ld not grant her immunity.

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DAVE MARASH: (voice-over) So, what's all the haggling been about? Time, say several legal eagles, time for Starr to gather corroborating evidence and witnesses, time for President Clinton and his advisers to stew.

MICHAEL ZELDIN: I think that what Bob Bennett and the legal team is working against when they have to meet with the political team, which is they're saying these charges are too amorphous. We can't get a handle on what it is that is being alleged here. Keep quiet and let it play out. That's a difficult thing for a political person who wants, that's watching numbers drop in the polls and is watching the American people saying we want to hear from our president, we want to hear from our president.

DAVE MARASH: (voice-over) Law professor Jeffrey Rosen recently wrote in the New York Times worrying about this case, which necessarily invades presidential privacy and about the man prosecuting it.

JEFFREY ROSEN: An independent counsel unconstrained by financial or political accountability. So I do think it's fair to worry about whether Mr. Starr, with or without explicit cooperation, may have turned himself into an unpaid investigator for Paula Jones' lawyers.

AVE MARASH: (voice-over) While law professor John Barrett sees nothing to fear.

JOHN BARRETT: And I think what the independent counsel statute exists for and what appears generally to be happening in these cases is a credible investigation, a credible prosecution, a day in court that will establish the truth or the falsity of these charges.

DAVE MARASH: When might a Clinton-Lewinsky courtroom confrontation come?

Ken Starr's critics and his advocates agree it must come quickly or not at all.

I'm Dave Marash for Nightline in Washington.

TED KOPPEL: I'd like to warn our affiliates that we'll be going just a minute or two over our normal allotted time. We have an update to a story I reported at the beginning of this broadcast. I'll have that update for you, in a moment.

(Commercial Break)

TED KOPPEL: One late breaking development. The White House called after we went on the air tonight to advise us of their reaction to

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e Dallas Morning News story where the secret service agent was prepared to testify that he saw President Clinton and Monica Lewinsky in "a compromising position".

President Clinton's attorney David Kendall (ph) denounced the story as false and malicious. His statement goes on to say, and I quote, "This is another false political leak for obvious and political reasons on the eve of the State of the Union."

Peter Jennings will anchor an ABC News special on President Clinton's State of the Union address at 9:00 Eastern, 8:00 Central time tomorrow night.

That's our report for tonight. I'm Ted Koppel in Washington. For all of us here at ABC News, good night.

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---- INDEX REFERENCES ----

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Tab 35

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Monday, January 26, 1998

NEWS

PRESIDENT CLINTON DELIVERS REMARKS CHILD CARE, EDUCATION INITIATIVE AT WHITE HOUSE
JACKIE JUDD / JEFFREY TOOBIN / SAM DONALDSON, PETER JENNINGS

ANNOUNCER: This is an ABC News Special Report. "Crisis in the White House."

PETER JENNINGS: Good morning, everybody. I'm Peter Jennings in Washington. We're going to interrupt a previously scheduled event at the White House today to give you a pretty good example of the dilemma in this city today.

The President and Mrs. Clinton are at a ceremony in The Roosevelt Room of the White House this morning to celebrate part of the President's child care initiative. And we interrupt partly to give you a sense of

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:t of the kids that get in trouble get in trouble after school closes
..d before their parents get home from work. So in the adolescent years and later, it's profoundly important to try to give kids something to say yes to and something positive to do. But we can't do it alone.

As I said, our plan involves a public-private partnership. So it's fallen to me to announce that our distinguished guest from the Mott Foundation of Flint, Michigan, has pledged up to $55 million to help insure that after-school programs supported by federal funds are of the highest quality.

That is an astonishing...

(Applause)

Thank you, Bill White. Thank you.

(Applause)

We are determined to help Americans succeed in the workplace; to raise well-educated, healthy kids; and to help Americans succeed at the

toughest job of all, that of being a parent. And the Mott Foundation has gone a long way toward helping us. I thank them.

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gone a long way toward helping us. I thank them.

Now, I have to go back to work on my State of the Union speech. And I worked on it until pretty late last night. 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. I never told anybody to lie, not a single time --never. These allegations are false, and I need to go back to work for the American

people.

Thank you.

(Applause)

PETER JENNINGS: The President speaking in The Roosevelt Room to the 21st Century Community Learning Centers program, which is a

public-private program between the government and the Mott Foundation to help children after school and saying again there -- we had known in advance he was going to say something -- he wants the American people listen to him, he did not have a sexual relationship with Monica

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ten to him, he did not have a sexual relationship with Monica
Lewinsky, he never told anyone to lie and those allegations are not
correct.

The person who has been covering what is indisputably a crisis in the Clinton presidency at the moment for us since the beginning is ABC's Jackie Judd. Jackie, when you hear the President say that this morning, I'm inclined to ask you first, what does the special prosecutor currently have to work with that we know can be confirmed?

JACKIE JUDD: Ken Starr's investigation is now working on two tracks, Peter. First, there are still efforts to get Monica Lewinsky to cooperate. For Ken Starr to be convinced that she will give her full and complete testimony. Those negotiations are still going on.

The second track is that his office is trying to find evidence, find eyewitnesses to establish a case that could stand on its own with or without that full and complete testimony of Monica Lewinsky.

We reported, for example, over the weekend, Peter, that Starr's office is investigating whether or not there was a witness to a moment between the President and Lewinsky at the White House. If true, that kind of witness could support allegations of an affair again with or without Ms. Lewinsky.

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ut, most notably education, trying to prepare kids for the next century is imperiled by this story of sex and possibly perjury and possible obstruction of justice that looms over him.

Hope you'll stay with us for breaking news. I'm Peter Jennings in Washington.

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1/26/98 ABCNWSSPR (No Page)
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Tab 36

WHITE HOUSE EDUCATION NEWS CONFERENCE
PARTICIPANTS: PRESIDENT BILL CLINTON, FIRST LADY HILLARY CLINTON VICE PRESIDENT AL GORE EDUCATION SECRETARY RICHARD RILEY BILL WHITE, PRESIDENT, C.S. MOTT FOUNDATION
ROOSEVELT ROOM, THE WHITE HOUSE WASHINGTON, DC
10:17 A.M. EST MONDAY, **JANUARY 26, 1998**

MRS. CLINTON: (Applause.) Thank you. Thank you and good morning. Please be seated.

Welcome to the White House. It is a pleasure to have all of you join the president and the vice president and Secretary Riley, Bill White (sp) of the Mott (sp) Foundation, and Mr. and Mrs. Bass (sp). And I'm especially pleased to see in the audience so many people who care so much about education and child care.

This morning we come together to hear about the president's plans to strengthen education, to discuss his historic child care initiative, and particularly to talk about how he has made quality after-school programs a national priority.

I'd like to start by talking about the child care initiative itself because it is the single largest investment in child care in our nation's history, and it will go a long way toward helping our nation's working parents find the care they can afford and trust.

This initiative will make care more affordable and it will also double the number of children receiving subsidies and increased tax credits for child care. It will help local communities and it will promote early learning and health child development opportunities. It will ensure higher standards for child care by stepping up enforcement.

But we all know that high-quality child care needs don't disappear when children start school. It's estimated that up to 5 million school-age children spend time as latchkey kids without adult supervision.

That's why, as part of this initiative, the president is making a significant investment in after-school care.

This is so important for so many working families. We want more of America's children to say no to drugs and alcohol and crime, and yes to reading and soccer and computers. And with this expanded investment in after-school care, combined with public-private partnerships in communities, we will be able to give our children those opportunities.

This morning the president will announce how one such partner, the C.S. Mott Foundation, is providing critical support to strengthen and improve after-school programs.

This afternoon I will be visiting a model program in Harlem, at the Harriet Tubman School, to underscore once again how important these programs are for all of our children.
Now it is my great privilege to introduce someone who has been so committed to our children, and that is the secretary of education, Dick Riley. (Applause.)

SEC. RILEY: Thank you very much. Thank you. (Applause continues.) Good morning. Thank you so much, and good morning to all of you.
You know, today over 52 million will sit in our nation's classrooms, and the quality of education that they will get during the school day will determine really the future of this country.
But what goes on after the school day ends is very important also. After-school programs can be an important part of a child's education.
They can give children more time to learn. They can offer young people safe and drug-free havens and keep kids out of trouble. They can give children the chance to enhance their lives through the arts and through music and through community service. And they can reassure working parents that their kids are in the right place and doing the right thing.
Unfortunately, there are not enough quality after-school or before-school programs in our schools and communities right now. And that's why President Clinton and Vice President Gore and Mrs. Clinton are making a major commitment to the after-school effort.
The administration's 1998 budget included a down payment of $40 million for after-school programs, but now we really want to step on the gas. We will ask Congress for $1 billion over the next five years to serve 500,000 students in 4,000 programs. We are going to call them the 21st Century Community Learning Centers. And in order for communities and schools to get the best information possible on how to start after-school programs, we and the Mott Foundation are sponsoring 11 regional workshops starting in February.
We are honored so much today to have with us a conscientious American citizen, Bill White, the president of the C.S. Mott Foundation; a person, along with his board -- and several members are here -- are concerned deeply about children, about their families, about their safety and about their education. And Bill will make a very important and significant statement about the foundation's participation in this effort.
And thank you, Bill, very much for being with us. (Applause.)

MR. WHITE: Thank you, Mr. Secretary. I only wish that C.S. Mott, who died in 1973, was here today. He loved kids, and this is about kids. Frankly, this historic partnership between the Department of Education and the Mott Foundation is a symbol of the full spectrum of public and private partnerships that we can expect to spring to life as this initiative is embraced by communities all over the United States.

The Mott Foundation has made this commitment, in part, because there are certain things which we can fund, which federal funds won't cover. And so that's what we're about, is looking at the long-term sustainability of these programs, the leadership of these programs, and those types of activities.

Mr. Vice President, I want to thank you for your deep understanding and personal commitment and articulation and support for these programs. And Mr. President, I believe this initiative will go down among the most important initiatives because it's about the future of our country. Thank you very much. (Applause.)

Mrs. Clinton, in 1939, another first lady who cared deeply about children, and it was Mrs. Roosevelt, came to Flint to tour programs funded by the Mott Foundation. They were early child care and after-school programs.

I believe that these programs have been proven by the test of time, and they're as important today -- perhaps more so -- than they were 60 years ago.

And finally, I'd love to talk about these programs; I've seen many of them. But I probably have the best job here today, and it is my privilege -- and, if I may say, high honor -- to introduce two parents who have kids in such programs, and they are Rand and Deborah (sp) Bass from Arlington.

Mr. and Mrs. Bass. (Applause.)

RAND BASS: Thank you, Mr. White.

We want to thank the president, the first lady, and Vice President and Mrs. Gore for this opportunity today to tell you a little bit about our positive experience with the extended day program at our children's school.

Deborah (sp) and I have two children:</u> Mitchell, who is 8, and Susie (sp), who is 6. They attend Barcroft Elementary School in Arlington, an ethnically diverse public school with a strong focus on the arts and a wonderful extended day program.

We did a lot of research on both public and private schools before we decided to send Mitchell and Susie to Barcroft. There were many factors to consider, of course, but the availability of after-

school care on the premises was an important one. We both firmly believe we made the right choice for our children three years ago. We know the children are safe, well cared-for, and among friends.
The program is quite structured, with a wide range of activities available, from dodge ball in the gym to crafts, reading aloud, library visits, board games, and other -- card games. There's even a special quiet, supervised homework room for those students who want to get a head start on their homework.
Our children are very happy in extended day, and that makes all the difference for us as parents.
We hope that by the time Mitchell and Susie are in middle school, we will have similar options for high-quality after-school care for them.
On behalf of all the working parents in America, we want to thank the administration's leadership for their efforts to create more after-school programs. We know that with the leadership from the president, the first lady, and vice president and Mrs. Gore, that all the children in our country will have a better future.
And now it's our great pleasure to introduce someone whose long-standing commitment to children, education and after-school programs is much appreciated by all parents. Ladies and gentlemen, we are honored to introduce a hard-working parent himself, the vice president of the United States, Al Gore.

VICE PRESIDENT GORE: (Applause) Thank you very much. Thank you. Thank you very much, ladies and gentlemen.
And on behalf of the president and first lady, I want to acknowledge the presence of Senator Dianne Feinstein of California. Thank you, Dianne, for your hard work in this area. (Applause.) And also Senator Chris Dodd of Connecticut. We appreciate your presence here, Chris. And I know that Senator Barbara Boxer, I think, is in back there. And there are members of a lot of education groups and child care groups, community groups, parent-teacher groups, school boards association. I'm not going to try to acknowledge everyone who should by rights be singled out here. But thank you for your participation and presence and hard work over the years on these issues.
I want to thank Rand and Deborah (sp) Bass for introducing me and for giving that wonderful statement. I know of Barcroft Elementary. Tipper and I lived in Arlington for quite a long time.
And I also want to express my deep appreciation to Bill White, the president and CEO of the Mott Foundation. And I want to thank the board of directors and other representatives of the Mott Foundation, who are also present with us here today. Bill, it's a wonderful

commitment that you're making, and it's going to make a huge difference in the lives of so many children and families across this country.

And of course, Secretary Riley has offered such tremendous leadership and vision and steadfastness of all these topics. We are really grateful to you, Mr. Secretary.

We're here today, of course, to hear the president announce important new details of his commitment to education and his plan to give all of the children in this country the tools needed to succeed in the 21st century. But first of all, I'd like to say something that everybody knows. These landmark investments would not have been possible without the dedication and hard work and achievement of our first lady, Hillary Rodham Clinton. I want to acknowledge her leadership and her great advocacy for all of these programs.

(Applause.)

For 25 years, she has worked to put children and families at the top of our national agenda. She deserves the admiration and gratitude of every parent in America, and she certainly has mine. And in fact, the White House Conference on Early Childhood Development and then the one on child care both helped to set the stage for the national dialogue that we're now having.

And I thank to Bill White and his Board of Directors for this generous commitment, but the president will describe that in just a moment and you will see just what a historic commitment it is. And the president will speak more broadly about his overall education agenda because this morning's announcement should be seen in the context of how we prepare the people of our country, and especially children and families, for the challenges of the 21st century.

Before presenting the president, I want to say just a few words about an area that's of special importance to me. It's been mentioned already -- after-school care. As Rand and Deborah (sp) Bass know very well, when children start school, it becomes especially hard for parents to balance the needs of home and work and raise strong families. That is why the president and first lady's commitment to child care is so significant, and that is why our commitment to after-school care is such a critical part of our child care plan.

The need for quality after-school care has often been raised at the annual family conferences that Tipper and I have in Nashville every year. We've had them for the last six years. And, especially at last year's conference, which was on families and education and parents' involvement in their children's education, we learned how serious it -- the challenge is, and how needed these after-school programs are.

There are 5 million children, as the first lady said, who leave school before their parents get home. This period of time between the school bell and the factory whistle is the most vulnerable time for children. These are the hours when children are more likely to engage in at-risk behavior and are more vulnerable to the dangers that still exist in too many neighborhoods and communities.

That puts some parents in a gut-wrenching dilemma: Do they stay at home and forego the family income that they need, or do they stay on the job and worry that their children will be in danger while they're away?

Parents need help balancing those competing priorities. That is why the president announced that he will increase by an unprecedented 400 percent the 21st Century Community Learning Center grants that can be used to start, expand, and improve local after-school care. And I want to formally acknowledge Senator Barbara Boxer, who has worked her way through the media, through the crowd here. (Applause.) Thank you.

Of course, this whole child-care program and the education agenda and after-school care represent just some of the ways that President Clinton is investing in the future of our children and giving parents more of the tools they need to raise strong families.

So now I am very pleased to introduce America's true education president and the greatest champion of working parents and working families that the United States of America has ever known: President Bill Clinton. (Applause.)

PRESIDENT CLINTON: Thank you very much. Thank you. Thank you -- (inaudible). Thank you. (Applause continues.) Thank you very much. Thank you. Please be seated. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you very much. (Applause continues.) Thank you. Thank you very much.

First, let me thank all of you who are here. Many of us have been working together now for 20 years on a lot of these issues, and this is a very happy day for us.

I thank the first lady for all she has done on this issue for as long as I've known her.

I thank the vice president and Mrs. Gore for their family conference and the light it has shed on the announcement we are here to emphasize today.

I thank you, Secretary Riley, for the community learning centers. And I'm very proud of what we've done there.

Thank you, Bill White. I'll talk more about your contribution in a moment, but it is truly remarkable. And I thank Rand and Deborah (sp)

Bass for giving us a living breathing example of the best of America, parents who are working hard to do their jobs, but also determined to do their most important job very well with their children. I thank Senator Feinstein, Senator Dodd and Senator Boxer for being here. Tomorrow, in the State of the Union address, I will spell out what we seek to do on behalf of our children to prepare them for the 21st century, but I want to talk a little bit about education today and about this announcement in that context.

Education must be our nation's highest priority. Last year, in the State of the Union address, I set out a 10-point plan to move us forward and urged the American people to make sure that politics stops at the schoolhouse door.

Well, we've made a lot of progress on that 10-point plan; a remarkable -- a remarkable array of initiatives to open the doors of college to every American who is willing to work for it; strong progress toward high national standards in the basics, the America Reads challenge to teach every 8-year-old to read, continued progress in the vice president's program to hook up all of our classrooms and libraries to the Internet by the year 2000.

This has been the most important year in a generation for education reform. Tomorrow I set out the next steps on our continuing road:

First, I will propose the first-ever national effort to reduce class size in the early grades. (Applause.) Hillary and I worked very hard, 15 years ago now, to have very strict class sizes, at home, in the early grades. And it was quite controversial and, I think, enormously beneficial when we did it.

Our balanced budget will help to hire a hundred thousand teachers, who must pass state competency tests but who will be able to reduce class size in the first, second and third grades, to an average of 18, nationwide. (Applause.)

Second, since there are more students and there will be more teachers, there must be more classrooms, so I will propose a school-construction tax cut to help communities modernize and build new schools.

Third, I will promote a national effort to help schools that follow the lead of the Chicago system in ending social promotion but helping students with summer school and other programs to give them the tools they need to get ahead.

All these steps will help our children get the future they deserve. And that's why what we're announcing here is so important as well. Every child needs someplace to go after school. With after-school programs, we can not only keep our kids healthy and happy and

safe; we can help to teach them to say no to drugs, alcohol and crime, yes to reading, sports and computers.

My balanced budget plan includes a national initiative to spark private-sector and local community efforts to provide after-school care, as the secretary of Education said, to half-a-million more children.

Now let me say in addition to all the positive benefits, I think it's important to point out that the hours between 3:00 and 7:00 at night are the most vulnerable hours for young people to get in trouble for juvenile crime.

There is this -- this sort of assumption that everybody that gets in trouble when they're young has just already been abandoned. That's not true. Most of the kids who get in trouble get in trouble after school closes and before their parents get home from work. So there -- in the adolescent years and later years, it's profoundly important to try to give kids something to say yes to and something positive to do.

But we can't do it alone.

As I said, our plan involves a public-private partnership. So, it's -- fallen to me to announce that our distinguished guests from the Mott Foundation of Flint, Michigan, has pledged up to $55 million to help ensure that after-school programs supported by federal funds are of the highest quality. That is an astonishing (gift ?). (Applause.) Thank you, Bill White. Thank you. (Applause.)

We are determined to help Americans succeed in the workplace, to raise well-educated, healthy kids, and to help Americans succeed at the toughest job of all, that of being a parent. And the Mott Foundation has gone a long way toward helping us, and I thank them.

Now I have to go back to work on my State of the Union speech, and I worked on it till pretty late last night. 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, Miss Lewinsky. I never told anybody to lie, not a single time. Never. These allegations are false. And I need to go back to work for the American people.

Thank you.

(Applause.)

Tab A

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Tuesday, January 27, 1998

WASHINGTON (AP) _ In a strangely strained setting, President ...
WALTER R. MEARS
Associated Press

WASHINGTON (AP) _ In a strangely strained setting, President Clinton is proclaiming the State of the Union to be strong as he begins his sixth year in the White House _ but he can make no such claim about the state of his presidency.

The State of the Union address is a president's grand stage, an occasion of state, his hour to set the agenda and declare his goals before Congress, the Cabinet, diplomats and the nation. This is prime time television on his terms, unlike the TV torrent over accusations, which he denies, that he was sexually involved with a former White House intern, now 24, and attempted to cover it up.

He does not plan to speak of it in his address tonight, but there's no avoiding the impact of the Monica Lewinsky case. That led him to a remarkable finale to a routine White House ceremony on education Monday.

"I want to say one thing to the American people," Clinton said, glaring at the TV cameras and shaking a finger for emphasis. "I want you to listen to me. I'm going to say this again.

"I did not have sexual relations with that woman, Miss Lewinsky. I never told anybody to lie. Not a single time. Never. These allegations are false, and I need to go back to work for the American people."

That certainly sounds categorical, but given the adroitly worded denials that enabled Clinton to brush off past questions about affairs, his draft record and the marijuana he didn't inhale, there were more.

Presidential spokesman Mike McCurry said there were indeed answers yet to be provided, and that they would be at the proper point, but that Clinton left no ambiguity on the central ones: sex with an ntern and allegations that she'd been asked to lie to conceal it.

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"I think every American that heard him knows exactly what he meant," McCurry said when he was asked whether the denial covered any form of sexual contact.

Ann Lewis, the White House communications director, said flatly that it did. "Sex is sex, even in Washington, I've been assured," she said.

The aim was to get past the allegations of scandal, back to the business Clinton wants addressed, telling Congress and the nation what he wants done, and boasting in an election year of what has been done during the Democratic administration so far.

The budget deficit is the lowest in 30 years, with the first balanced budget since 1969 in prospect next year. The economy has grown for seven years without a recession, the third longest expansion in history. Both inflation and unemployment are low, and despite stress abroad, in Iraq and with the extended U.S. military mission in Bosnia, it is peacetime.

But with the barrage of questions, accusations and rumors, Clinton's prospects have dimmed for getting things done his way in an election-year with a Republican Congress.

McCurry acknowledged the obvious, that what the White House is doing "has been in something of a shadow because of this incident."

He said Clinton's major address of the year is "being given in stranger circumstances" than in the past. That includes speculation about impeachment or resignation should allegations of perjury or encouraging it be proven.

There's been nothing like this since Watergate-worn Richard Nixon declared to Congress in his 1974 State of the Union address that he had no intention of resigning. Eight months later he quit, after Republican leaders told him he could not avoid impeachment for the cover-up role proven on his own tape recordings.

In his memoirs, he quoted a memo to himself, written on New Year's Day. "Fight, because if I am forced to resign, the press will become a much too dominant force in the nation, not only in this administration but for years to come," he wrote. "Fight, because resignation would set a precedent and result in a permanent and very destructive change in our whole constitutional system."

But after a long struggle, he surrendered.

This case and these times are different. It wasn't a week before

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there was talk, and not only from the fringes, that Clinton might be forced from the White House. All hedged with an if, since there's no proof.

But all said and replayed, along with allegations that not long ago would have been X rated beyond broadcasting. And all adding to the distraction as Clinton addresses the State of the Union and his audience tries to appraise his.

EDITOR'S NOTE _ Walter R. Mears, vice president and columnist for The Associated Press, has reported on Washington and national politics for more than 30 years.

---- INDEX REFERENCES ----

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Tab B

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Today

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Tuesday, January 27, 1998

Interview: Hillary Rodham Clinton discusses allegations against her husband, child care, and State of the Union address

MATT LAUER, co-host:

On CLOSE UP this morning, the first lady of the United States, Hillary Rodham Clinton.

Mrs. Clinton, good morning.

Mrs. HILLARY RODHAM CLINTON: Good morning, Matt. Matt, before we get into your questions, I just want to express again, Bill's and my condolences to Katie and her children, and Jay's entire family. And I know that everybody who watches the show, feels as we all do h her, and want to help her in any way.

LAUER: I spent some time with her yesterday. And I know she appreciated your call. Thank you very much.

We appreciate your being here. This--this interview had been scheduled several weeks ago to talk about the subject of child care, which we will talk about this morning.

Mrs. CLINTON: Right, mm-hmm.

LAUER: But we appreciate you honoring the commitment, even in light of recent events. Thank you very much.

There has been question on the minds of a lot of people in this country, Mrs. Clinton, lately, and that is what is the exact nature of the relationship between your husband and Monica Lewinsky? Has he described that relationship in detail to you?

Mrs. CLINTON: Well, we've talked at great length. And I think as this matter unfolds, the entire country will have more information. But we're right in the middle of a rather vigorous feeding frenzy right now. People are saying all kinds of things, putting out rumor and innuendo. And I have learned over the last y years being involved in politics, and especially since my sband first started running for president, that the best thing to

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in these cases is just to be patient, take a deep breath, and the truth will come out. But there's nothing we can do to fight this firestorm of allegations that are out there.

LAUER: But he has described to the American people what this relationship was not...

Mrs. CLINTON: That's right.

LAUER: ...in his words.

Mrs. CLINTON: That's right.

LAUER: Has he described to you what it was?

Mrs. CLINTON: Yes. And we'll--and we'll find that out as time goes by, Matt. But I think the important thing now is to stand as firmly as I can and say that, you know, that the president has denied these allegations on all counts, unequivocally, and we'll--we'll see how this plays out. I guess--everybody says to me, 'How can you be so calm?' or 'How can you just, you know, look like you're not upset?' And I guess I've just been through it so many times. I mean, Bill and I have been accused of everything, including murder, some of the very same people who are behind these allegations. from my perspective, this is part of the continuing political campaign against my husband.

LAUER: To the best of my knowledge, Mrs. Clinton, has your husband ever given or received gifts from or to Monica Lewinsky?

Mrs. CLINTON: I'm not going to comment on any specific allegation, because I've learned we need to put all of this into context, and it will be put into context. And anyone who knows my husband knows that he is an extremely generous person to people he knows, to strangers, to anybody who is around him. And I think that, you know, his behavior, his treatment of people will certainly explain all of this.

LAUER: When you--when you say he's a generous person, so it is possible that he has given gifts to Monica Lewinsky?

Mrs. CLINTON: I think it's possible, of course, because if you know my husband, you know that he is somebody who will, you know, say 'Matt, how would you like this?' I mean, I've seen him take his tie off and hand it to somebody, you know.

LAUER: So that wouldn't be--that wouldn't be a behavior that would unusual for him dealing with an intern in the White House?

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Mrs. CLINTON: Dealing with anybody, Matt. I mean, seriously, I have--I've known my husband for more than 25 years, and we've been married for 22 years, and the one thing I always kid him about is that he never meets a stranger. He is kind, he is friendly, he tries to help people who need help, who ask for help. So I think that everybody ought to just--just stop a minute here and think about what we're doing. And it--it's not just what we're doing in terms of making these accusations against my husband, but I'm very concerned about the tactics that are being used and the kind of intense political agenda at work here.

LAUER: I want to talk about Ken Starr in a second. Be--before I get to him, let me just ask you, do you know Monica Lewinsky?

Mrs. CLINTON: No. Unh-unh.

LAUER: You've never met her?

Mrs. CLINTON: I may have. You know, there are hundreds and hundreds of young people who serve as interns. And, you know, we have big events for them. We take pictures with them. But unless they work directly in my office, I'm--I'm not likely to meet them.

LAUER: Did--did Evelyn Lieberman, the former deputy chief of staff, or any other White House staffers, Mrs. Clinton, ever come to you and say 'We may have a problem with one of the interns at the White House,' and mention Monica Lewinsky...

Mrs. CLINTON: No.

LAUER: ...by name?

Mrs. CLINTON: No, that never happened.

LAUER: So these charges came as big--to--as big as shock to you as anyone?

Mrs. CLINTON: And to my husband. I mean, you know, he woke me up Wednesday morning and said 'You're not going to believe this, but...' and I said 'What is this?' And so, yeah, it came as a very big surprise.

LAUER: When he said 'But,' he said 'But' what?

Mrs. CLINTON: 'But I want to tell you what's in the newspapers.'

LAUER: I--I think the--the part of this that makes certain people across the country uneasy is that we have a 21-year-old intern at the White House, who moves to the Pentagon, who then gets a job interview

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the UN with Bill Richardson himself, and then a very dear friend of your husband's, Vernon Jordan, recommends her for two jobs in this city, here in New York, and then drives her personally to a lawyer's office when she's subpoenaed by Kenneth Starr. Does it not appear though--that--that this intern had more clout in Washington than most others do?

Mrs. CLINTON: I don't know the circumstances of any of that, Matt. I think that, you know, I--I just can't describe to you how outgoing and friendly Vernon Jordan is. I mean, when he stood up and said what I believe to be the absolute truth, that he has helped literally hundreds of people, and it doesn't matter who they are. And if he were asked to help somebody, he would help that person. I've seen him do it countless times, so I guess I know the people involved. I know them personally. I know them well. I've known Vernon longer than I've known my husband.

LAUER: So when people say there's a lot of smoke here...

Mrs. CLINTON: There's...

LAUER: ...your message is 'Where there's smoke...'

Mrs. CLINTON: There isn't any fire, because think of what we've been through for the last six years, and think of everything we've been accused of. And, you know, initially, when this first started and I would be accused of something, or my husband would be accused of something, I would be really upset, and I would want to rush out, and I'd say, 'That's not true.' And then somebody would nitpick and say 'Well, what about this?' And I'd say 'Well, I hadn't thought about that.' And then I'd rush around, I'd say, 'Well that's not true.'

LAUER: Are you saying, though, that you're no long--that this doesn't upset you any more, you--you're...

Mrs. CLINTON: Look, it's...

LAUER: ...almost numb to it?

Mrs. CLINTON: ...it's not being numb so much as just being very experienced in the unfortunate, mean-spirited give and take of American politics right now. So, having seen so many of these accusations come and go, having seen people profit, you know, like Jerry Falwell, with videos, accusing my husband of committing murder, of drug running, seeing some of the things that are written and said about him, my attitude is, you know, we've been there before, we have been in this before, and I am just going to wait patiently until the truth comes out.

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LAUER: So if--so if what you have heard is something you can believe, and if what the president has told the nation is the whole truth and nothing but the truth...

Mrs. CLINTON: Right.

LAUER: ...then you'd have to agree that this is the worst and most damaging smear of the 20th century.

Mrs. CLINTON: Well, I don't know. There have been a lot of smears in the 20th century, but it's a...

LAUER: This is pretty devastating.

Mrs. CLINTON: ...pretty, pretty bad one. Well, just think about it, and this is what concerns me, this started out as an investigation of a failed land deal. I told everybody in 1992, 'We lost money.' People said, 'It's not true,' you know, 'they made money. They have money in a Swiss bank account.' Well, it was true. It's taken years, but it was true. We get a politically motivated prosecutor who is allied with the right-wing opponents of my husband, who has literally spent four years looking at every telephone...

LAUER: Spent $30 million.

Mrs. CLINTON: ...more than that now, but looking at every telephone call we've made, every check we've ever written, scratching for dirt, intimidating witnesses, doing everything possible to try to make some accusation against my husband.

LAUER: We're talking about Kenneth Starr, so let's...

Mrs. CLINTON: We're talking...

LAUER: ...use his name, because he is the independent counsel.

Mrs. CLINTON: ...well, we're talking about--but it's the whole operation. It's--it's not just one person, it's an entire operation.

LAUER: Did he go outside of his rights, in your opinion, to expand this investigation? After all, he got permission to expand the investigation from a three-judge panel.

Mrs. CLINTON: The same three-judge panel that removed Robert Fiske and appointed him. The same three-judge panel that is headed someone who is appointed by Jesse Helms and Lauch Faircloth.

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LAUER: Also, Judge Reno approved...

Mrs. CLINTON: Well, of course...

LAUER: ...this expansion of an investigation.

Mrs. CLINTON: ...well, you're--of course she is, because she doesn't want to appear as though she's interfering with an investigation. I don't--look, I--I'm not going to take all that on, because I've learned that we just have to ride this out. It's just a very unfortunate turn of events that we are using the criminal justice system to try to achieve political ends in this country. And--and, you know, when I'm here today, I'm not only here because I love and believe my husband, I'm also here because I love and believe in my country. And if I were just a citizen out there, maybe because I know about the law and I have some idea, some of the motivations here, I would be very disturbed by this turn of events.

LAUER: When--when--the last time we visited a subject like this involving your family was 1992, and the name Gennifer Flowers was in the news...

Mrs. CLINTON: Mm-hmm.

LAUER: ...and you said at the time of the interview, a very famous quote, 'I'm not some Tammy Wynette standing by my man.'

Mrs. CLINTON: Mm-hmm.

LAUER: In the same interview, your husband had admitted that he had, quote, "caused pain in your marriage."

Mrs. CLINTON: Mm-hmm.

LAUER: Six years later you are still standing by this man, your husband...

Mrs. CLINTON: Mm-hmm.

LAUER: ...through some difficult charges. If he were to be asked today, Mrs. Clinton, do you think he would admit that he again has caused pain in this marriage?

Mrs. CLINTON: No. Absolutely not, and he shouldn't. You know, we've been married for 22 years, Matt, and I have learned a long time ago that the only people who count in any marriage are the two that are in it. We know everything there is to know about each other, and we understand and accept and love each other. And I just think that a lot of this is deliberately designed to sensationalize charges

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-ainst my husband, because everything else they've tried has failed. And I also believe that it's part of an effort, very frankly, to undo the results of two elections.

LAUER: Le--let me talk about your role. There have been reports that you've taken charge at the White House and decided to be the chief defender of your husband, of the president, and deflect these charges. How much of a role are you taking in this, do you think you should take?

Mrs. CLINTON: Well, I certainly am going to defend my husband. And I'm certainly going to offer advice. But I am by no means running any kind of strategy or being his chief defender. He's got very capable lawyers and very capable people inside the White House, and a lot of very good friends outside the White House.

LAUER: But you're probably the most credible defender of the president at this time.

Mrs. CLINTON: Well, I probably know him better than anybody alive in the world, so I would hope that I'd be the most credible defender.

.AUER: James Carville, who you know...

Mrs. CLINTON: Great human being.

LAUER: I'm sure you like him, especially at this time. He has said that this is war between the president and Kenneth Starr. You have said, I understand, to some close friends, that this is the last great battle, and that one side or the other is going down here.

Mrs. CLINTON: Well, I don't know if I've been that dramatic. That would sound like a good line from a movie. But I do believe that this is a battle. I mean, look at the very people who are involved in this, they have popped up in other settings. This is the great story here, for anybody willing to find it and write about it and explain it, is this vast right-wing conspiracy that has been conspiring against my husband since the day he announced for president. A few journalists have kind of caught onto it and explained it, but it has not yet been fully revealed to the American public. And, actually, you know, in a bizarre sort of way, this may do it.

LAUER: Has--has your husband, though, through some of his actions, possibly made it easier for those people to attack him.

rs. CLINTON: Well, you know, Matt, that's a tough question -ause I can remember in Bill's very first race, in 1974, there was

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great effort against him then. But one of the funniest things that ever happened--although at the time it wasn't funny--is that the people who were against him, claimed that he had been up in a tree demonstrating as President Nixon during the Texas/Arkansas football game in 1969. It didn't matter that he was in England at the very day listening to the game on shortwave radio. They took a picture out of a newspaper, they cut the head off the man who was in the tree, they put Bill Clinton's head on it. They printed thousands of them. They passed them out in every country church and every country store, so you had hundreds of thousands of people believing this. Now I have to say, I don't know what it is about my husband that generates such hostility, but I have seen it for 25 years.

LAUER: Let--let me take you and your husband out of this for a second. Bill and Hillary Clinton are involved in this story. If an American president had an adulteress liaison in the White House and lied to cover it up, should the American people ask for his resignation?

Mrs. CLINTON: Well, they should certainly be concerned about it.

LAUER: Should they ask for his resignation?

Mrs. CLINTON: Well, I think--if all that were proven true, I think that would be a very serious offense. That is not going to be proven true. I think we're going to find some other things. And I think when all of this is put into context, and we really look at the people involved here, look at their motivations, look at their backgrounds, look at their past behavior, some folks are going to have a lot to answer for.

LAUER: One more subject before I get to child care. I've talked to a lot of people about this story. It's certainly a topic of conversation...

Mrs. CLINTON: It's a big story, I know.

LAUER: ...around the country.

Mrs. CLINTON: I know.

LAUER: One of the comments I hear a lot, Mrs. Clinton, is how is Chelsea handling this? It's not easy being a freshman in college, anyway.

Mrs. CLINTON: Right. Well...

LAUER: How is she doing?

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Mrs. CLINTON: ...she's all right. And I really want to thank people for just letting her continue to be a freshman. Because any time--accusations of any kind, but especially like this with such publicity around the world are made, it really does affect your whole family. I mean, it's not only my daughter, it's my mother, it's Bill's stepfather, it's our brothers, our sister-in-laws, all of us.

LAUER: How often do you talk to Chelsea about it, or have you?

Mrs. CLINTON: We've talked a lot. Both Bill and I have talked to her a lot.

LAUER: Does she offer any advice to you? It's usually the other way around, but has she offered you any advice?

Mrs. CLINTON: It's not advice so much, but, you know, since she was six years old, I have known, both because--I think my husband's personality and his kind of gregariousness, and his--as well as his political ideas really do engender a very deep hostility. So I was telling Chelsea when she was a child that 'This is going to happen, and it's very unfortunate.' I honestly wish if people had political differences, if you don't like his stand on something, fight it out on that. Don't just try to destroy somebody personally. So I have told her that this is the kind of thing that would happen, and she has seen many, many examples of it in her very short life. So it's not a pleasant experience, but it's given her sort of the grounding to be able to see what this is and get through it.

LAUER: Want to talk a little child care?

Mrs. CLINTON: Yeah, I'd like to talk about the State of the Union, and not only child care, which I'm very excited about, but also some of the possible programs for the millennium that the president will be announcing tonight.

LAUER: Go ahead, I give you an opportunity.

Mrs. CLINTON: Thank you. Well, you know, the child-care proposal has been, I think, well put out there, and we're getting a fabulous response from around the country. And, you know, we had an announcement yesterday at the White House, and I was here in New York talking about it again yesterday. I think it's going to make a big difference in the lives of a lot of working people. So I hope there is going to be support for that. And I have a sense that we're going to have bipartisan support for child care.

LAUER: While you're talking about bipartisan, I heard one critic say that this was more of a Republican plan than the one you first possibly talked about when you came to Washington five years ago.

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deals with tax credits...

Mrs. CLINTON: Right.

LAUER: ...and grant blocks to the states...

Mrs. CLINTON: Right.

LAUER: ...which takes some power away from the federal government.

Mrs. CLINTON: Right.

LAUER: How do you respond to that?

Mrs. CLINTON: Well, I think it's a good plan. And I--I have no problem taking good Republican ideas and mixing them with good Democratic ideas to get good ideas for Americans. And I think that you'll see that some of the Republican members of the Congress are coming up with some other ideas. And I hope that at the end of the day, we'll have the best mix we can possibly have.

But I did want to mention one other thing about what the president will talk about tonight. And that is, you know, we are going to be celebrating the millennium, and the turn of the century. And I've been working very hard with the president to come up with a way that we could honor the past and imagine the future. And I've learned in my studies there are--a lot of what we value as Americans is in real disrepair, like "The Star Spangled Banner" is in danger of disintegrating. And our Constitution, our Bill of Rights have to be, you know, really better taken care of. And there are many examples of that around the country. So we're going to launch a public/private partnership--some money in the federal budget, but I hope raising some private money, to go out and save these precious parts of our past.

LAUER: It's interesting in listening to you talk, that when you deal with the allegations against the president, you refer to him as your husband.

Mrs. CLINTON: Right.

LAUER: And when you deal with issues in the State of the Union address, you talk to him, and refer to him as the president.

Mrs. CLINTON: You know, this has been so hard for me, because, you know, I remember reading one time that--when President Kennedy became president, even his brother said 'I can no longer call you Jack, I have to call you Mr. President.' Well, obviously, I call my husband 'Bill,' and I refer to him as my husband, but when he's

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:ing in his official capacity, like he will tonight when he stands up and talks about where we are as a nation, I guess I feel that he's my president as well as my husband.

LAUER: Just a few seconds left. Based on what you know now...

Mrs. CLINTON: Uh-huh.

LAUER: ...five years after coming to Washington, the personal attacks, the political attacks, do you sit home at night and think it's worth it--it has been worth it?

Mrs. CLINTON: I do, Matt, and I'll tell you why. Obviously, I've thought a lot about that, because this has been a grueling ordeal. And it has required every bit of religious faith, or spiritual resources Bill and I have. It has been a--an incredible personal challenge, but I think about it in two ways: I believe the country is better off because my husband has been president. I think the economy, the crime rate, a lot of the social problems were finally addressed with a smart strategy, and we've seen the results. You know, just yesterday in New York, I mean in elevators and in a hotel, you know, waiters, other people came up to me, grabbed my hands and said 'You tell the president to stand firm, we need him. 's on our side.' He is. He is on the side of the American ople. So when I balance what he's accomplished and the hope he's given to people, and the way the economy has created opportunities for people against all of the challenges we've been through personally, it is worth it.

Now do I wish that we didn't live in a time where people were so malicious and evil-minded? Of course. But, you know, that's human nature, so you--you take the good with the bad. And the good has far--far outweighed any bad at all.

LAUER: Mrs. Clinton, we--we certainly appreciate your time, and your candor this morning. Thank you...

Mrs. CLINTON: Thank you.

LAUER: ...very much.

Mrs. CLINTON: Thank you, Matt.

LAUER: Seven twenty-four. This is TODAY on NBC.

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Tab 37

1980

REMARKS BY PRESIDENT BILL CLINTON AND BRITISH PRIME MINISTER TONY BLAIR
DURING A PHOTO OPPORTUNITY THE WHITE HOUSE WASHINGTON, DC
APPROXIMATELY 12:15 P.M. EST **THURSDAY, FEBRUARY 5**, 1998

PRESIDENT CLINTON: Let me just say, to start out, the reason we're kind of hanging around like this is we're about to go into the back dining room there so we can have a working lunch. And I'm looking forward to this. We're going to have two good days. And we have a lot to discuss, not only Iraq, which everyone knows about, and Ireland, but also the plans that we're making together, or at least in common, for our countries domestically, and a lot of other issues that will affect both the people of Great Britain and the people of the United States. So this is going to be a good meeting.

Q Mr. President, would you mind -- would you like to use this occasion to tell the American people what kind of relationship, if any, you had with Monica Lewinsky?

PRESIDENT CLINTON: Well, I've already said that the charges are false. But there is an ongoing investigation.

And I think it's important that I go back and do the work for the American people that I was hired to do. I think that's what I have to do now.

Q Are you going to exert executive privilege, sir?

PRESIDENT CLINTON: First, let me make it clear. For four years we've been cooperating exhaustively. And that's a hypothetical question, as far as I know. Should it arise, I will await a recommendation from the White House counsel about the institutional responsibilities of the presidency, and when I get it, then I'll make a decision.

Q Mr. President, there are a lot of Republican leaders and arm-chair generals who want you to change your policy toward Iraq and to take out Saddam. What is your feeling about that now?

PRESIDENT CLINTON: Well, I would make two points. First of all -- and I believe the prime minister has also made this point. What is the cause of the present stand-off? It is the suspension of the inspections by the United Nations inspectors and the restrictions on

where they can inspect. Our interest is in preventing Saddam Hussein from building biological, chemical, nuclear weapons capability, the missiles to deliver such weapons. That is our interest. That's where the authority from the United Nations resolutions rests. So that's the first thing.

Now, second thing, as a practical matter, we can pursue that interest with available options. Would the Iraqi people be better off if there were a change in leadership? I certainly think they would be. But that is not what the United Nations has authorized us to do, that is not what our immediate interests is about.

Now, we intend to be very firm on this, and I hope that we will have the world community with us. But what I really hope most of all is that there will be a diplomatic resolution of this, that Saddam Hussein will move away from his present position.

Q But if you were to order military strikes, they would not be directed specifically at him?

PRESIDENT CLINTON: Well, first of all, there is an executive order that's been place for over 20 years on that subject.

Q (Off mike.)

PRESIDENT CLINTON: It does. Now -- but let's not discuss hypothetically what targets might be there or what we might do. I think it is important that he understand that we are very resolute on the issue of the inspection system. And it's not an American issue. You might want to ask the prime minister about it.

Q Are you saying there's an order to take him out?

PRESIDENT CLINTON: No, no, no! No, no. No. I was referring to the executive order, I believe first issued by President Ford, saying that it is against -- that political killing or assassination, if you will, is against American foreign policy interests, that we don't do that.

But we are very firm in our resolve. And I was very heartened by the prime minister's statement in the White House there about his position.

Q Are you concerned about Mr. Yeltsin's comments about the possibility of leading towards a war? I know he backed off that a little bit. But what are our views on that?

PRESIDENT CLINTON: Well, I doubt that that would happen. We had a good talk the other day -- President Yeltsin and I did. And I know that he very much hopes that a violent confrontation can be avoided. So do I. But in the end, it is up to Saddam Hussein, it is not up to the rest of us. We don't -- and I don't -- I haven't talked to a single soul who hopes there will be some sort of violent encounter here, not a soul.

PRIME MINISTER BLAIR: Yeah, that's absolutely right.

Q There are also diplomatic efforts by the French and the Russians in Baghdad right now. Do you think they can bear fruit and avoid a military strike?

PRIME MINISTER BLAIR: Of course everyone hopes that a diplomatic solution is available and can work. We all want that. But I think all of our experience with Saddam Hussein teaches us that diplomacy has very little chance of working, unless it is clear to him that if diplomacy does not work, then the threat and the reality of force is there.

And the reason why it's important for us to take the position we are is because over these past few years, the U.N. weapons inspectors have uncovered literally thousands of chemical weapons, they've discovered biological warfare capability, they've discovered the beginnings of nuclear capability. It is for that very reason that the inspectors are there. It's for that very reason that the U.N. has made it quite clear that the U.N. inspectors have got to go in so that we destroy that capability to develop weapons of mass destruction.

And I think that the entire international community, whatever varying degrees of enthusiasm for using the military option, understand that Saddam Hussein has to be stopped, and that it is absolutely essential in the long-term interests of world peace that we make sure that he can't develop these weapons of mass destruction because he is a man who has used those weapons before; he will use them again, if he's given the opportunity to do so.

STAFF: Last question.

(Cross talk.)

Q Aside from your role on Iraq, do you have a specific role in the Middle East peace process now?

PRIME MINISTER BLAIR: Well, we obviously want to do everything we can, both as Great Britain and also as the president of the European Union at the moment, to back up the efforts that are being made here to try and secure a peace settlement in the Middle East. And I, myself, have both seen and corresponded regularly with Prime Minister Netanyahu and Yasser Arafat. And we continue the whole time to see what we can do to move that process forward because there is a process underway; it is in a very difficult situation at the moment. But as we know from our own attempts to secure peace in Northern Ireland, if we don't try and push these processes forward, they very quickly slip back. So I think there is a great deal of urgency there, and we will obviously work with our American colleagues to see what we can do to help.

PRESIDENT CLINTON: We're going to talk about this quite a bit. And I'm -- I view the prime minister's interest in the Middle East in a very positive light. And as you know, we are working -- Secretary Albright has been working very hard to jump-start these negotiations again, to get them through this next phase so we can go on to final status talks. And we're going to need all the help we can, and we need all the help we can in the world to rebuild the economic fabric as well as -- of the Palestinian areas, and as well as a climate of confidence and trust between all the parties. So I'm hopeful we can make some headway. We're going to talk about it.

Thank you.

STAFF: Thank you.

(Cross talk.)

Q (Inaudible.)

PRESIDENT CLINTON: I can only say -- I've said the charges aren't true, there's an investigation going on. While that's going on, it's my duty to keep doing the job I was hired to do by the American people. And that's my position.

1985

Tab 38

1986

JOINT NEWS CONFERENCE WITH PRESIDENT BILL CLINTON
AND BRITISH PRIME MINISTER TONY BLAIR
THE WHITE HOUSE, THE EAST ROOM WASHINGTON, DC 11:07 A.M. EST
FRIDAY, FEBRUARY 6, 1998

PRESIDENT CLINTON: Good morning. Please be seated.

First, let me say that it's been a real pleasure to welcome my friend Prime Minister Blair here to Washington, with the entire British entourage. It continues the great tradition of partnership between our nations, anchored by common values, driven by common vision, eager to meet the challenges of this new age.

Today we pay tribute to that heritage with a visit to the FDR memorial. Earlier in this century President Roosevelt and Prime Minister Churchill led the community of free nations that prevailed in world war. Now, on the eve of the 21st century, the prime minister and I seek to shape the peace in a world that is rich with possibility and promise, but still not free from risk.

We have a very similar outlook on preparing our own countries for the future. And if I might just take a moment to talk about the latest economic news, the strategy we are both working is to prepare all our people for the Information Age and a global economy.

Today we have new evidence that that strategy is working here. In the last month America had 358,000 new jobs, over a million in the last three months.

We're approaching 15 million new jobs in the last five years with the lowest unemployment in 24 years. Wages are rising, inflation is low, the role of government has changed. We have the smallest percentage of these new jobs in the public sector and the highest percentage in the private sector, in the United States since the 1920s. By maintaining fiscal discipline, opening more markets, investing more in our people, we will continue to expand opportunity and promote prosperity.

We also share a common view of the changes that are occurring in the world and a belief in the importance of working together to harness them to the benefit of our people. We've reviewed our progress in building an undivided Europe; welcoming Hungary, the Czech Republic and Poland into NATO; forging strong relations with the new democracies there, including Russia and Ukraine; helping the parties in Bosnia to fulfill the requirements of the Dayton peace accord. Both our nations agree we should take part in a follow-on security presence when the SFOR mission ends in Bosnia in June. We reaffirmed our determination to combat modern cross-border threats like terrorism and the spread of the weapons of mass destruction.

On Iraq, we stand together. Saddam Hussein must know that we are

determined to prevent him from threatening his neighbors and the world with weapons of mass destruction. The prime minister and I would both prefer a genuine diplomatic solution. The best way to stop Saddam from developing an arsenal of nuclear, chemical and biological weapons, and the missiles to deliver them, is to get the inspectors back to work with full and free access to all relevant sites. But let me be clear. If Saddam does not comply with the unanimous will of the international community, we must be prepared to act -- and we are.

On Libya, 10 years later, we haven't forgotten the victims of the bombing of Pan Am 103 in the skies over Lockerbie, Scotland, or their loved one. We will not rest until Libya complies with the requirements of the world community and surrenders for trial in the United States or Scotland, the two Libyans accused of that brutal crime.

We addressed our commitment to advance the cause of peace, and I welcome Britain's efforts as president of the European Union to spur greater cooperation in the Middle East peace process.

I also commend the prime minister for his courageous steps in cooperation with the Irish government to promote a climate of confidence and hope in Northern Ireland. The multi-party talks provide the best chance for a real solution to that conflict. I urge all the parties to show the vision and the forbearance and the determination to succeed.

I unequivocally condemn this recent sectarian killings and beatings and threats. Nothing worth having in Northern Ireland can be accomplished through violence. I told the prime minister that we will continue to do all we can to advance the cause of peace. And, of course, I asked for and received his advice in that regard.

The recent financial crisis in Asia demands action from the international community. On our increasingly interconnected planet, trouble in the far end of town can easily become a plague in our own neighborhood. We agree that every affected nation must take responsibility for implementing tough reforms, and that other nations, when they do that, when those nations that are affected do their part, other nations should support helping them through the International Monetary Fund.

We also looked at ways that we could work together to benefit our people at home. As president of both the European Union and the G-7, the United Kingdom will host two important summits in Birmingham this May. The prime minister told me he wants to take these summits to take action that really will make a difference in our people's daily lives, that lift their horizons and their dreams, stepping up our efforts to combat drug traffickers and helping every child to grow up in a safe community.

Shielding our planet from the threat of global warming and

bringing our people the benefits of a growing economy and a clean environment are important to us as well.

It's also important that we give our people the tools to make the most of their lives through world-class education and training, help people to move from welfare to work -- and I applaud the efforts that the prime minister is making on that -- give them access to the wonders of the Information Age -- that's something we talked about yesterday at the Montgomery Blair High School in Maryland -- and dealing with the question of how to provide greater security in the retirement years when the baby boom generation retires.

We finally know that our two nations must continue to work and to lead the world, for security, prosperity, and peace.

In 1942, in the midst of the Second World War, President Roosevelt sent a message to Mr. Churchill, which said as follows: "When victory comes, we shall stand shoulder to shoulder in seeking to nourish the great ideals for which we fight."

Today, on the verge of a new century and a new millennium, that prediction has proved right. America is proud to stand with the United Kingdom and with Europe, and to work with its leader, Prime Minister Tony Blair, to build an even brighter future.

Thank you, Mr. Prime Minister. The floor is yours.

PRIME MINISTER BLAIR: Thank you, Mr. President. And can I begin by saying how grateful we have been for such a wonderful and warm welcome here in the United States of America.

As the president has just indicated, we discussed, obviously, a range of different topics. At the top of the list, of course, was the situation in respect of Iraq. And what we agreed was that we had to do three things in particular. We have, first of all, to make sure that our own public opinion was properly educated as to why it is so essential that the U.N. inspectors are able to do their work, the amount of weapons that they have already uncovered in the six or seven years that they have been doing this task, and why it is therefore absolutely essential that Saddam Hussein is brought back into line with U.N. Security Council resolutions and the inspectors can go about their task unhindered.

We ourselves a couple of days ago in Britain published a document where we listed precisely all the various weapon finds the inspectors have made.

And when you go through that list and see all of the various attempts there have been, to try and prevent the inspectors' carrying out their functions, then I think people can understand why it is so necessary, so important for us to be prepared to take whatever action is necessary to ensure those inspectors can go back in and fulfill their task.

Secondly, though, in relation to Iraq, it is important that we stress, all the time, of course we want a diplomatic solution. But it must be a diplomatic solution based on, and fully consistent with, the principles that we have set out.

The question of whether there is such a diplomatic solution rests ultimately with Saddam Hussein. He has the choice. He can bring himself back into compliance with the agreements he entered into, and then that diplomatic solution can be fulfilled.

Thirdly, however, we have, of course, to prepare in case diplomacy cannot work. In view of the situation, we in Britain have been looking at our own military readiness, in case a diplomatic solution does not, in the end, prove possible.

We have decided to base eight Tornado GR-1 aircraft in Kuwait, with the full agreement of the government of Kuwait. These are ground attack and reconnaissance aircraft. Their deployment is a precautionary measure, and it will take place over the next few days.

So, all the way through, in respect of Iraq, we have agreed that we must educate, we must engage in diplomacy, but we also must prepare.

In respect of Ireland, I want to place on record yet again my thanks to the president for all the support he has given us in searching for a lasting and peaceful political settlement in Ireland. As I've found when I've addressed many members of Congress and the Senate here in Washington, there is tremendous interest in the United States of America in this process. And there is a great, much-appreciated willingness on your part to have that process succeed.

It isn't going to be easy; these things never are. But we do believe that we have the best chance that we have had for many generations to secure peace. And I wanted to emphasize yet again to you our total and complete determination and commitment to find a peaceful way through.
With goodwill and with proper cooperation and with some trust on all sides, I think it is possible.

And I thank the president for his condemnation of those sectarian killings that have so disfigured the process over the past few weeks. And I say, yet again, what we must ensure is that those random, brutal, unjustified acts of violence perpetrated by a small minority, must not in the end, frustrate the wishes of the overwhelming majority of people in Northern Ireland to secure a peaceful and stable future for themselves.

We discussed, of course, the Middle East peace process, and Bosnia and our commitment there. We discussed as the president has mentioned a moment ago, the global economy, the Asian crisis, and what measures we should take in order to ensure that such crises are mitigated and do not happen again.

We also laid out for the president and his colleagues, our strategy as president of the European Union; our commitment to ensure the monetary union is successfully launched; our commitment to the enlargement process, bringing into the European Union those countries in Eastern Europe and elsewhere. And we discussed as well, and agree, that it was important that Europe strengthened its relationship with Turkey and that we build a strong relationship with Turkey; between Turkey and the European Union for the future.

As good and interesting as anything else has been also the possibility of exchanging ideas, ideas about how government meets the economic and social and political challenges of the future.

As I said in my speech this morning at the breakfast hosted by the vice president, there is a new Britain being shaped today. It is a Britain of confidence, dynamism. It is a Britain that is proud of its past but is not living in it, and is shaping a future of which we can be proud also. And I think in exchanging ideas, and in seeing how much there are common themes and common ideas for government between us, we can gain strength in Britain and United States from that partnership and relationship.

And finally, I would like to say, personally, how tremendously grateful I have been, as I say not merely for the warmth of the welcome extended to us here, but for the great comradeship and partnership between the United States of America and Great Britain that I know will strengthen and strengthen evermore in the future.

Thank you.

PRESIDENT CLINTON: Now, here's what we're going to do, we're going to alternate, and so I'll call on an American journalist and the prime minister will call on a British journalist. Of course you're free to ask whomever whatever you please.

Helen?

Q Mr. President, despite the ongoing investigation, you felt no constraint in saying what your relationship with Monica Lewinsky is not -- was not. So it seems, by logic, that you ought to be able to say here and now what was your relationship? Her lawyer says -- called it "colleagues." Is that an apt description?

PRESIDENT CLINTON: Well, let me first of all say, once again, I never asked anybody to do anything but tell the truth. I know about the stories today. I was pleased that Ms. Currie's lawyers stated

unambiguously this morning -- unambiguously -- that she's not aware of any unethical conduct.

But this investigation is going on and you know what the rules for it are. And I just think as long as it's going on, I should not comment on the specific questions because one -- there's one, then there's another, then there's another. It's better to let the investigation go on and have me do my job and focus on my public responsibilities and let this thing play out its course. That's what I think I should do, and that's what I intend to do.

Q You are leaving people in the dark.

PRESIDENT CLINTON: Well, I'm honoring the rules of the investigation, and if someone else is leaking, unlawfully, out of the grand jury proceeding, that's a different story. I am going to do -- I have told the American people what I think is essential for them to know about this and what I believe they want to know. What I'm doing is going on with my work and cooperating with the investigation. And I do not believe I should answer specific questions. I don't think that's the right thing to do now.

PRIME MINISTER BLAIR: Michael?

Q Michael Brownson of ITN in London. Is it not time, though, to drop the pretense that this is simply business as usual? Have we not seen, with the allegations that surrounding the British foreign secretary, but to a much greater degree yourself, Mr. President, that this does affect the conduct of public business?

And far from dodging the point as you did, Prime Minister, yesterday when you were asked about the private lives of public figures, should you not both be saying that the public have the right to expect the very highest standard in the private lives of public politicians?

PRIME MINISTER BLAIR: Well, Michael, I hope we do that. But what I would say to you is that what is essential is that we focus on the issues that we were elected to focus upon. And in the discussions that we have had over this past two days, we have been focusing on issues like Iraq, where we are considering, if diplomatic solutions fail, taking military action; we've been focusing on the peace process in Northern Ireland, that gives a chance for the first time in generations, after centuries of conflict, for people to find a way through; we've been focusing on the problems of the world economy that, if they're not tackled, could have a serious impact on the living standards of people here and people in Britain, as well as

people out in Asia.

These are the important questions for me, schools, hospitals, crime, living standards, jobs that people want us to focus upon. And I believe that it is absolutely essential that we stay focused upon those things and that we deliver for our people what we were elected to deliver.

Now, that is what I intend to do. And I think that that is, in the end, what the British people would expect me to do.

PRESIDENT CLINTON: Terry?

Q Mr. President, switching to Iraq, the prime minister said that you had to educate the public about Iraq; but I think the American public is largely in the dark about what to expect about a military attack on Iraq. Are you talking about something that lasts a day or two, or something that lasts for weeks or months?

And on a diplomatic note, you've got France and China and Russia opposing this. Boris Yeltsin says that it could lead to World War III. What gives Britain and the United States the right to go it alone on this?

PRESIDENT CLINTON: Well, you asked about five questions there in one. Let me try to unpack it.

First of all, the most important thing, the best thing that could be done, what we hope will happen, is that there will be a diplomatic solution to this which result in the inspection teams for the United Nations being able to return and have unfettered access to the appropriate sites, because, as -- the prime minister, I think, put out a paper just a couple of days ago pointing out the incredible work that's been done by the inspection teams.
That's the best thing.

Now whether there is a diplomatic solution or not is entirely up to Saddam Hussein. If he decides that he wants to continue to have the freedom to rebuild his weapons program, then I believe that the clear mandate for the world community, based on not only the resolutions of the United Nations, but the danger this would present to the interests and values of the United States, the people of Great Britain, the people of the region, is to do what we can to weaken his ability to develop those weapons of mass destruction and to visit them on his neighbors.

You know, I never discuss operational plans; I wouldn't do that. I think the important thing is that you know that -- that I don't want this. Nobody wants this; we want a diplomatic solution. It's up to him.

The second thing I would say is, the secretary of state has been working hard in the last several days, has traveled, as you know, widely. I have been on the phone a lot. I believe there is -- there is more agreement than at first it appears about the necessity to push this thing through to the end. And I will continue to talk with the -- with President Yeltsin, President Chirac, and others.

But consider the alternative. After all, this man is the only repeat offender around with chemical weapons. He used them on his own people. He used them on the Iranians. And I believe it's a very serious thing. And I think that the American people will understand that.

Q ("World war," said ?) President Yeltsin --

PRESIDENT CLINTON: I just -- I don't understand what chain of circumstances would lead to that development. I don't believe that will happen.

PRIME MINISTER BLAIR: Peter?

Q Peter Riddle (sp), the Times. On Iraq, you've said the need was to educate, Prime Minister. But it isn't entirely clear what the objective of military action would be.
Is it intended to as a punishment for Saddam Hussein? Is it intended as a substitute for the work of the weapons inspectors, destroyed? Or would it continue until Saddam said: "Right. I'll let them in"?

And also, you've announced the deployment of some aircraft. Is there any intention to deploy ground troops at all, British ground troops?

PRIME MINISTER BLAIR: No. The deployment that we have made is the deployment that I have described, of the aircraft.

And with respect to the objectives; well, the objectives are very clear; that is, to ensure either that the weapon inspectors can come in and finish their task or that the capability that Saddam Hussein undoubtedly has and wants to develop for weapons of mass destruction, is taken out. And it is absolutely essential that what we do is focused upon the best way possible that we can do that.

Now obviously, as the president was saying a moment or two ago, it is not sensible or serious to start discussing the details of the military options available to us. But the purpose of this the whole way through, the reason we are in this situation, is because he has been developing weapons of mass destruction. The only barrier to that has been the inspectors. If the inspectors are prevented from doing

their work, then we have to make sure, by the military means of which we are capable, that insofar as possible, that capacity ceases.

And that's the objective, and it's an objective that I think is fully in line, as I say, with the original agreements under which Saddam Hussein undertook -- I mean, remember, he agreed, he undertook, to destroy any weapons-of-mass-destruction capability, whether nuclear, chemical or biological. Now, he is in breach of that. And we've got to make sure that he complies, one way or another, with it.

STAFF (?): (American ?).

Q Mr. President, just to go back to the controversy that's been surrounding you lately; there have been various reports that in some ways, have come to be accepted as fact. And I just want to give you an opportunity.

One of them is that, in sworn testimony to the lawyers for Paula Jones, that you changed your version of your relationship with Gennifer Flowers. And I just wondered if you can tell us -- I mean, do you now --

PRESIDENT CLINTON: I can tell you, but let me just say this. Again, even though the judge's order has been routinely violated by the other side in the case -- the judge has issued strict orders in the case for -- for -- that covers everybody, including me, not to discuss it.

I can tell you this -- and I'm confident as this thing plays out it will become more apparent in the future -- if you go back -- I told the truth in my deposition with regard to that issue, and I also did in 1992 when I did the interview, which I think was rerun the other night, the interview that Hillary and I did on "60 Minutes." And you just have to know that, and that I think it will be -- become apparent, as this case plays itself out, that I did in fact do that.

But I am not going to discuss that. The judge has given us strict orders not to discuss anything related to that case. The other side has violated it on a regular basis. I don't intend to do that. I'm just not going to do it.

PRIME MINISTER BLAIR: John?

Q John -- (last name, affiliation off mike). Prime Minister, Mr. President, is it possible for you to launch an attack if you don't have on board the French, the Russians, the Chinese?

PRIME MINISTER BLAIR: I think, John, you have to distinguish very carefully between what, of course I accept, varying degrees of

enthusiasm or commitment for the military option, with the complete unanimity there is in the world community that Saddam Hussein has to comply with the resolutions, and that his capacity to develop weapons of mass destruction must be halted.

Now, it is difficult for us to see, and for me to see, quite frankly, that if you take that as the position, how diplomacy, unless it is backed up at least by the threat of force, is ever going to work and succeed.

But it would be wrong, I think, to think that either our -- for example, our French or our Russian colleagues were not absolutely insistent that Saddam Hussein comply with these resolutions, and they are making diplomatic efforts in order to ensure that that happens. I wish those efforts well, provided they are fully consistent with the principles that have been set out.

It is just that we take the view, and I think experience teaches us that this is the only realistic view of Saddam Hussein, that unless you back up whatever diplomatic initiatives you're taking with saying quite clearly, well, if diplomacy doesn't work, the option of force is there, then those diplomatic initiatives are unlikely to succeed. But it's important that we realize that it is in that area that any difference lies, not in the insistence of the world community that he must come into line with those U.N. resolutions.

PRESIDENT CLINTON: Peter?

Q Mr. President, your spokesman this morning described to us, in his words, a very dangerous environment following these alleged leaks. What's your own assessment of the legal atmosphere? And we understand that your attorneys are planning to take some action about this. What action do they intend to take?

PRESIDENT CLINTON:I think you should talk to them. I don't want to comment on what they're going to do. They're fully capable of speaking for themselves, and for me in this case.

Q And your comment, sir, on the effect of the leaks?

PRESIDENT CLINTON: I don't have anything to add to what has already been said about that.

PRIME MINISTER BLAIR: Phil.

Q I'm Phil Murphy from the Press Association. Could I ask the prime minister, you could have come here and simply talked about serious politics, but some people have been struck by the warmth of

the personal statements of support that you've given to the president. Could I ask you -- I mean, have you ever considered that that might be a politically risky strategy?

Could I ask the president, have you appreciated those comments from Mr. Blair?

PRIME MINISTER BLAIR: To be quite honest, Phil, I mean I've said it because I believed it and because I think it is the right thing to do. And I've worked with President Clinton now for some nine months as British prime minister. I have found him throughout someone I could trust, someone I could rely upon, someone I am proud to call not just a colleague but a friend.

And in the end, you either decide in politics, when you're asked about people, you're going to say how you actually feel or you're going to make a whole series of calculations. And my belief is that the right thing to say is what you feel. And I happen to think -- I don't know whether it's my place to say it or not -- that if you look at the American economy, you look at the respect with which America is held right 'round the world today, if you look at the standing and authority of the president, it's a pretty impressive record for anyone.

PRESIDENT CLINTON: You ask, do I appreciate it? No, I -- (laughter). He should have come here and jumped all over me, I mean -- (laughter).

PRIME MINISTER BLAIR: Do you want me to come back in now? (Laughter).

PRESIDENT CLINTON: Of course I do. But, you know, I -- I think it's also a testament about the -- there's been a lot of -- a lot of people bandy about the word "character," and sometimes in loose and uncertain contexts. I think the people who -- who stand up and say things that they believe when it would be just as easy to walk away show a certain kind of character that I think is essential in a public leader, and I'm very gratified that -- that Tony Blair has done that. Not only for personal reasons, but because I think it -- it will strengthen his authority as a world leader.

Q Mr. President?

PRESIDENT CLINTON: Yes, go ahead?

Q Mr. President, all these questions about your personal life

have to be painful to you and your family. At what point do you consider that it's just not worth it, and you consider resigning from office? (Mild laughter.)

PRESIDENT CLINTON: Never. You know, I was elected to do a job. I think the American people know two or three things about me now that they didn't know the first time this kind of effort was made against me. They -- I think they know that I care very much about them, that I care about ordinary people whose voices aren't often heard here. And I think they know I have worked very, very hard for them.

And I think they know now, more often than not, the ideas I had and the things I fought for turned out to be right in terms of the consequences to the American people. I think they know all that. And I'm just going to keep showing up for work. I'm going to do what I was hired to do, and I'm going to try to keep getting good results for them.

The pain threshold, at least for our side, being in public today has been raised. But to give in to that would be to give in to everything that I fought against and that got me into this race in 1991 to try to run for president in the first place. I have tried to bring an end to this sort of thing in our public life. I've tried to bring the American people together. I've tried to de-personalize politics and take the venom out of it. And the harder I've tried to do it, the harder others have pulled in the other direction. That doesn't mean I'm wrong. And I would -- I would -- I would never walk away from the people of this country and the trust they placed in me.

PRIME MINISTER BLAIR: Robert?

Q Sir, Robert -- (last name inaudible) -- from the National Times. Prime Minister, this morning you said that the U.K. faced two painful years. Could you expand on what you meant by that?

PRIME MINISTER BLAIR: Yes. I mean, as I was saying to people this morning, I mean, there are some very tough decisions that we have had to take in order to deal both with the structural budget deficit, with the inflation that was back in the system that we inherited when we came to power, and with an education and welfare system that, frankly, is just nowhere near where it needs to be for the 21st century. And making those changes is going to be tough. Welfare reform isn't going to be easy; it will be unpopular in certain quarters. Taking the measures to cure the budget deficit has been hard. When people want more money spent on more public services, we're saying, look, we can't go on with ever-higher debt levels and

borrowing. We've got to act.

So we've taken the action on interest rates and giving the Bank of England independence. We've cut the structural deficit. A balanced budget is something we'll be able to talk about on the other side of the water as well, in a few years time. We're putting through a massive program of reform on education and welfare, but it will be tough, and it will take us some time to get it through.

But as I said this morning, I am an unashamed long-termist.

PRESIDENT CLINTON: (Chuckles.)

PRIME MINISTER BLAIR: I believe in making sure that the decisions that we take aren't based on the next day's headlines, but are based on where we really want the country to be some years down the line.

And particularly when we're facing such enormous global economic challenges, we can't afford either to lose a grip on monetary or fiscal prudence, or to leave our education and welfare system in the state they're in.

So yes, it'll be tough. But it'll be worth it in the end.

<u> PRESIDENT CLINTON:</u> Well, if I -- let me just me just make one comment to support something the prime minister just said -- when he said he was an unashamed long-termist. In a funny way, when societies change as fast and as much as our societies are changing today, when the -- the pace of events and their variety make it more difficult to predict what will happen next week or next month, it is even more important to be oriented toward the long term, because you have to figure that if you lay in a structure of opportunity and -- for a free people, they'll get it right, and they'll overcome all these unpredictable developments in the meanwhile. And I think that -- that's why I think the approach that he has taken is so wise and so right, not only for Great Britain, but for any other country as well.

(Cross talk.) Yes, Mara? Go ahead.

Q I'm wondering if you could elaborate on something that the first lady said recently about a right-wing conspiracy who's working against you. Could you explain how that conspiracy works? And specifically, are Linda Tripp, Ken Starr, and Monica Lewinsky part of that conspiracy?

PRESIDENT CLINTON: Now you know I've known her a long time -- the first lady -- and she's very smart. And she's hardly ever wrong about anything. (Laughter.) But I don't believe I should amplify on

her observation in this case. (Scattered laughter.)

Q Do you agree with that?

PRIME MINISTER BLAIR: Yeah, Adam?

Q Adam -- (last name off mike). One of your common shared themes you keep on telling your voters is this matter of their rights go with responsibilities. Now you, as elected leaders, have extraordinary rights and privileges. Yet you seem to be saying that there's no extension of responsibilities as far as personal integrity is concerned. Is that what you're really saying? If you're delivering on the job, the big picture, it doesn't matter what you get up to in your private lives?

PRIME MINISTER BLAIR: Nobody is saying that you don't have obligations of personal integrity. Of course, that's right. But what we are trying to say to you is the responsibilities with which we were asked by our people to discharge, those responsibilities are on the issues that -- where we can affect them as leaders of the country.

And if you go to Britain today and you talk to the British people -- and I do ask -- it just could be that sometimes you guys in the media are not in exactly the same place as a lot of public opinion in terms of the priorities people have. But if you go out there and you talk to British people and you say, "What do you want this new Labour government to do?" they will talk to you about ensuring we don't have boom and bust but that we have steadily rising living standards. They'll talk about job security. They'll talk about the state of their schools. You know, they'll talk about the national health service. They'll talk about the welfare system and the crime in their streets. They'll talk about security and old age. They will talk about these things, and they will care about these things. And they will expect us to deliver those responsibilities.

And of course, it's a great privilege for us to occupy the positions that we do. But in the end, the judgment that the people make of us is a judgment based on what we said that we would do and whether we fulfilled the promises that we made, and that's certainly what we intend to do. And I do think, also, that people understand and want political leadership that addresses these fundamental questions in a way that means something to them.

And when I was at the Montgomery Blair High School yesterday with the president and the president got up and addressed the young men and women, and the teachers and staff and parents that were there, and started going through the education program that he was unveiling, and it formed part of the State of the Union address and everything; and

some of those things in terms of class sizes and new technology in the schools that (are ?) very familiar to the British contingent here as things we're trying to do in Britain; I mean, the enthusiasm and the delight with which those things were greeted, because those people knew that in the end, that's what they elected their president to do. That's what they elected me to do; and that those are things that they want from us. And we've got to make sure all the time, that we're focusing on that big picture.

And you know, whatever other issues come along and distract us, in the end the judgment of history upon us will be pretty poor if those weren't the things that, when we got to bed at night, we're thinking about.

Those weren't the things that we're worried about and concerned about throughout the entirety of our society. Because those are the things which really make a difference to their lives.

Q Mr. President?

Q Mr. Prime Minister?

Q Sir?

PRESIDENT CLINTON: Go ahead.

STAFF: Let's make this the last round.

PRESIDENT CLINTON: Go ahead.

Q Mr. President, Monica Lewinsky's life has been changed forever -- her family's life has been changed forever. I wonder how you feel about that, and what, if anything, you'd like to say to Monica Lewinsky at this minute?

(Mild laughter.)

PRESIDENT CLINTON: That's good. (Laughter.) That's good, but at this minute I'm going to stick with my position -- I'm not commenting.

PRIME MINISTER BLAIR (?): Yes?

Q While relations between Britain and the United States appear to be splendid right now, there's a darkening cloud over relations with Italy. The prime minister, the president, the defense

minister has issued some very harsh statements about the accident the other day when a low-flying Marine plane severed a cable and the car fell. There's a lot of anger; some people in Italy are even asking for the closing of the Aviano base. What do you have to say to them?

PRESIDENT CLINTON: Well, first of all, what happened was horrible. And when I heard about it I was very shaken, and I -- I, as you know, there were -- there was a period of a few hours there where it wasn't clear how many people had died, and where there was another whole gondola suspended, where many more people could have died and, thank God, they were rescued. And the whole thing has been an agony for the people of Italy, and there were large -- a substantial number of Germans killed, and I'm sure, for the pilot of the plane and the people in our military base in Aviano, where I have been on more than one occasion.

I can tell you what I think should be done. I called Prime Minister Prodi and I told him that I was heart sick about it; that I would make absolutely sure there was a no holds barred, full investigation on what happened; that the Italians would be kept fully informed and be a part of it; and that we would work with them in every way possible to make sure that they knew that we tried to get to the bottom of it and to handle it in the appropriate way.

You know, in our military every year -- I say this to the American people all the time, but let me -- let me just say this. It is an inherently dangerous business. Now, we don't know what the facts are. Maybe somebody made a careless mistake, we don't know. I do not know what the facts are, and I will not render judgment until I do. But we lose about 200 people every year in military service in America on training exercise or otherwise on duty. And those planes fly very fast. And I don't know what the description of the mission was; I want to wait until I see exactly what the facts are, but it is inherently more dangerous than I think we think from time to time.

Now, I told the prime minister of Italy, and I'll tell you, I will do everything I can to find out exactly what happened and to take appropriate action and to satisfy the people of Italy that we have done the right thing. I understand why they are hurt and heartbroken and angry, and they are entitled to answers and we'll try to give them to them.

Q Mr. President?

STAFF: Thank you. Last question.

PRESIDENT CLINTON: Now, go ahead, the gentleman in the back. I promised one more. Last question.

Go ahead.

Q Mr. President, do you believe that airstrikes alone are going to remove the threat of biological, chemical and nuclear weapons from Saddam Hussein? Is that a fair thing to expect from military action, should push come to shove in the Gulf?

PRESIDENT CLINTON: Well, there have been many thoughtful public pieces, a lot of very thoughtful articles which have been written about the limits, as well as the possibilities of any kind of military action.

I think the precise question should be -- that I should have to ask and answer -- is, could any military action, if all else fails, substantially reduce or delay Saddam Hussein's capacity to develop weapons of mass destruction and to deliver them on his neighbors? The answer to that, I am convinced, is yes. I'm convinced there is a yes answer there. But you have to understand that those are the criteria for me.

I've told you before, I don't believe we need to re-fight the Gulf War. It's history. It happened. That's the way it is. I don't believe we need to get into a direct war with Iraq over the leadership of the country. Do I think the country would be better served if it had a different leader? Of course I do. That's not the issue. The issue is that very sharp question.

If the inspection regime is dead, and therefore we cannot continue to make progress on getting the stuff out of there in the first place, and then -- keep in mind there are two things about this regime. There's the progress in getting the stuff out of there in the first place, and then there is the monitoring system, which enables people on a regular basis to go back to high-probability sites to make sure nothing is happening to rebuild it. So, if that is dead, is there an option which would permit us to reduce and/or delay his capacity to bring those weapons up and to deliver them? That is -- I think the answer to that is yes, there is an option that would permit that.

Q Mr. President, as a follow-on to that --

PRESIDENT CLINTON: Do you want to ask one more question?

Q Mr. President, as a follow-up to that, please? Mr. President, as a follow-up to that please?

Q Prime Minister, as a man who understands the pressures of public life, and also a friend, and a religious man, I wonder what

words of advice and support and comfort and sympathy you might have been able to offer personally to the president during these difficult times when he's under investigation.

PRIME MINISTER BLAIR: That's what in the British media is called "a helpful question." (Laughter.)

(Chuckles.) If I can -- I don't presume to give advice at all. All I think that is important, which is what we've managed to do, is to discuss the issues that we've set out and listed for you. And as I say, I think we'd be pretty much failing in our duty if we weren't to do that.

And I've actually noticed, since I've been here and I've talked to many people here, that there is of course huge concern at the moment on what is happening in Iraq, this huge interest in Britain, in the new government, and in what we're trying to do in Northern Ireland. And you know, I think the best thing is for us to concentrate upon those issues for the very reasons I've given -- that that's what we were elected to do. And that's what I intend to do. That's what President Clinton is doing, and I think he's quite right.

Q One more, sir? (Cross talk.)

PRESIDENT CLINTON Thank you.

Tab 39

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Saturday, February 14, 1998

Metro

Pedestrian Death on I-95 Ruled Accidental; Brother of Clinton's Secretary Darted Into Traffic After Crash

Mike Allen
Washington Post Staff Writer

Virginia State Police have concluded that Theodore R. Williams Jr. of Fort Washington -- the brother of President Clinton's personal secretary, Betty Currie -- did not intend to commit suicide when he ran onto Interstate 95 north of Richmond after a traffic accident and was struck and killed by a tractor-trailer.

But they say there is no explanation for why Williams bolted rrom the highway shoulder after talking to a trooper who was investigating the crash with another truck, which Williams had escaped without injury.

"This has been ruled an 'accidental death/motor-vehicle crash,' said Mary S. Evans, a state police spokeswoman.

Williams, a 52-year-old building mechanic for the Postal Service, died Dec. 15, weeks before Currie was called before a federal grand jury investigating former White House intern Monica S. Lewinsky. President Clinton attended his funeral Dec. 20.

Evans said investigators thought Williams's death "might have been suicide," but ruled that out after learning that Williams was on his way to the University of North Carolina at Chapel Hill to pick up his daughter.

"That's not usually when people commit suicide -- when they have an errand to run," Evans said. She said family members said Williams had not seemed depressed.

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2/14/98 WASHPOST C03

She said officials were not aware of Williams's connection to Carrie initially but did interview more friends and relatives than they usually would in a traffic case because of the possibility of suicide.

Evans said investigators concluded that "this is a traffic accident, a non-story story."

According to Evans, investigators found 5.2 grams of marijuana under the floor mat on the driver's side of Williams's Chevrolet pickup. In the glove box, police found a pipe and rolling papers, she said.

The state medical examiner's report found no illegal substances in his body. But the report found that Williams had a blood-alcohol level of .07 percent -- just below the legal limit for drunken driving, .08 percent.

Williams was headed south on I-95 in Hanover County about noon Dec. 15 when his pickup hit the back of a tractor-trailer. The tractor-trailer driver said he didn't feel a thing and continued down the road until he was flagged down by motorists who had seen the crash.

Williams ran off the left shoulder of the highway and down an embankment but was not hurt, according to the accident report.

Evans said that as Williams walked up the hill, state police Sgt. Jessie Roberts arrived on the scene and asked, "Are you okay?" When Williams said he was, the sergeant turned to speak to two witnesses to the accident who had stopped.

In that instant, Williams started walking toward the fast lane, Evans said.

"Get back! You're going to get hit," Roberts remembers telling him.

Then to the shock of bystanders, Williams rushed into traffic and was hit by another tractor-trailer, according to Evans.

"Nobody knows why he ran across the road," Evans said.

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Tab 40

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1998 WL 2826917

Chicago Tribune
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Tuesday, February 17, 1998

NEWS

EX-SECRET SERVICE OFFICER TESTIFIES

Lewis Fox, a retired uniformed Secret Service officer, spent about two hours Tuesday morning before the federal grand jury in Washington investigating the Monica Lewinsky matter. Steve Goodin, a White House aide who until recently served as President Clinton's personal assistant, was the next witness to be called before the grand jury. Fox's lawyer, Michael Leibig, said Tuesday his client was guarding the Oval Office on a fall afternoon in 1995 when Lewinsky went in. Appearing on ABC's "Good Morning America," Leibig said Fox didn't "didn't see anyone else at the time" with Clinton and Lewinsky but that Fox "didn't see all the exits" so he doesn't know if the two were alone.

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Tab 41

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BY MR. HEATON:

Q Mr. Ginsburg, tell the Court what it is, precisely, that Ms. Lewinsky did in reliance on the agreement that was reached on February 2nd, 1998.

A What she did?

Q Yeah. The reference is that she has acted in reliance -- or suffered in reliance on that agreement which you testified occurred on the evening of February 2nd, including suffering with respect to her rights under the Fourth, Fifth and Sixth Amendments. I would like for you to tell the Court what it is that she has suffered since that agreement went into effect.

A An egregious invasion of her right of privacy and the requirement that she expose to you and to everyone working with you the most personal details of everything and anything that she did in a consensual sexual act. I can't think, sir, of anything more egregious and more damaging to one's psyche and ego and constitutional rights than that.

Q Explain to the Court, sir, how it is that her rights under the Fifth and Sixth amendments have been harmed as a result of what you just described.

A I do not want to go into an interpretation of the Fifth and Sixth Amendments except to say that when one has to admit certain things that they shouldn't ordinarily have to admit, they may be giving up their right to confront the people who are accusing them, they may be giving up the right to self-

incrimination, they may be giving up the right to procedural and substantive due process, and in so doing, because this may be used in a grand jury proceeding and other proceedings, they may well be giving up their right to counsel under the Sixth Amendment.

I mean, we can argue and debate that, but I think the Fourth, Fifth, Sixth and Fourteenth Amendments are very much involved in the proffer process.

Q If I understand you correctly, sir, you're talking about things that you perceive could possibly happen, as opposed to things that have happened. Is that right, sir?

A No, sir, I am not. The Fourth Amendment guarantees us an absolute right to security in our person, in our property, and our papers. And I think the Fourth, Fifth, and Fourteenth Amendments, in particular, embody the right of privacy. And she, in reliance on this process and this agreement, has essentially given up what I consider to be her right of privacy, which I consider to be the most valuable right we have.

Q And it's on that basis that you have concluded that she has suffered in reliance on this agreement that occurred on February 2nd. Is that right?

A I think she has suffered greatly based on her reliance on your word, yes. You, plural, meaning the Office of Independent Counsel.

Q And this would be our oral word as you've conveyed it today, spoken by Mr. Udolf, is that right? At the conclusion of a two-week process.

A Your oral word as confirmed in an agreement integrating your oral word into a writing.

Q Mr. Ginsburg, you made various statements to the press, did you not, at or about the time of this purported agreement?

THE COURT: Let me just say this. He may or he may not have. And unless it goes to the heart of what we're discussing here, just move on to the issue. In other words, did you state to someone, if you have such information.

BY MR. HEATON:

Q Isn't it true, Mr. Ginsburg, that you told various members of the press over the period February 3rd and 4th that you were waiting on Mr. Starr and/or the Office of Independent Counsel to get back to you in terms of whether you had an agreement?

A Which date, sir?

Q February 3rd and 4th.

A That was part of our agreement. Yes.

THE COURT: Part of whose agreement?

THE WITNESS: The Independent Counsel's Office, Your Honor, told me that they did not want me to tell the press that we had an agreement. They wanted me to stay away from the press with regard to the agreement that we had struck on the evening of February the 2nd. "Do not say anything to the

press," they said, "please, about this agreement that we've struck." So when asked questions about it, I said, "We have no agreement at this time." And I stayed away from the issue of the entering into the agreement.

THE COURT: They, who? In other words, who in the Office of Independent Counsel told you that?

THE WITNESS: Mr. Udolf or Mr. Emmick. I cannot remember between the two who said to me, please, keep this away from the press. My best memory, Your Honor, is Mr. Udolf said -- it may even have been Mr. Bittman; I simply cannot recall the exact person -- said, "You have been talking a lot to the press. Please do not tell the press about this immunity agreement." I said, "You have my word on that. I won't."

So when the press made inquiries about this -- and they were around my home, they were around the place I was staying, they were everywhere I went, airports, everywhere. I said to them, "We have no agreement." And I denied the existence of the agreement in order to protect the sanctity of what I had promised. There is no question I did that.

BY MR. HEATON:

Q Mr. Ginsburg, just so we're clear here, it's your testimony that based on a statement made by Mr. Emmick or Mr. Udolf, or both of them, not to reveal the existence of an immunity agreement, you then stated to various reporters, including, for example, A.P., things to the effect of "We are waiting for

Starr to call us. We are not begging for immunity. We would like immunity. If he chooses to grant us immunity, that is fine."

A I did everything to keep my word, including deflect all questions of any kind about the immunity agreement.

Q Including lie about what the situation was; is that correct?

A I don't consider that a lie, sir. I consider that a necessary function of keeping my agreement. I also consider it part of the process.

Q You consider it a necessary part of your function to say something other than what is true to protect the secrecy of this agreement. Is that right?

A Yes, sir, I did at the time.

Q And is it the same standard that you apply in general with respect to the representation of your client? It's consistent with your function, when necessary, to say something other than what is the truth?

A I will not tell a fib under perjury, sir -- penalty of perjury. But I will do what is necessary to protect my client at all times as a vigorous advocate.

Q Including lie.

A Sir, I never lie. I do what is necessary to protect my client. You have to define the word "lie" for me before I can answer that.

Tab 42

2024

GRAND JURY PROCEEDINGS
UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: GRAND JURY PROCEEDINGS.	)	Misc. Nos. 98-095, 98-096, and 98-097 (UNDER SEAL)

MEMORANDUM OF THE WHITE HOUSE IN OPPOSITION TO OIC'S MOTIONS TO COMPEL BRUCE R. LINDSEY AND SIDNEY BLUMENTHAL TO TESTIFY CONCERNING CONVERSATIONS PROTECTED BY THE ATTORNEY-CLIENT, PRESIDENTIAL COMMUNICATIONS, AND WORK PRODUCT PRIVILEGES

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Dated: March 17, 1998

TABLE OF CONTENTS

Page(s)

INTRODUCTION 1

BACKGROUND 5

1. Factual Background 5

2. Prior Proceedings Regarding Mr. Lindsey, Mr. Blumenthal, and Ms. Hernreich 6

ARGUMENT 9

I. THE TESTIMONY THE OIC SEEKS TO COMPEL IS PROTECTED BY THE WHITE HOUSE'S ATTORNEY-CLIENT PRIVILEGE 10

A. The Eighth Circuit's Deeply Flawed Decision Offers No Persuasive Reason to Depart from the Authorities Recognizing the Governmental Attorney-Client Privilege 10

1. The Governmental Privilege in General 10

2. Flaws in the Eighth Circuit's Decision 12

a. This Circuit has Long Recognized the Attorney-Client Privilege in the Governmental Context 13

b. Congress Did Not Abrogate the Governmental Attorney-Client Privilege in 28 U.S.C. § 535(b) 16

B. The Communications at Issue Here are Privileged 19

1. Bruce R. Lindsey 19

2. Nancy Hernreich 20

C. This Court Should Deny the OIC's Motion Even if the Attorney-Client Privilege is Qualified, Rather than Absolute, in the Governmental Context 20

D. Conversations Among Attorneys for the White House and Private Counsel for the President are Privileged from Disclosure Under the Common Interest Rule 21

E. Certain of the Materials Sought are Protected from Disclosure Because they Constitute Attorney Work Product 22

II. THE OIC SEEKS TO COMPEL COMMUNICATIONS PROTECTED UNDER THE PRESIDENTIAL COMMUNICATIONS PRIVILEGE 23

A. Legal Framework for Evaluating a Claim of Privilege for Presidential Communications 23

1. The Presumption of Privilege 24

2. Communications to Which the Privilege Applies 26

3. The Showing Required to Overcome the Presumption 27

B. The Conversations at Issue Here are Privileged 29

1. The Communications at Issue Involved Official Presidential Decisions 30

a. Discussions Relating to the President's State of the Union Address 31

b. Matters of Foreign Policy and Military Affairs 32

c. Discussions of Possible Referral by the OIC to the House Judiciary Committee 33

d. Allocation of the President's Time Between Public Responsibilities and Defending Himself in the *Jones* Litigation and the Lewinsky Matter 34

e. Ongoing Strategy Discussions Relating to the OIC's Investigation 36

f. Discussions as to Whether to Assert the Presidential Communications Privilege 37

2. The OIC's Argument Misconstrues the Relevant Authorities 37

C. The OIC Has Made No Showing, Least of All the Extraordinary Showing Required, to Overcome the Privilege 40

CONCLUSION 41

TABLE OF AUTHORITIES†

Page(s)

CASES

Bartholdi Cable Co. v. FCC, 114 F.3d 274 (D.C. Cir. 1997) 24

Branzburg v. Hayes, 408 U.S. 665 (1972) 11

Brinton v. Dep't of State, 636 F.2d 600 (D.C. Cir. 1980) 13

Citibank, N.A. v. Andros, 666 F.2d 1192 (8th Cir. 1981) 16

Clinton v. Jones, 117 S. Ct. 1636 (1997) ..... *passim*

Coastal Corp. v. Duncan, 86 F.R.D. 514 (D. Del. 1980) 14

FTC v. Grolier, Inc., 462 U.S. 19 (1983) 22

Grand Jury Subpoena Duces Tecum, In re, 112 F.3d 910 (8th Cir.), *cert. denied*, 117 S. Ct. 2482 (1997) 10, 13, 17, 18

Grand Jury Subpoena, In re, 886 F.2d 135 (6th Cir. 1989) 11

Green v. IRS, 556 F. Supp. 79 (N.D. Ind. 1982), *aff'd mem.*, 734 F.2d 18 (7th Cir. 1984) 14

Hearn v. Rhay, 68 F.R.D. 574 (E.D. Wash. 1975) 14

Hickman v. Taylor, 329 U.S. 495 (1947) 22

Isbrandtsen Co. v. Johnson, 343 U.S. 779 (1952) 17

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Linde Thomson Langworthy Kohn & Van Dyke, P.C. v. RTC, 5 F.3d 1508 (D.C. Cir. 1993) 16

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Miles v. Apex Marine Corp., 498 U.S. 19 (1990) 17

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Nixon v. Sirica, 487 F.2d 700 (D.C. Cir. 1973) 24

NLRB v. Sears, Roebuck & Co., 421 U.S. 132 (1975) 15, 22

Rosen v. NLRB, 735 F.2d 564 (D.C. Cir. 1984) 11

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Sealed Case, In re, 29 F.3d 715 (D.C. Cir. 1994) 22

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Tax Analysts v. IRS, 117 F.3d 607 (D.C. Cir. 1997) 11, 13

United States v. AT&T, 642 F.2d 1285 (D.C. Cir. 1980) 22

United States v. Calandra, 414 U.S. 338 (1974) 11

* *United States v. Nixon*, 418 U.S. 683 (1974) ..... *passim*

Upjohn Co. v. United States, 449 U.S. 383 (1981) ..... *passim*

Wilder v. C.I.R., 607 F. Supp. 1013 (M.D. Ala. 1985) 14

CONSTITUTIONAL PROVISIONS

U.S. CONST. Art. II, § 2 cl. 1 32

U.S. CONST. Art. II, § 3 cl. 1 31

U.S. CONST. Art. II, § 3 cl. 3 32

U.S. CONST. Art. II, § 4 ..... 3, 34

STATUTES

5 U.S.C. § 552(b)(5) 15, 22

28 U.S.C. § 535(b) 16, 18

28 U.S.C. § 594(f) 21

28 U.S.C. § 595(c) 3

RULES

D.C. Rule of Professional Conduct 1.6 14

D.C. Rule of Professional Conduct 1.13 14

Fed. R. Evid. 501 ..... 16, 21

EXECUTIVE DOCUMENTS

Address Before a Joint Session of the Congress on the State of the Union, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 129 (Jan. 27, 1998) 32

Excerpt of a Telephone Interview With Morton Kondrake and Ed Henry of Roll Call, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 115 (Jan. 21, 1998) 32, 34

Interview With Jim Lehrer of the PBS "News Hour", 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 104 (Jan. 21, 1998) 32

Interview With Mara Liasson and Robert Siegel of National Public Radio, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 116 (Jan. 21, 1998) 32

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Remarks Prior to Discussions With Chairman Yasser Arafat of the Palestinian Authority and an Exchange With Reporters, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 123 (Jan. 22, 1998) 33

Scalia, Antonin, Assistant Attorney General, Office of Legal Counsel, *Memorandum for the Deputy Attorney General re: Disclosure of Confidential Information Received by U.S. Attorney in the Course of Representing a Federal Employee* (Nov. 30, 1976) 18

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KURLAND, PHILIP B., WATERGATE AND THE CONSTITUTION (1978) 3

MUELLER, CHRISTOPHER B., AND LAIRD C. KIRKPATRICK, FEDERAL EVIDENCE (2d ed. 1994) 14, 15

RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS (Proposed Final Draft No. 1, Mar. 29, 1996) 15

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SUTHERLAND STATUTORY CONSTRUCTION (5th ed. 1992 & Cum. Supp. 1997) 17

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Proposed Federal Rule of Evidence 503(b), 56 F.R.D. 183, 236 (1972) 16

GRAND JURY PROCEEDINGS
UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: GRAND JURY PROCEEDINGS.	)	Misc. Nos. 98-095, 98-096, and 98-097 (UNDER SEAL)

MEMORANDUM OF THE WHITE HOUSE IN OPPOSITION TO OIC'S MOTIONS TO COMPEL BRUCE R. LINDSEY AND SIDNEY BLUMENTHAL TO TESTIFY CONCERNING CONVERSATIONS PROTECTED BY THE ATTORNEY-CLIENT, PRESIDENTIAL COMMUNICATIONS, AND WORK PRODUCT PRIVILEGES

The Office of the President ("White House") submits this memorandum in opposition to the Motions to Compel the testimony of Bruce R. Lindsey and Sidney Blumenthal, filed by the Office of the Independent Counsel ("OIC") on March 6, 1998 ("OIC Motions").[1]

INTRODUCTION

The President of the United States, if he is to perform his constitutionally assigned duties, must be able to obtain the most candid, forthright, and well-informed advice from his advisors. Only last year, the United States Court of Appeals for the District of Columbia Circuit reaffirmed that principle, emphasizing the importance of preserving confidentiality of presidential communications "to ensure that presidential decisionmaking is of the highest caliber, informed by honest advice and full knowledge." *In re Sealed Case*, 121 F.3d 729, 750 (D.C. Cir. 1997).

Yet, the Independent Counsel now asks the Court to strip away this constitutional protection on the ground that, by merely completing a subpoena form and sending it to one of the

[1] On March 6, 1998, the OIC also moved to compel testimony from Nancy Hernreich. By letter of March 4, 1998, however, the White House informed OIC of its willingness to allow non-lawyers such as Ms. Hernreich to testify to factual matters. We do not believe that, if recalled to testify before the grand jury, Ms. Hernreich would assert the privilege as to any of the factual matters about which the OIC seeks to compel her testimony.

President's lawyers or his senior advisors, he becomes entitled, without any showing of need, to invade the legal and other confidential advice on which the President must rely. The OIC asks the Court, as well, to strip away from government lawyers and their clients the attorney-client privilege—a claim that ignores the historical roots of the privilege, the Rules of Professional Conduct that apply in the District of Columbia, and the law of this jurisdiction.

As to the presidential communications privilege, the OIC ignores the teachings of the Court of Appeals and leaps from the bald assertion that only the President's private conduct is at issue here, to the conclusion that the advice he is given should not be protected. The OIC's contention is based on neither evidence nor logic. With respect to the Lewinsky matter, the grand jury is inquiring into actions allegedly taken by the President while in office—indeed, actions that allegedly occurred in the White House itself. And as to the President's deposition, the mere fact that the *Jones* case involves alleged conduct before the President took office does not mean that the advice he is given concerning his constitutional duties somehow becomes "private." To the contrary, the Supreme Court itself acknowledged the potential impact of the *Jones* litigation on the daily business of the Presidency—an impact that, however unlikely a prospect it was a year ago, is now all too real and tangible. Thus, even if one were to accept the OIC's description of the *Jones* case, or the President's alleged relationship with Ms. Lewinsky, as purely private, that description would be irrelevant to the question whether the communications at issue here are protected by privilege. The critical question is not the nature of the underlying conduct; it is the purpose of the advice being given.[2]

But if there were any question about the official nature of the matters about which these witnesses have provided advice, one need only look to the ultimate purpose of the OIC's investigation. The Ethics in Government Act requires the OIC to submit to the House of Representa-

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[2] For example, the conversations at issue in *United States v. Nixon*, 418 U.S. 683 (1974), involved a burglary of the DNC offices and efforts to cover it up, and yet were found to be presumptively privileged. *See infra* at 38. *See also Senate Select Committee on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 730–31 (D.C. Cir. 1974) (presidential communications relating to the Watergate coverup held presumptively privileged and not disclosed).

tives any evidence of impeachable offenses.[3] *See* 28 U.S.C. § 595(c). Impeachment is, of course, an action specifically directed at the President in his official capacity and is specifically provided for in the Constitution. *See* U.S. CONST. Art. II, § 4. Indeed, it is uncertain at best whether the OIC constitutionally can even ask the grand jury to take action against the President in his personal capacity. *See, e.g.*, PHILIP B. KURLAND, WATERGATE AND THE CONSTITUTION 135 (1978) (reasoning that a sitting President could not be subjected to criminal prosecution because "[h]e is the sole indispensable man in government"). Any advice sought by the President to deal with the threat of impeachment is, by its very nature, official—not private.

Even if there were no such threat overhanging the presidency, however, the advice at issue here must be treated as official and, thus, presumptively privileged. The distinction between those who give personal advice and those who give official advice to the President is clear. The President's ***private*** counsel provide advice concerning the response he must make to the particular demands the OIC and the *Jones* litigation place on him in his personal capacity. The White House Counsel and the President's senior advisors, on the other hand, provide advice concerning the official obligations of the President and the Office of the President, and are responsible for ensuring that, despite the pending litigation, he is able to perform his constitutional duties with maximum effectiveness. It is only as to this advice—from senior advisors like Mr. Blumenthal—that the presidential communications privilege has been invoked. Similarly, it is only as to legal advice given by Mr. Lindsey to the President in his official capacity that we have asserted the government's attorney-client privilege.

Finally, the circumstances under which the Independent Counsel has brought these Motions make clear the overly intrusive nature of his inquiry—one launched with no sensitivity to the most rudimentary constitutional principles and seemingly intended to manufacture a constitutional confrontation. Recognizing the grand jury's legitimate interest in obtaining the evidence

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[3] The threat of referral for possible impeachment proceedings is not just hypothetical. There is now pending in the House of Representatives a resolution to impeach President Clinton for an alleged "systematic effort to obstruct, undermine, and compromise the legitimate and proper functions and processes of the [E]xecutive [B]ranch[.]" *See* H. Res. 304, 105th Cong., 1st Sess.

it needs, we have made clear to the OIC from the beginning our willingness to provide the facts relevant to its investigation to the fullest extent consistent with the President's constitutional obligations. But we have also made clear our firm conviction that the OIC can have no legitimate interest in the White House staff's discussions of political or legal strategy, much less in whether anyone, in or out of the White House, has spoken less than favorably about the OIC.

Consistent with this position, we informed the OIC as early as February 3, 1998, that, in shaping any limited invocation of executive privilege that might be necessary for the President's non-attorney advisors, we would, as we had in other cases, *see, e.g., Sealed Case*, 121 F.3d at 735–36, distinguish between facts and advice. (*See* Declaration of Charles F.C. Ruff ("Ruff Decl.") ¶ 32) . This position was reaffirmed in our letter to the OIC of March 4, 1998, but our offer was spurned. (*See* Ruff Decl. Exhibits ("Exs.") 6, 7). Indeed, the OIC moved to compel the testimony of Nancy Hernreich on the very same day that it rejected the White House's offer to withdraw the assertion of privilege as to her. (*See* Ruff Decl. Ex. 7). And two days before that, the OIC rejected the White House's request that, before it launched any litigation, counsel meet to determine whether there could be an accommodation of the grand jury's interests with those of the Presidency—a process specifically contemplated by the Court of Appeals as the vehicle for minimizing the risk of unnecessary constitutional conflict. *See Sealed Case*, 121 F.3d at 735 (OIC's motion to compel production of documents followed considerable negotiations with the White House).

The Independent Counsel comes before this Court seeking essentially unfettered authority to inquire into every conversation the President, his lawyers and his advisors have had about the *Jones* case and the Lewinsky matter. He does so without being willing to proffer to the court the slightest justification for that inquiry—beyond his mere wish—and in direct contravention of the Court of Appeals' mandate that any intrusion into privileged communications must be narrowly focused and specifically justified. As the following discussion will make clear, that wish is grounded neither in good law nor sensible constitutional practice.

BACKGROUND

1. Factual Background

The roots of this dispute date at least back to May 27, 1997, when the Supreme Court decided *Clinton v. Jones*, 117 S. Ct. 1636 (1997). The Court rejected the President's attempt to stay temporarily the ongoing civil proceedings against him in a sexual harassment lawsuit brought by a former Arkansas state employee. In holding that the President was not, despite his unique position in the constitutional structure, entitled to a temporary stay of the civil proceedings against him, the Court opined that "it seems unlikely that a deluge of such litigation will ever engulf the Presidency" and suggested that the *Jones* case, "if properly managed by the District Court, . . . appears to us highly unlikely to occupy any substantial amount of petitioner's time." *Id.* at 1648.

In the wake of *Clinton v. Jones*, the President confronted an unavoidable dilemma. On the one hand, he remained the Nation's chief executive with a full panoply of domestic and foreign obligations which, the Court recognized, regularly required his personal attention for as much as twenty hours a day. *See Clinton v. Jones*, 117 S. Ct. at 1646 & nn.25–26; Ruff Decl. ¶ 6. But on the other hand, by virtue of the Court's decision, the President was obliged to attend to the *Jones* litigation ongoing in Arkansas, including formulating discovery responses, submitting to a deposition, strategizing with counsel, and evaluating and responding to potential avenues of settlement. At its core, the Court's decision in *Clinton v. Jones* meant that the President could not choose one course or the other—doing the job to which he was elected, or defending himself against the *Jones* lawsuit. He was, instead, required to do both. (*See* Ruff Decl. ¶¶ 4, 7; Declaration of Bruce R. Lindsey ("Lindsey Decl.") ¶ 8). How the President reconciles these types of conflicting obligations is the focus of a major portion of the communications over which the White House now invokes the presidential communications privilege, discussed in more detail below.

On Saturday, January 17, 1998, the President gave a deposition in *Jones v. Clinton*, No. LR-C-94-290 (E.D. Ark.). In this deposition, the President was asked certain questions

relating to Monica Lewinsky, a former White House intern. On or about January 21, 1998, it was publicly announced that the jurisdiction of Independent Counsel Kenneth W. Starr had been expanded to include an investigation of Ms. Lewinsky and whether she or others suborned perjury or violated any other federal laws. (*See* Ruff Decl. ¶ 10).

In light of the new allegations, particularly those involving alleged obstruction of justice, commentators publicly adverted to the prospects of impeaching the President.[4] Those prospects took on a heightened reality when the Chairman of the House Judiciary Committee publicly stated that "impeachment might very well be an option" if the OIC substantiated its latest allegations against the President. *See* Francis X. Clines & Jeff Gerth, *Subpoenas Sent as Clinton Denies Reports of an Affair With Aide at White House*, N.Y. TIMES, Jan. 22, 1998, at A1, A24 (quoting Rep. Henry J. Hyde (R-Ill.)); *accord* Katharine Q. Seelye, *Clinton's Rapid-Response Squad Now Moves in Slow Motion*, N.Y. TIMES, Jan. 24, 1998, at A8 ("'If indeed the President was guilty of obstruction of justice, I really would think that the word "impeachment" would be one of the words to be used.' ") (quoting Rep. Charles B. Rangel (D-NY)).

2. Prior Proceedings Regarding Mr. Lindsey, Mr. Blumenthal, and Ms. Hernreich

From the outset, the White House has taken expansive measures to cooperate fully with the OIC's investigation. The White House promptly searched the entire Executive Office of the President for documents responsive to the OIC's subpoenas, and has produced all responsive materials. (*See* Ruff Decl. ¶ 13).

On January 30, 1998, the OIC subpoenaed Bruce Lindsey, Assistant to the President and Deputy Counsel, calling for him to appear before the grand jury to testify on February 4, 1998. (*See* Ruff Decl. ¶ 31). Around this time, the OIC also issued subpoenas to Sidney Blumenthal, Assistant to the President, and to Nancy Hernreich, Deputy Assistant to the President and Direc-

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[4] *See, e.g.*, Guy Gugliotta, *Impeachment Inquiry Discussed in House*, WASH. POST, Feb. 10, 1998, at A9; Katharine Q. Seelye, *Clinton's Rapid-Response Squad Now Moves in Slow Motion*, N.Y. TIMES, Jan. 24, 1998, at A8 ("George Stephanopoulos, a main campaign aide in 1992 and Mr. Clinton's senior adviser until after the 1996 election, was among the first to use the word 'impeachment' over the allegations[.]"); Tony Mauro & Richard Willing, *Impeachment Talk is Real*, USA TODAY, Jan. 23, 1998, at 3A; Ruff Decl. ¶¶ 21–22.

tor of Oval Office Operations. All three witnesses appeared before the grand jury and offered testimony.

The White House has, at every stage, sought to narrow and focus the issues over which any assertion of privilege may properly be invoked. Although the White House has endeavored to do so in cooperation with the OIC, as is plainly contemplated by *Sealed Case*, 121 F.3d at 735–36, the OIC has generally declined to participate.

For example, Charles Ruff, Counsel to the President, and Lanny Breuer, Special Counsel, met with the OIC on February 3, 1998 to discuss potential privilege concerns that could be raised during the grand jury testimony of Mr. Lindsey and John Podesta, Deputy Chief of Staff. (*See* Ruff Decl. ¶ 32). Mr. Ruff explained the potential privilege concerns that would necessarily arise if the OIC questioned Mr. Lindsey and other advisors regarding advice given to the President in his official capacity, and asked whether the OIC could specify the subjects about which they wished to elicit testimony. The OIC declined to do so (*id.*), and subsequently informed the White House that they would not recognize the applicability of executive privilege in this case. (*See* Ruff Decl. ¶ 34). Nevertheless, following the negotiation process contemplated by *Sealed Case*, Mr. Ruff reiterated the White House's desire to seek an accommodation of the parties' respective interests by letter of February 5, 1998. (*See* Ruff Decl. ¶¶ 35–36 & Ex. 2).

Subsequently, the White House voluntarily and unilaterally narrowed the scope of the communications over which privilege was being asserted. Yet, incredibly, in its haste to provoke a constitutional confrontation, the OIC actually ***rejected*** the White House's offer to withdraw the assertion of privilege as to Ms. Hernreich, one of the witnesses whose testimony the OIC has moved to compel.

By letter of March 2, 1998, counsel for the White House reiterated the White House's desire to reach an accommodation between the OIC's desire for testimony and the White House's need to ensure the availability of candid advice to future Presidents, and offered to meet with the OIC to discuss the matter. (*See* Ruff Decl. ¶ 45 & Ex. 4). The OIC responded by asking the

White House to submit its proposal by noon on March 4, 1998. (*See* Ruff Decl. ¶ 46 & Ex. 5). The White House complied.

In its proposal, the White House offered to narrow the scope of executive privilege it would assert. The White House's proposal would have relinquished the privilege and allowed non-attorney White House advisors, such as Ms. Hernreich, to testify fully to any relevant facts, including conversations with the President. (*See* Ruff Decl. ¶¶ 47–59 & Ex. 6). As the proposal stated:

> [T]he Office of the President is prepared to instruct White House witnesses along the following general lines:
>
> - White House Advisors (Non-Lawyers): Advisors will be permitted to testify as to factual information regarding the Lewinsky matter, including any such information imparted in conversations with the President. We will continue to assert executive privilege with regard to strategic deliberations and communications.
>
> - White House Attorney Advisors: Attorneys in the Counsel's Office will assert attorney/client privilege; attorney work product; and, where appropriate, executive privilege, with regard to communications, including those with the President, related to their gathering of information, the providing of advice, and strategic deliberations and communications.

(Ruff Decl. Ex. 6, at 2). By confining the assertion of executive privilege to "strategic deliberations and communications" and communications by and among attorneys in the White House Counsel's office (*id.*), the White House believed that its proposal would lead to the accommodation *Sealed Case* contemplates.

Instead, on March 6, 1998, the OIC curtly rejected the White House's proposal outright, ***including*** the proposed withdrawal of the privilege as to all factual testimony by non-attorneys such as Ms. Hernreich. (*See* Ruff Decl. ¶ 51 & Ex. 7). The same day, the OIC filed the motions to compel that are at issue here.

Thus, although the White House has reserved the invocation of executive privilege to that inner core of conversations that cannot be disclosed without materially harming the ability of future Presidents to confer with advisors candidly, the OIC has shown itself to be much more

interested in provoking a needless constitutional controversy than in actually obtaining the factual evidence it claims to want. For the reasons that follow, the OIC's Motions must be denied.

ARGUMENT

In this consolidated reply to the OIC's Motions to Compel, we address, first, the attorney-client privilege and the attorney work product doctrine as they apply to the testimony of Bruce Lindsey, Deputy Counsel to the President, and second, the presidential communications privilege as it applies to Sidney Blumenthal, Assistant to the President, and other non-attorney advisors, as well as to Mr. Lindsey.

The OIC seeks to compel Mr. Lindsey to divulge a range of communications presumptively protected by the attorney-client privilege: discussions with the President and senior White House staff for the purpose of affording legal advice; discussions with the President's personal counsel on matters encompassing his private and official interests;[5] and discussions with counsel for other individuals with whom the White House had a common interest. The absolute privilege protecting communications between an attorney and his client has been recognized since the birth of the common law and is firmly imbedded in the law of the District of Columbia—in both its private and governmental forms. The contrary view of the Court of Appeals for the Eighth Circuit in *In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910 (8th Cir.), *cert. denied*, 117 S. Ct. 2482 (1997) ("*Grand Jury Subpoena*"), on which the OIC rests its entire argument, does not control here and, in any event, is deeply flawed. But even if the special circumstances present here suggest the need to balance the values inherent in the privilege against the needs of the grand jury, the OIC has offered absolutely nothing to weigh in that balance.

The OIC proffers only one argument in its attempt to pierce the executive privilege that has protected presidential communications since the dawn of the Republic—an argument that finds no support in the case law. The OIC would have the Court find, based solely on its unsup-

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[5] Private counsel for the President will raise as well his personal attorney-client privilege to protect discussions with Mr. Lindsey on the occasions in which he served as a conduit for communications between them and their client.

ported claim that the testimony it seeks relates to "private" conduct, that the privilege simply does not apply. Moreover, it asks the Court to bypass the careful analysis of individual communications mandated by the Court of Appeals in *Sealed Case* and require wholesale disclosure of all discussions with the President and his senior advisors. This argument flies in the face of the presumptive privilege that attaches to presidential communications—a presumption that the courts have made clear can be overcome only on the most stringent showing of need on a communication-by-communication basis.

For these reasons, this Court should deny the OIC's motions to compel.

I. THE TESTIMONY THE OIC SEEKS TO COMPEL IS PROTECTED BY THE WHITE HOUSE'S ATTORNEY-CLIENT PRIVILEGE

The attorney-client privilege protecting communications between a government agency and its attorneys is an established principle under the law of this Circuit. The Court of Appeals for the Eighth Circuit's contrary opinion, on which the OIC hangs the entire weight of its argument, stands alone in holding the privilege inapplicable when invoked in grand jury proceedings. *See In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910, 913 (8th Cir.), *cert. denied*, 117 S. Ct. 2482 (1997) ("*Grand Jury Subpoena*"). The Eighth Circuit's decision demonstrably conflicts with precedent binding in this Circuit, and it should not be followed here.

A. The Eighth Circuit's Deeply Flawed Decision Offers No Persuasive Reason to Depart from the Authorities Recognizing the Governmental Attorney-Client Privilege

1. The Governmental Privilege in General

It is hornbook law that organizations have an attorney-client privilege against compelled disclosure of conversations between the organization's counsel and the organization's officials and employees. *See, e.g., Upjohn Co. v. United States*, 449 U.S. 383 (1981). Although *Upjohn* arose in the context of the corporate attorney-client privilege, nothing in the Court's assessment of a organization's need for freedom to consult with attorneys in confidence was limited to the corporate context. Accepting the logical implications of *Upjohn*, courts in this Circuit routinely

have recognized that the attorney-client privilege protects governmental organizations as well as private ones. *See Tax Analysts v. IRS*, 117 F.3d 607, 618 (D.C. Cir. 1997); *Mead Data Central v. United States Dep't of the Air Force*, 566 F.2d 242, 252 (D.C. Cir. 1977). Evidentiary privileges such as the attorney-client privilege remain fully applicable in grand jury proceedings. *See Sealed Case*, 121 F.3d at 756 (citing *Branzburg v. Hayes*, 408 U.S. 665, 688 (1972) (recognizing applicability in grand jury proceedings of "the longstanding principle that 'the public . . . has a right to every man's evidence,' ***except for those persons protected by a constitutional, common-law, or statutory privilege***[.]") (emphasis added, citations omitted);[6] *United States v. Calandra*, 414 U.S. 338, 346 (1974) (grand jury "may not itself violate a valid privilege, whether established by the Constitution, statutes, or the common law.") (citations omitted)). The applicability of the governmental attorney-client privilege has been specifically confirmed in federal grand jury proceedings. *See In re Grand Jury Subpoena*, 886 F.2d 135 (6th Cir. 1989).

The Supreme Court has recognized that the attorney-client privilege advances important public interests. By "encourag[ing] full and frank communications between attorneys and their clients," the privilege enables clients "to make full disclosure to their attorneys" without fear that the discussions will become public, and thereby "promote[s the] public interests in the observance of law and administration of justice." *Upjohn*, 449 U.S. at 389 (internal quotations and citations omitted). This purpose cannot be served unless the client is "free from the consequences or the apprehension of disclosure." *Id.* (internal quotations and citations omitted); *see also Jaffee v. Redmond*, 116 S. Ct. 1923, 1928 (1996) ("the mere possibility of disclosure" of protected communications "may impede development of the confidential relationship" the privi-

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6 The Court of Appeals for this Circuit has, similarly, recognized that the attorney-client privilege must be accorded its full sweep even in the face of the argument that it deprives the public of "every man's evidence":

> The attorney-client privilege is but one of several privileges that prevent parties themselves from adducing particular evidence, and thus create an obstacle to fact finding due to the broad judgment that the value of introducing such evidence is outweighed by the harm inflicted upon other policies and values. . . . [S]uch [evidentiary] burdens are simply a necessary consequence of society's attempt to balance the value of the complete admissibility of probative evidence with other competing values, such as the protection of vital professional or associational relationships.

Rosen v. NLRB, 735 F.2d 564, 572 (D.C. Cir. 1984) (Starr, J.).

lege exists to protect). These purposes apply with no less force in the present case and compel a very critical evaluation of the OIC's attempt to pierce the privilege.

In the governmental context, the attorney-client privilege advances other public interests as well. "[B]y safeguarding the free flow of information" within the government agency, the privilege fosters fairer and more accurate government decisionmaking. *Murphy v. TVA*, 571 F. Supp. 502, 506 (D.D.C. 1983); *see also Grand Jury Subpoena*, 112 F.3d at 929–32 (Kopf, J., dissenting).

An additional nuance arises here because the client whose confidences are at issue is the President. In this context, the presidential communications and attorney-client privileges are mutually self-reinforcing. Both exist to guarantee that the President receives necessary advice and input with the candor that can be secured only when advisors are free from apprehension about how third parties or the public may view them. When government attorneys or other advisors doubt the confidentiality of their communications, they will of necessity speak guardedly, hedging their recommendations with a view toward preserving the natural human desire to be well thought of by others. Such caution extracts a heavy toll, for it prevents the President from receiving the candid assistance necessary to run the government effectively and thereby serve the national interest. Here, that interest is protected by not just one, but two privileges, one of Constitutional dimension and the other with common-law roots deeper than any other privilege. In this circumstance, fidelity to both these reinforcing lines of authority compels the most intensive and exacting scrutiny of the OIC's attempt to pierce these privileges.

2. Flaws in the Eighth Circuit's Decision

In reaching the contrary result on which the OIC relies, the Eighth Circuit's decision—which is not binding on this Court—committed numerous analytical errors and misread the relevant authorities.

a. This Circuit has Long Recognized the Attorney-Client Privilege in the Governmental Context

To begin with, the Eighth Circuit incorrectly framed the issue before it. The court acted as if it was being asked to recognize a new privilege, and thus as if it must overcome a presumption against protecting the documents that had been subpoenaed. *See Grand Jury Subpoena*, 112 F.3d at 915. But the case before that court, like the instant case, presented no such issue at all. Far from being asked to create a privilege that was in any sense "new," the court was simply called upon to apply the single best settled and oldest of all the privileges known to the common law, *Upjohn*, 449 U.S. at 389, to the facts before it. There was no occasion for the application of the presumption against the creation of a new privilege, and the court erred in acting as if there was.

Second, the Eighth Circuit treated as a matter of first impression whether a governmental attorney-client privilege existed at all. *See Grand Jury Subpoena*, 112 F.3d at 915 ("We need not decide whether a governmental attorney-client privilege exists in other contexts, for it is enough to conclude that even if it does," it is inapplicable). Even assuming *arguendo* that the court's characterization of the question as an open issue in the Eighth Circuit was correct, it would not be relevant here. The governmental attorney-client privilege is a long-established fixture under the law in this Circuit and is in no sense an open question. *See, e.g.*, *Tax Analysts v. IRS*, 117 F.3d 607, 618 (D.C. Cir. 1997) ("In the governmental context, the 'client' may be the agency and the attorney may be an agency lawyer," although the Court ultimately finds the privilege inapplicable); *Brinton v. Dep't of State*, 636 F.2d 600, 603 (D.C. Cir. 1980) (recognizing governmental attorney-client privilege, although resting decision on deliberative process grounds instead); *Mead Data Central v. United States Dep't of the Air Force*, 566 F.2d 242, 252 (D.C. Cir. 1977) ("In order to ensure that a client receives the best possible legal advice, based on a full and frank discussion with his attorney, the attorney-client privilege assures him that confidential communications to his attorney will not be disclosed without his consent. We see no reason why this same protection should not be extended to an agency's communica-

tions with its attorneys under [FOIA] exemption five."). Thus, a central analytical basis for the Eighth Circuit's decision is not only absent here, but indeed contradicted by settled precedent binding on this Court.[7] The D.C. Bar's professional rules also expressly recognize the applicability of the attorney-client privilege in the governmental context. *See* District of Columbia Rules of Professional Conduct, R. 1.13 & cmt. 7 (the government lawyer "represents the agency acting through its duly authorized constituents."), 1.6 & cmts. 33–36 (recognizing ethical duty of government lawyers to preserve the client agency's confidences).

Third, the Eighth Circuit incorrectly assumed, without authority, that the application of the attorney-client privilege turns on the specific circumstances at the time it is raised. Because it found no previous decision applying the privilege in an identical factual context, the Eighth Circuit assumed it was writing on a blank slate. This freed the court, in its view, to engage in a *de novo* assessment of the interests served by, and putative evidentiary costs of, the attorney-client privilege. But this mode of analysis is utterly foreign to the attorney-client privilege. A hallmark of absolute privileges such as the attorney-client privilege—as distinct from qualified privileges such as the protection for attorney work product[8]—is that they do not turn on *post hoc*

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7 Other courts agree with this one. *See, e.g., Wilder v. C.I.R.*, 607 F. Supp. 1013, 1015 (M.D. Ala. 1985) (it is "well settled" that documents prepared by agency counsel "fall within the ambit of the attorney-client privilege"); *Green v. IRS*, 556 F. Supp. 79, 85 (N.D. Ind. 1982) (attorney-client privilege "unquestionably is applicable to the relationship between Government attorneys and administrative personnel"), *aff'd mem.*, 734 F.2d 18 (7th Cir. 1984); *Jupiter Painting Contracting Co. v. United States*, 87 F.R.D. 593, 598 (E.D. Pa. 1980) (explaining that "[c]ourts generally have accepted that attorney-client privilege applies in the governmental context," so despite "apprehension at [the privilege's] pernicious potential in a government top-heavy with lawyers . . . [t]his concern does not justify application of a different privilege to governmental attorney-client relationships."). *Coastal Corp. v. Duncan*, 86 F.R.D. 514, 520 (D. Del. 1980) ("the attorney-client privilege is applicable in the factual context where a government agency is a 'client' and agency lawyers are 'attorneys.'"). *Hearn v. Rhay*, 68 F.R.D. 574, 579 (E.D. Wash. 1975) ("[f]ederal courts have uniformly held that the attorney-client privilege can arise with respect to attorneys representing a state").

8 As one treatise on evidence put it:

> In other respects, however, the attorney-client privilege provides more protection than the work product doctrine. While the privilege is absolute, the work product doctrine provides only a qualified immunity which in the case of ordinary work product can be overcome by a showing of "substantial need" and "undue hardship" in obtaining the "substantial equivalent of the materials by other means." . . . The work product doctrine operates primarily as a limitation on pretrial discovery, whereas the attorney-client privilege applies more broadly at all stages of legal proceedings.

2 CHRISTOPHER B. MUELLER & LAIRD C. KIRKPATRICK, FEDERAL EVIDENCE § 204 (2d ed. 1994).

demonstrations of need or balancing of interests at the time the privilege is asserted. A contrary rule effectively vitiates the entire purpose of absolute privileges such as the attorney-client privilege, which is intended to encourage communications that might not be made in its absence. *See Upjohn*, 449 U.S. at 395; *Jaffee*, 116 S. Ct. at 1929 ("[w]ithout a privilege, much of the desirable evidence to which litigants . . . seek access . . . is unlikely to come into being"). Allowing the attorney-client privilege to turn on a *post hoc* assessment of the particular circumstances in which it is asserted in litigation prevents the privilege from serving its key function: providing clients assurance in advance that they may speak freely without fear of disclosure.

Other authorities confirm the Eighth Circuit's error in rejecting the applicability of the governmental attorney-client privilege. For one, the privilege has received express legislative recognition by Congress under Exemption 5 of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(5). This exemption allows governmental agencies to withhold from disclosure, in response to a FOIA request, any "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency[.]" *Id.* Congress's clear intent to enact a federal law of governmental attorney-client privilege (and protection for attorney work product) was noted by the Supreme Court in *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 154 (1975) ("[t]he Senate Report states that Exemption 5 'would include the working papers of the agency attorney and documents which would come within the attorney-client privilege if applied to private parties' "). *See also Mead Data Central*, 566 F.2d at 252; *Grand Jury Subpoena*, 112 F.3d at 930 (Kopf, J., dissenting).

The overwhelming weight of scholarly authority recognizes the existence and importance of the privilege in the governmental context. *See, e.g.*, RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS § 124 (Proposed Final Draft No. 1, Mar. 29, 1996) ("the generally prevailing rule . . . [is that] governmental agencies and agents enjoy the same privilege as non-governmental counterparts."); 2 CHRISTOPHER B. MUELLER & LAIRD C. KIRKPATRICK, FEDERAL EVIDENCE § 191 (2d ed. 1994); *see also Grand Jury Subpoena*, 112 F.3d at 930 (Kopf, J., dissenting).

What is more, the Supreme Court's Proposed Federal Rules of Evidence, which have repeatedly been relied on in this Circuit and by the Supreme Court as accurate statements of the common law of privilege,[9] expressly recognized the applicability of the attorney-client privilege in the governmental context. Proposed Rule 503, dealing with the attorney-client privilege, defined "client" to include a "public officer, . . . or other organization or entity, either public or private[.]" Proposed Federal Rules of Evidence, Rule 503(a)(1), 56 F.R.D. 183, 235 (1972). The accompanying Advisory Committee's Note emphasized that "[t]he definition of 'client' includes governmental bodies." *Id.* R. 503(a)(1) adv. comm. note, 56 F.R.D. at 237. *See generally Grand Jury Subpoena*, 112 F.3d at 926, 928–29 (Kopf, J., dissenting).

b. Congress Did Not Abrogate the Governmental Attorney-Client Privilege in 28 U.S.C. § 535(b)

In reaching its decision, the Eighth Circuit incorrectly relied on a relatively obscure provision of law requiring executive branch employees to report to the Attorney General information relating to criminal acts committed by their colleagues. Citing 28 U.S.C. § 535(b),[10] the

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9 Although Congress ultimately enacted Fed. R. Evid. 501, which calls upon the federal courts to develop a federal common law of privilege, instead of enacting the specific privileges in the form proposed by the Supreme Court, the Court's Proposed Rules on the subject of privilege have been widely recognized as accurate statements of the common law and are entitled to appropriate consideration. *See, e.g., Jaffee v. Redmond*, 116 S. Ct. 1923, 1927 n.7, 1928, 1930–31 (relying on statement of psychotherapist-patient privilege in Proposed Rules); *Linde Thomson Langworthy Kohn & Van Dyke, P.C. v. RTC*, 5 F.3d 1508, 1514 (D.C. Cir. 1993) (relying, *inter alia*, on Proposed Rules 503(a)(3) and 503(b) to describe the contours of the attorney-client privilege); *Citibank, N.A. v. Andros*, 666 F.2d 1192, 1195 n.6 (8th Cir. 1981) ("courts have continued to look to the proposed rules as a source for defining the federal common law of attorney-client privilege."). "Most importantly, the proposed rule covering the attorney-client privilege is still at this point a generally reliable statement of federal common law." 2 STEPHEN A. SALTZBURG ET AL., FEDERAL RULES OF EVIDENCE MANUAL 589 (6th ed. 1994); *see also Grand Jury Subpoena*, 112 F.3d at 928–29 (Kopf, J., dissenting).

10 This statute provides that:

> Any information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless—
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> (1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or
>
> (2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

28 U.S.C. § 535(b).

majority found it "significant" that government employees, "including attorneys, are under a statutory duty to report criminal wrongdoing by other employees to the Attorney General." *Grand Jury Subpoena*, 112 F.3d at 920. Neither the plain language of section 535(b) nor its legislative history, however, evinces any intent to vitiate the attorney-client privilege. The text of the provision does not mention the attorney-client privilege and does not, by its terms, command the interpretation the Eighth Circuit adopted. Similarly, there is no evidence of Congressional intent to abrogate the most firmly entrenched common law privilege protecting communications between attorneys and their clients. As the House Report on this provision makes clear, the objective of section 535(b) was simply to settle a jurisdictional battle between investigative agencies:

> The purpose of the proposed legislation is to set out the necessary authority for the Attorney General and the Federal Bureau of Investigation to investigate alleged irregularities on the part of Government officers and employees and to require the reporting by the departments and agencies of the executive branch to the Attorney General of information coming to their attention concerning any alleged irregularities on the part of officers and employees of the Government.

H.R. Rep. No. 83-2622, *reprinted in* 1954 U.S.C.C.A.N. 3551.

The absence of case law interpreting this statute's applicability to government attorneys only enhances the need for clarity in assessing legislative intent. A fundamental axiom of statutory construction is that, where the text of a law is ambiguous, one should not presume a legislative intention to abrogate settled common-law principles. 2B SUTHERLAND STATUTORY CONSTRUCTION § 50.01 (5th ed. 1992 & Cum. Supp. 1997). As the Supreme Court has instructed, "[s]tatutes which invade the common law . . . are to be read with a presumption favoring the retention of long-established and familiar principles, except when a statutory purpose to the contrary is evident." *Isbrandtsen Co. v. Johnson*, 343 U.S. 779, 783 (1952). Congress acts within the framework of existing law, not within a vacuum. *See, e.g., Miles v. Apex Marine Corp.*, 498 U.S. 19, 32 (1990) ("We assume that Congress is aware of existing law when it passes legislation."). Therefore, in the absence of "an indication that the legislature intends a

statute to supplant common law, the courts should not give it that effect." SUTHERLAND STATUTORY CONSTRUCTION, *supra*.

Fidelity to these settled principles compels the conclusion that section 535(b) should not be read to undermine the well-established attorney-client privilege. As Judge Kopf's dissenting opinion in the Eighth Circuit noted, the Department of Justice, which section 535(b) charges to enforce the reporting provision, has always interpreted this provision to be consistent with the long-standing protection for confidential attorney-client communications. *See Grand Jury Subpoena*, 112 F.3d at 932 (Kopf, J., dissenting). On several occasions, the Justice Department's Office of Legal Counsel has expressed the opinion that the attorney-client privilege survives section 535(b). *Id.* According to then-Assistant Attorney General Antonin Scalia, "[g]iven the absence of any discussion of the subject in the legislative history [of § 535(b)], it would in our view be inappropriate to infer a congressional purpose to breach the universally recognized and long-standing confidentiality of the attorney-client privilege." Antonin Scalia, Assistant Attorney General, Office of Legal Counsel, *Memorandum for the Deputy Attorney General re: Disclosure of Confidential Information Received by U.S. Attorney in the Course of Representing a Federal Employee* at 7 (Nov. 30, 1976). Nearly a decade later, the Office of Legal Counsel reconfirmed this interpretation, stating that "the principal reason for our conclusion that the attorney-client privilege overrides § 535(b) is that the confidentiality of communications between client and lawyer is essential if Department attorneys are to be able to provide adequate legal representation." Ralph W. Tarr, Acting Assistant Attorney General, Office of Legal Counsel, *Duty of Government Lawyers Upon Receipt of Incriminating Information in the Course of an Attorney-Client Relationship with Another Government Employee* at 6 (March 29, 1985). The uniformity of the Office of Legal Counsel's position, which represents the only precedential authority on the specific application of section 535(b) to this situation, only strengthens the conclusion already reached by applying prevailing principles of statutory construction: this statute clearly does not contravene the attorney-client privilege. *See generally Grand Jury Subpoena*, 112 F.3d at 930–32 (Kopf, J., dissenting).

Because the Eighth Circuit's decision is inconsistent with precedent binding in this Circuit, and out of step with the long-standing consensus of other authorities, this Court should not follow it.

B. The Communications at Issue Here are Privileged

1. Bruce R. Lindsey

Mr. Lindsey's conversations involved the President's attorney-client privilege in both his official and unofficial capacities. First, as Deputy White House Counsel, Mr. Lindsey represents the Office of the President and, in that capacity, has had confidential conversations with the client or the client's representatives relating to the provision of legal advice. (*See* Lindsey Decl. ¶¶ 9–12). These conversations are directly covered by the White House's attorney-client privilege. Some of Mr. Lindsey's conversations related to providing legal advice on the questions whether the Office of the President should invoke its testimonial privileges, including the attorney-client and presidential communications privileges. (*See* Lindsey Decl. ¶ 11). The OIC also seeks to compel conversations Mr. Lindsey had relating to possible impeachment proceedings before the House Judiciary Committee. (*Id.*). These discussions, which related directly to Mr. Lindsey's gathering of information to provide legal advice to his client, are plainly covered by the White House's attorney-client privilege. (*Id.*; *see also* Ruff Decl. ¶ 22). Mr. Lindsey also had discussions with witnesses who testified before the grand jury, or their counsel, during the course of gathering information to use in advising the White House on matters of litigation strategy. (*See* Lindsey Decl. ¶ 13). These interviews are also protected by the attorney-client privilege.

Second, Mr. Lindsey has stated in his Declaration that he has occasionally communicated with the President's private counsel while acting on behalf of the President in the President's individual capacity. (*See* Lindsey Decl. ¶ 12). To the extent this latter situation raises issues primarily within the President's individual attorney-client privilege, the White House will not address it in detail herein.

2. Nancy Hernreich

As suggested in the White House's proposal to the OIC of March 4, 1998, the White House withdraws the assertion of privilege as to factual questions submitted to Ms. Hernreich, including factual questions regarding communications with the President.

C. This Court Should Deny the OIC's Motion Even if the Attorney-Client Privilege is Qualified, Rather than Absolute, in the Governmental Context

Even assuming the Eighth Circuit majority was correct and a qualified attorney-client privilege, subject to a balancing of interests after the fact, is appropriate in the governmental context, that fact alone would not justify the majority's conclusion that the privilege automatically evaporated in the face of a grand jury subpoena from the OIC. Rather, qualified privileges generally require the party opposing the privilege to make some showing of ***need*** to surmount the privilege's protection. *See, e.g.*, *Sealed Case*, 121 F.3d at 745–46, 753–57 (discussing showing of need required to overcome qualified presidential communications privilege). By requiring no demonstration at all by the OIC before ruling the privilege unavailable, the Eighth Circuit again made new law that is at odds with settled precedent in this Circuit.

To say that the OIC must make some showing to overcome the attorney-client privilege necessarily raises the question of what that showing should be. We submit that, at least, the same "focused demonstration of need," showing that the evidence is "demonstrably critical to the responsible fulfillment" of the OIC's role, see *infra* at 27, must be required.

This was substantially the position taken by the Department of Justice, speaking through the Solicitor General as *amicus curiae* in support of the petition for certiorari filed by the White House, seeking review of the Eighth Circuit's decision. *See Office of the President v. Office of Independent Counsel*, (U.S., No. 96-1783), Brief *Amicus Curiae* For the United States, Acting

Through the Attorney General, Supporting Certiorari ("DOJ Brief").[11] Evaluating the attorney-client privilege in the unique context of an intra-branch dispute between the White House and the OIC, the Justice Department suggested that

> the district court should, in ruling on the motion to compel, accommodate the competing interests at stake in a manner similar to the accommodation that takes place in an ordinary, non-independent-counsel context.

DOJ Brief at 14 (footnote omitted). DOJ argued that a "useful analogy . . . [could] be drawn to the resolution of assertions of executive privilege," *id.* at 15, and suggested that the test established in *Nixon* and its progeny would best accommodate the competing interests at stake. *See generally id.* at 11–16.

D. Conversations Among Attorneys for the White House and Private Counsel for the President are Privileged from Disclosure Under the Common Interest Rule

The OIC contends that the governmental attorney-client privilege, even if it exists, could not attach to conversations with the President's private counsel. Again, the OIC is wrong. Every conversation in which private counsel participated is protected from disclosure under the common interest rule.

The Supreme Court's Proposed Rule 503(b)(3) recognized that "[t]he lawyer-client privilege applies to communications made by the client 'or his lawyer to a lawyer representing another in a matter of common interest.' " 3 WEINSTEIN'S FEDERAL EVIDENCE § 503.13[2] (Joseph M. McLaughlin ed., 2d ed. 1997) (quoting Proposed Rule 503(b)(3), 56 F.R.D. 183, 236 (1972)).[12] The common interest rule recognizes that

> [i]n many cases it is necessary for clients to pool information in order to obtain effective representation. So, to encourage information-pooling, the common inter-

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[11] The OIC's suggestion that he may second-guess the official position of the United States Government on the scope of the attorney-client privilege, as enunciated by the Department of Justice, is in considerable tension with the statute under which the OIC operates. The statute permits the OIC to deviate from the Department's view only when it is "not possible" for him to comply. 28 U.S.C. § 594(f).

[12] As already noted, the Supreme Court's Proposed Rules of Evidence represent highly persuasive statements of the common law of privilege the courts should apply under Fed. R. Evid. 501. *See supra* note 9.

> est rule treats all involved attorneys and clients as a single attorney-client unit, at least insofar as a common interest is pursued.

2 STEPHEN A. SALTZBURG ET AL., FEDERAL RULES OF EVIDENCE MANUAL 599 (6th ed. 1994) (footnotes omitted); *accord In re Sealed Case*, 29 F.3d 715, 719 (D.C. Cir. 1994) ("The common interest privilege protects communications between a lawyer and two or more clients regarding a matter of common interest."). Besides preserving the privilege for attorney-client communications made among attorneys for clients with a common interest, the privilege also allows the attorneys to share work product without waiver of the protection the work product rule provides. *See United States v. AT&T*, 642 F.2d 1285, 1299–1301 (D.C. Cir. 1980). The common interest rule applies with equal force in the governmental context as outside. *See id.* at 1300 ("The government has the same entitlement as any other party to assistance from those sharing common interests, whatever their motives").

In this case, attorneys representing the White House and the President's private counsel were pursuing a common interest in responding to the allegations made against a sitting President involving his conduct in the White House. (*See* Lindsey Decl. ¶¶ 12–13; Ruff Decl. ¶ 30). As discussed herein, the OIC's investigation, although nominally directed at the President's personal conduct, has had unavoidable effects on the functioning of the Presidency and the institutions of government. The indisputable need for White House attorneys to confer with the President's private counsel on matters of common interest shields their discussions from compelled disclosure.

E. Certain of the Materials Sought are Protected from Disclosure Because they Constitute Attorney Work Product

The OIC's Motion to Compel also intrudes upon matters protected from disclosure by the work product doctrine. *See Hickman v. Taylor*, 329 U.S. 495 (1947). The attorney work-product rule, like the attorney-client privilege, has received official Congressional recognition in the governmental context. *See* 5 U.S.C. § 552(b)(5); *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 154 (1975); *FTC v. Grolier, Inc.*, 462 U.S. 19 (1983). The Department of Justice has also rec-

ognized the existence of the governmental attorney work product doctrine in circumstances that parallel the OIC's Motions here. *See* DOJ Brief, *supra*, at 18–19.

Among the subjects about which the OIC seeks to compel testimony are attorneys' recollections of their interviews with witnesses who testified before the grand jury. (*See* Lindsey Decl. ¶ 13). Because the OIC has sought to compel government attorneys to disclose the content of witness interviews, the higher standard of protection for attorney opinion work product applies. *See Upjohn*, 449 U.S. at 401 (attorney opinion work product, as distinct from "ordinary" work product, is "entitled to special protection").

II. THE OIC SEEKS TO COMPEL COMMUNICATIONS PROTECTED UNDER THE PRESIDENTIAL COMMUNICATIONS PRIVILEGE

The OIC has taken a simplistic and absolutist position in its motions to compel: it argues that the presidential communications privilege is inapplicable to any communications that relate to the President's "private" conduct. That contention is flatly wrong. Any conduct by the individual holding the Office of the President, whether it is characterized as private or official, can have substantial impact on a President's official duties. The White House has asserted executive privilege only over those communications that meet that test. For example, the Supreme Court, in *United States v. Nixon*, 418 U.S. 683 (1974), held that the conversations at issue in that case—about a break-in at the Democratic National Committee headquarters, although certainly not about an official function of the President—were presumptively privileged. *See also Senate Select Committee on Presidential Campaign Activities v. Nixon*, 498 F.2d 725 (D.C. Cir. 1974). Thus, the OIC is urging on this Court a position that the Supreme Court and the D.C. Circuit have long ago rejected.

A. Legal Framework for Evaluating a Claim of Privilege for Presidential Communications

The case law establishes a clear framework for evaluating a claim that the presidential communications privilege protects a conversation or document from compelled disclosure. The

OIC's Motions do not even acknowledge the existence of this framework. Accordingly, we will begin by laying out the key principles.

1. The Presumption of Privilege

"Presidential conversations are 'presumptively privileged,' even from the limited intrusion represented by *in camera* examination of the conversations by a court." *Senate Select Committee on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 730 (D.C. Cir. 1974) (quoting *Nixon v. Sirica*, 487 F.2d 700, 717–18 (D.C. Cir. 1973), *quoted with approval in United States v. Nixon*, 418 U.S. 683, 708 (1974)) (footnote omitted); *see also In re Sealed Case*, 121 F.3d 729, 744 (D.C. Cir. 1997). Grounded in constitutional separation of powers concerns, the presidential communications privilege is fully applicable in grand jury proceedings and bars compelled disclosure of the privileged matter. *Sealed Case*, 121 F.3d at 756. Because presidential communications are presumed to be privileged until the privilege is overcome by an extraordinary showing, the OIC is wrong in claiming that the White House has any "burden" to carry.[13] Rather, the burden is squarely on the OIC to make the showing necessary to overcome the presumption of privilege.

As the Supreme Court has recognized, this long-standing privilege[14] ensures that the President receives "candid, objective, and even blunt or harsh" advice from the inner circle of aides on whom he must, of necessity, rely every day:

> The expectation of a President to the confidentiality of his conversations and correspondence, like the claim of confidentiality of judicial deliberations, for example, has all the values to which we accord deference for the privacy of all citizens

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[13] *See, e.g.*, OIC's Brief in Support of Motion to Compel Bruce R. Lindsey to Testify ("OIC Lindsey Br.") at 2 n.4 (citing *Bartholdi Cable Co. v. FCC*, 114 F.3d 274, 280 (D.C. Cir. 1997), a case that did not involve the presidential communications privilege). All three of the OIC's supporting briefs cite this same irrelevant case.

[14] *See, e.g.*, *Sealed Case*, 121 F.3d at 739 n.9 (first assertion of a presidential communications privilege came during the Washington Administration). Virtually every Administration since Washington's has invoked the executive privilege in one form or another. *See generally* MARK J. ROZELL, EXECUTIVE PRIVILEGE 32–48, 83–140 (1994) (summarizing invocations of executive privilege by, *inter alia*, Presidents George Washington, John Adams, Thomas Jefferson, James Madison, Andrew Jackson, Abraham Lincoln, Calvin Coolidge, Herbert Hoover, Franklin D. Roosevelt, Harry S Truman, Dwight D. Eisenhower, John F. Kennedy, Lyndon B. Johnson, Gerald R. Ford, Jimmy Carter, Ronald Reagan, and George Bush).

> and, added to those values, is the necessity for protection of the ***public interest in candid, objective, and event blunt or harsh opinions in Presidential decision-making.*** A President and those who assist him must be free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately.

United States v. Nixon, 418 U.S. at 708 (emphasis added).

One cannot overstate the intolerable threat that an unduly constrictive reading of the privilege poses to the President's ability to get frank and candid advice from his advisors. Indeed, many years before the Nixon Presidency rendered discussions of the privilege controversial, President Eisenhower underscored the crucial role the privilege plays in promoting effective governance, going so far as to remark that, if confidential presidential communications were "subject to investigation by anybody," it could "wreck the Government."[15] Scholarly authority confirms the privilege's salutary role in encouraging candid advice to the President:

> The president's constitutional duties necessitate his being able to consult with advisers, without fear of public disclosure of their advice. If officers of the executive branch believed that their confidential advice could eventually be disclosed, the quality of that advice would suffer serious damage. Indeed, it would be difficult for advisers to be completely honest and frank in their discussions if their every word might someday be disclosed to partisan opponents or the public.

MARK J. ROZELL, EXECUTIVE PRIVILEGE 53–54 (1994).

Affording appropriate deference to a co-equal branch of the government under separation of powers principles, reviewing courts always have recognized that, when the presidential communications privilege has been invoked, a presumption of privilege attaches. *See Sealed Case*,

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15 President Eisenhower stated:

> But when it comes to the conversations that take place between any responsible official and his advisers . . . expressing personal opinions on the most confidential basis, those are not subject to investigation by anybody; and if they are, will wreck the Government. There is no business that could be run if there would be exposed every single thought that an adviser might have, because in the process of reaching an agreed position, there are many, many conflicting opinions to be brought together. And if any commander is going to get the free, unprejudiced opinions of his subordinates, he had better protect what they have to say to him on a confidential basis.

The President's News Conference of July 6, 1955, 1955 PUBLIC PAPERS OF THE PRESIDENTS 665, 674, *quoted in* Archibald Cox, *Executive Privilege*, 122 U. PA. L. REV. 1383, 1386 (1974). The President continued: "It is exactly, as I see it, like a lawyer and his client or any other confidential thing of that character." *Id.*, 1955 PUBLIC PAPERS OF THE PRESIDENTS at 674.

121 F.3d at 744 ("If the President does so [invokes the privilege], the documents become presumptively privileged."); *Senate Select Committee*, 498 F.2d at 730; *accord United States v. Nixon*, 418 U.S. at 713 ("Upon receiving a claim of privilege from the Chief Executive, it became the further duty of the district court to treat the subpoenaed material as presumptively privileged[.]"). This Court should reject the OIC's invitation to become the first court ever to adopt a contrary rule.

2. Communications to Which the Privilege Applies

The "presidential communications" privilege covers a significantly broader range of communications than its name suggests. In *Sealed Case*, the fullest recent explication of the privilege, the Court of Appeals for this Circuit squarely rejected the notion that the privilege attaches only to communications directly to or from the President. *See generally Sealed Case*, 121 F.3d at 746–53. Instead, the Court applied a more discerning analysis, which recognized the privilege's "root[s] in the constitutional separation of powers principles and the President's unique constitutional role," *id.* at 745—a role the President cannot perform without the close cooperation of an inner circle of advisors and assistants. Thus, to effect the purposes of the privilege, the Court recognized that it must protect not only the President's own communications, but also communications to and from the persons on whom the President directly relies for decisionmaking assistance:

> [C]ommunications made by presidential advisers in the course of preparing advice for the President come under the presidential communications privilege, even when these communications are not made directly to the President. Given the need to provide sufficient elbow room for advisers to obtain information from all knowledgeable sources, the privilege must apply both to communications which these advisers solicited and received from others as well as those they authored themselves. The privilege must also extend to communications authored or received in response to a solicitation by members of a presidential adviser's staff, since in many instances advisers must rely on their staff to investigate an issue and formulate the advice to be given to the President.

Id. at 751–52.

The privilege also covers individuals outside the President's inner circle, and even outside the White House, if those individuals relate "communications authored or solicited and received by members of an immediate White House adviser's staff[.]" *Id.* at 752; *see also id.* at 758 (although legal extern "did not exercise broad and significant responsibility," all the extern's relevant communications "were clearly created at the request of" those who did, and were therefore privileged); *id.* (documents for which no author was listed had plainly been solicited by individuals with key responsibility for advising the President, and were therefore privileged).

While scrupulously protecting the public interest in the effective operation of the highest levels of the Executive Branch, *Sealed Case* fully recognized and accommodated the public interest in ascertaining the truth in grand jury proceedings. Thus, the OIC is wrong to assert (OIC Lindsey Br. at 5–6) that the mere potential relevance of evidence is sufficient to overcome the protection of the privilege in a grand jury proceeding. The grand jury is not, as *Sealed Case* recognized, free to disregard established testimonial privileges. The presidential communications privilege in particular advances a substantial public interest on which the grand jury may not infringe:

> [W]e are ever mindful of the dangers involved in cloaking governmental operations in secrecy and placing obstacles in the path of the grand jury in its investigatory mission. ***There is a powerful counterweight to these concerns, however, namely the public and constitutional interest in preserving the efficacy and quality of presidential decisionmaking.***

Sealed Case, 121 F.3d at 762 (emphasis added).

3. The Showing Required to Overcome the Presumption

The presumptive privilege, once invoked by the President, is not easily overcome. "[A] party seeking to overcome the presidential privilege seemingly must always provide a focused demonstration of need[.]" *Sealed Case*, 121 F.3d at 746. "Efforts should first be made to determine whether sufficient evidence can be obtained elsewhere, and the subpoena's proponent should be prepared to detail these efforts and explain why evidence covered by the presidential privilege is still needed." *Id.* at 755. The "need" inquiry "turn[s], ***not on the nature of the***

presidential conduct that the subpoenaed material might reveal, but, instead, on the nature and appropriateness of the function in the performance of which the material was sought, and the degree to which the material was necessary to its fulfillment." *Senate Select Committee*, 498 F.2d at 731 (emphasis added); *accord Sealed Case*, 121 F.3d at 746. That this is a high hurdle indeed is shown by *Senate Select Committee*'s observation that the "showing must depend solely on whether the subpoenaed evidence is demonstrably critical to the responsible fulfillment" of the function of the entity seeking to compel production.[16] *Senate Select Committee*, 498 F.2d at 731. A mere showing of "an asserted power to investigate and inform," *id.* at 732, does not suffice. The Court's holding that "the Select Committee has failed to make the requisite showing," *id.* at 731, reinforces that the standard of need requires a very strong substantive showing that a court must scrutinize with the greatest care.

Moreover, the Court must assess the sufficiency of the showing of need without reference to the privileged communications themselves. *Sealed Case* makes very plain the steps involved in evaluating an attempt to overcome the privilege. Once the presumption of privilege attaches, the party seeking the information becomes obliged to make a "focused demonstration of need." *Sealed Case*, 121 F.3d at 746. Only after the party opposing the claim of privilege makes a sufficient showing does the President become obliged to cede control of the privileged materials. The "focused demonstration of need" does not itself require the President to turn over the information to the party seeking it, however, but only to submit it under seal to the district court for *in camera* review. *Id.* at 759–60. The district court reviews the items and extracts the specific relevant portions as to which the privilege has been overcome, and then those extracts and no other parts of the privileged communications may be provided to the party opposing the claim of privilege.

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[16] Although *Sealed Case*, like the present case but unlike *Senate Select Committee*, involved the Executive Branch's opposition to compulsory judicial process, rather than a legislative inquiry (*see Sealed Case*, 121 F.3d at 753), *Sealed Case* repeatedly employed (and necessarily adopted) *Senate Select Committee*'s explication of the need requirement, suggesting that, at least as to this element, the standards for evaluating any given assertion of the presidential communications privilege are identical no matter which branch of government is seeking to overcome the privilege.

Sealed Case also makes clear that this Court must scrutinize communications individually to determine whether the OIC has met this standard. The blanket ruling the OIC seeks, declaring all the communications at issue here to be outside the scope of the privilege, is precisely what the Court of Appeals forbade in *Sealed Case*. *See* 121 F.3d at 740 (criticizing the District Court for issuing "a blanket ruling, with no individualized discussion of the documents"); *see also id.* ("the court also failed to provide any explanation of its legal reasoning").

The high standard of need is intended to prevent precisely the misuse of the grand jury process in which the OIC has engaged here. It effectuates the principle that "presidential communications should not be treated as just another source of information"[17] by requiring the OIC first to develop sufficient evidence from other sources to substantiate its showing of need, before intruding on the President's communications with his advisors:

> Nor do we believe the *Nixon/Sirica* need standard imposes too heavy a burden on grand jury investigation. In practice, the primary effect of this standard will be to ***require a grand jury to delay subpoenaing evidence covered by presidential privilege*** until it has assured itself that the evidence sought from the President or his advisers is both important to its investigation and practically unavailable elsewhere. As was true in *Sirica*, a grand jury will often be able to specify its need for withheld evidence in reasonable detail based on information obtained from other sources.

Sealed Case, 121 F.3d at 756–57 (emphasis added); *see also id.* at 761 ("it is hard to conclude that the OIC issued its subpoena to the White House as a last resort."). By turning to privileged presidential communications as its first resort, the OIC has turned the *Nixon/Sirica/Sealed Case* paradigm on its head and sparked a premature confrontation on an inadequate record.

B. The Conversations at Issue Here are Privileged

As shown below, application of the established analytical framework to the communications at issue here shows unmistakably that the communications are privileged. In arguing the contrary, the OIC contends that this case involves allegations about the President that relate to private activity. This argument, however, fails both legally and factually. As a legal matter, the

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17 *Sealed Case*, 121 F.3d at 755.

OIC's argument misreads the Supreme Court's decisions both in *Nixon* and in *Clinton v. Jones*, as well as authorities from the D.C. Circuit, involving the distinctions between official and personal conduct relevant to the assertion of privilege. And as a factual matter, the OIC ignores that, from the beginning, the Lewinsky matter has unavoidably involved the functioning of the President in his official capacities as head of government and head of state.

1. The Communications at Issue Involved Official Presidential Decisions

Allegations about "private" conduct by a sitting President can and do have a substantial impact on his official duties and activities. The OIC's argument ignores the many factual respects in which the instant litigation unavoidably intersects with the President's performance of his constitutional duties.[18]

Contrary to the OIC's assertions, not one of the witnesses who have testified before the grand jury, including the three whose testimony the OIC now seeks to compel, have ever invoked a blanket assertion of privilege to refuse to answer "***any*** questions concerning conversations about Monica Lewinsky that occurred among White House staff." (OIC Lindsey Br. 1, *see also* OIC Hernreich Br. 2;[19] OIC Blumenthal Br. 2). Mr. Lindsey, for example, has appeared three times before the grand jury and has testified in great detail, to the extent of his personal knowledge, about discussions inside and outside the White House relating to the Lewinsky matter. (*See* Lindsey Decl. ¶¶ 9, 14, 15, 16(a)–(i), 17). The White House has invoked the privilege only as to communications designed to aid the President in the execution of his official duties. (*See id.* ¶ 17).

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[18] Even the President's political opponents have recognized the impact of the OIC's investigation on the functioning of the Presidency as an institution. *See* David Rogers, *Lott Says Clinton-Starr Standoff Hurts Government and Urges Both Sides to Act*, WALL ST. J., Mar. 10, 1998, at A24 (quoting Senate Majority Leader Trent Lott (R-Miss.) as saying the Lewinsky matter is "getting to be a distraction in Washington and affecting the president and perhaps even the Congress, in doing the people's business[.]"). *See also id.* ("'I don't think it's good for the presidency. I don't think it's good for the country,' he [Lott] said in a later interview."). (*See also* Ruff Decl. ¶ 24).

[19] Consistent with the White House's proposal of March 4, 1998, submitted as part of the White House's performance of the constitutionally mandated accommodation process recognized by *Sealed Case*, the White House withdraws the assertion of executive privilege over factual matters, including communications with the President, on behalf of non-attorney advisors such as Ms. Hernreich.

What the OIC apparently fails to understand, or is unwilling to admit, is that this case has in fact had a demonstrable effect on the operations of the White House as an institution. Several examples will illustrate the profound impact the Lewinsky matter has had on the functioning of the Presidency. The White House offers these examples solely for illustrative purposes. Nothing in *Nixon* or *Sealed Case* suggests that the question whether a particular issue calls for direct involvement and decisionmaking by the President is amenable to judicial review. Similarly, the cases do not suggest that the President's determination to seek advice on a particular subject, or his choice of sources of advice on which to rely, are open to question after the fact by the OIC. Thus, although the presidential communications privilege provides the President with a "qualified" protection that a court may overcome on a sufficiently strong showing of need by the opposing party, *Sealed Case*, 121 F.3d at 745, the predicate issues—whether a given subject requires the President's attention, whether the President should seek advice on the matter, and from whom—are for the President and his advisors alone. The White House does not concede the contrary by discussing the following examples of presidential decisionmaking.

These examples make clear that the OIC's effort to eliminate all conversations relating to the Lewinsky matter from the protection of the presidential communications privilege is glaringly misdirected.

a. Discussions Relating to the President's State of the Union Address

The Constitution requires the President periodically to report to Congress on the State of the Union. U.S. CONST. Art. II, § 3, cl. 1. Advisors made certain of the communications that the OIC seeks here in the course of advising the President on the performance of that duty, (*see* Blumenthal Decl. ¶¶ 5, 13), and those communications are squarely covered by the presidential communications privileges. *Cf. Sealed Case*, 121 F.3d at 752 (communications presumptively privileged because they "were generated in the course of advising the President in the exercise of . . . a quintessential and nondelegable Presidential power.").

The President addressed the nation on January 27, 1998 and did not discuss the Lewinsky matter. *See Address Before a Joint Session of the Congress on the State of the Union*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 129 (Jan. 27, 1998). Leading up to the address, though, conversations took place within the White House about how the President should handle the matter. Senior White House advisors also advised the President how to respond to the many questions reporters asked him concerning how he would treat the allegations in the State of the Union speech.[20] (*See* Lindsey Decl. ¶ 11; Ruff Decl. ¶ 23; Declaration of Sidney Blumenthal ("Blumenthal Decl.") ¶¶ 5, 13–15). Thus do allegations related to ostensibly "private" conduct have a substantial impact on the President's constitutional duties. These discussions occurred in the course of advising the President on his discharge of a core constitutional obligation, and are presumptively privileged from disclosure.

b. Matters of Foreign Policy and Military Affairs

In the weeks since the allegations involving the President surfaced, it has become abundantly clear that the OIC's current investigation has consequences even for the nation's foreign policy and military affairs, and the President's roles as head of state and Commander-in-Chief—core Executive Branch functions which have long merited the greatest deference from the other branches of government. *See* U.S. CONST. Art. II, § 2 cl. 1, § 3 cl. 3. Reporters have questioned visiting foreign heads of state about the OIC's investigation.[21] Other foreign government offi-

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[20] *See, e.g., Excerpt of a Telephone Interview With Morton Kondrake and Ed Henry of Roll Call*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 115 (Jan. 21, 1998); *Interview With Mara Liasson and Robert Siegel of National Public Radio*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 116, 117 (Jan. 21, 1998).

[21] *See The President's News Conference With Prime Minister Blair*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 213–22 (Feb. 9, 1998); *see also* John M. Broder, *Clinton Refuses to Discuss Independent Counsel's Request That He Testify Before Grand Jury*, N.Y. TIMES, Mar. 12, 1998, at A24 (reporters ask questions about the Lewinsky matter during the President's public appearance with United Nations Secretary General Kofi Annan, prompting Secretary General Annan to complain, "I wish you would concentrate on my issues. I don't come every day.").

The early days of the Lewinsky matter also coincided with official state visits by Israeli Prime Minister Benjamin Netanyahu and Palestinian Authority Chairman Yasser Arafat. The President, in one of his first public interviews after the OIC began probing the Lewinsky-related allegations, mentioned the extraordinary steps he had endeavored to take to ensure that the burgeoning controversy not distract him from the proper conduct of the nation's foreign policy. *See Interview With Jim Lehrer of the PBS "News Hour"*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 104–05, 106–07, 114 (Jan. 21, 1998).

cials have expressed their concern that the investigation must not be allowed to detract from the United States' ongoing and crucial role as peacemaker.[22] Some of the conversations over which the White House has invoked the presidential communications privilege involved the formulation of advice for the President as to the appropriate White House response when foreign officials inquired about, or were questioned about, the Lewinsky matter. (*See* Blumenthal Decl. ¶¶ 10–11, 13–15).

What is more, the current investigation has unfolded during a turbulent period in the nation's international relations, when the President and his advisors have been formulating a response to continued violations by Iraq of United Nations Security Council resolutions on weapons inspection adopted in the wake of the 1991 Persian Gulf War. Although the immediate threat of military conflict appears to have diminished somewhat at this moment, certain conversations at issue here occurred at a time when military confrontation appeared highly likely and the President's need to concentrate on the nation's military and foreign affairs was at its peak. Deliberations within the White House about how to keep the controversy related to the Lewinsky matter from hampering the President's conduct of the nation's military and foreign policy formed a part of the discussions over which the White House has invoked the presidential communications privilege. (*See* Ruff Decl. ¶ 27; Blumenthal Decl. ¶ 15). For the foregoing reasons, the conversations at issue here plainly fall under the presumptive privilege established in *Nixon* and *Sealed Case*.

c. Discussions of Possible Referral by the OIC to the House Judiciary Committee

As the discussion of the facts surrounding the expansion of the OIC's inquiry in mid-January 1998 makes clear, the immediate effect of the new allegations of possible obstruction of justice led commentators and reporters to discuss the issue of impeachment and, therefore,

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[22] *See, e.g., supra* note 21; Alessandra Staley, *American Puritanism or Zionist Plot? The World Weighs In*, N.Y. TIMES, Jan. 24, 1998, at A9 (discussing, *inter alia*, the effect of the Lewinsky-related allegations on the Middle East peace process); *Remarks Prior to Discussions With Chairman Yasser Arafat of the Palestinian Authority and an Exchange With Reporters*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 123, 124 (Jan. 22, 1998) (reporters question the President about the Lewinsky matter at a press conference with Chairman Arafat).

placed it on the discussion agenda of senior White House advisors.[23] (*See* Lindsey Decl. ¶ 11). The White House received many inquiries from the press on this possibility. (*See* Ruff Decl. ¶ 22). Indeed, the President himself has been questioned by reporters on the subject.[24] Senior advisors to the President, including attorneys in the White House Counsel's office, have a duty to obtain factual information relevant to the investigation to advise the President concerning this issue. (*See* Ruff Decl. ¶ 22).

Impeachment is the one remedy expressly provided in the Constitution (Art. II, § 4) that can be directed against the President, and it is fatuous for the OIC to contend that discussions of the prospect between the President and his core advisors could, in any sense, be considered "personal" or "unofficial." In part because of the formal responsibilities of the Counsel to the President in the event of impeachment proceedings, "even the mere speculation of such proceedings raises serious issues that a President and his advisors must address." (Ruff Decl. ¶ 19). Because of the constitutional concerns directly implicated by an investigation that threatens possible impeachment proceedings against the President, conversations on this subject must be deemed presumptively privileged.

d. Allocation of the President's Time Between Public Responsibilities and Defending Himself in the *Jones* Litigation and the Lewinsky Matter

The expansion of the OIC's jurisdiction in mid-January 1998 immediately returned to the forefront of the White House's agenda an issue that had been lingering since the Supreme Court's decision in *Clinton v. Jones* the preceding summer. The Court's decision declining to stay the *Jones* proceedings during the President's term of office immediately raised the issue of

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[23] The possibility of proceedings in the House Judiciary Committee had, of course, been discussed within the White House even before the Lewinsky-related allegations surfaced. *See* H. Res. 304, 105th Cong., 1st Sess. (Nov. 5, 1997). (*See also* Ruff Decl. ¶¶ 19–21).

[24] *See Excerpt of a Telephone Interview With Morton Kondrake and Ed Henry of Roll Call*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 115 (Jan. 21, 1998).

how the President should defend himself in the litigation without, in the Court's words, allowing the case to "engulf the Presidency." *Jones*, 117 S. Ct. at 1648.

The Court's decision allowing the case to proceed necessarily required the President to devote part of his schedule to the conduct of his defense. Questions as to how the President allocates his time, however, are imbued with a public, official nature, for every moment the President must spend defending himself in private litigation is a moment in which he is unavailable to execute the duties of the office to which he was elected. Thus, the question of how to minimize the *Jones* litigation's interference with the President's performance of his official duties was an important subject of discussion among the President's senior advisors. (*See* Lindsey Decl. ¶ 8).

The U.S. Department of Justice's brief as *amicus curiae* in *Jones*, for example, succinctly described the public significance of the issue:

> As a practical matter, the countless issues of domestic and foreign policy that demand the President's attention fully occupy, and indeed outstrip, the capacity of the President to respond. . . . ***As a result, the Presidency's most precious commodity is time, and one of the most vexing problems for the President and his staff is how to divide that time among the disparate issues that call for his attention.***

Clinton v. Jones, 117 S. Ct. 1636 (1997), Brief for the United States as *Amicus Curiae* in Support of Petitioner at 10–11 (emphasis added); *accord Jones*, 117 S. Ct. at 1646 (recognizing demands on a sitting President's schedule). Notably, presiding Judge Wright permitted the Counsel to the President to attend the President's deposition in the *Jones* case, a recognition that the case has important consequences for the nation and for the institution of the Presidency, not merely for the individual who currently holds that office.

Many of the communications the OIC seeks to compel relate to the President's decisions about strategy regarding how to prevent the *Jones* litigation and the Lewinsky investigation from "engulf[ing] the Presidency." (*See* Lindsey Decl. ¶¶ 9–11). The demands of discovery and the forthcoming trial have required the President to, in some cases, delegate to subordinates within the White House the task of attending to scheduling matters not requiring the President's per-

sonal attention. Before making each of these decisions, the President gathered recommendations and advice from his aides on how best to meet the scheduling demands of the *Jones* litigation without detracting from the execution of the duties of his office.

e. Ongoing Strategy Discussions Relating to the OIC's Investigation

When an issue requiring a rapid presidential decision arises, the President's need for advice and recommendations is correspondingly accelerated. To perform their advisory function in such a context, it is crucial that the President's advisors remain abreast of breaking developments as they occur, rather than "reinventing the wheel" every time the President solicits their opinions. Presidential advisors have an on-going duty to gather the facts necessary to render sound advice on short notice when so requested by the President. To that end, discussions of strategic and policy matters are a staple of every White House advisor's daily routine. (*See* Ruff Decl. ¶¶ 29–30).

The incursion of the OIC's investigation into the daily operations of the White House is no exception to this principle. Many of the conversations the OIC seeks to compel involved discussions among senior presidential advisors concerning how the White House should respond to the OIC's investigation, what effect the investigation would have on presidential scheduling (including prearranged travel abroad by the President on diplomatic matters), what effect the investigation would have on the formulation and announcement of new policy initiatives, dealings with Congress, and the like. (*See* Lindsey Decl. ¶ 12; Ruff Decl. ¶¶ 29–30). Because these discussions formed an on-going part of the advisors' function to counsel the President on decisions he must make, they are presumptively privileged.

f. Discussions as to Whether to Assert the Presidential Communications Privilege

Irrespective of whether the invocation of the privilege may be communicated to a Court through one of the President's intermediaries,[25] the decision whether to claim the privilege is necessarily a matter that falls squarely within the execution of the President's official duties.

Some of the conversations the OIC seeks involved discussions among the President's closest advisors about whether the President should claim a privilege, or refrain from doing so. Such discussions have occurred in the White House virtually every day since the Lewinsky-related allegations surfaced. (*See generally* Lindsey Decl. ¶ 11; Ruff Decl. ¶¶ 26–28). The need to balance the twin aims of appropriate disclosure with the institutional need to preserve candid and open communication among advisors presented questions of the most exacting subtlety. The inevitable risk that an invocation of the privilege, no matter how strongly justified under the law, would prompt unfavorable public commentary also factored into advisors' candid, even fractious, discussions of what advice to give the President. Because all these discussions occurred while advising the President in connection with a decision only he could make in his official capacity, they are presumptively privileged from disclosure.

2. The OIC's Argument Misconstrues the Relevant Authorities

Besides being inconsistent with the facts, the OIC's argument that the presidential communications privilege is subject to an implicit exception for "personal" or "unofficial" presidential conduct is at odds with precedent from both the Supreme Court and the Court of Appeals for this Circuit.

The Court of Appeals' opinion in *Senate Select Committee* holds squarely against the argument the OIC makes here. In *Senate Select Committee*, an investigating arm of the Congress attempted to compel the President to produce "taped recordings of five conversations . . . 'between President Nixon and John Wesley Dean, III, discussing alleged criminal acts occurring

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[25] *See Sealed Case*, 121 F.3d at 744–45 n.16 (the cases do not establish whether the privilege must be claimed by the President personally).

in connection with the Presidential election of 1972.' " *Senate Select Committee*, 498 F.2d at 727. These conversations related to acts far outside the boundaries of the President's official duties, namely, the ransacking of the DNC's Watergate offices. Under the OIC's theory here, these conversations would not have been presumptively privileged.

The D.C. Circuit held precisely to the contrary. *See id.* at 730. Moreover, the Court found the Senate Select Committee's showing of need for the tapes inadequate, and denied the Senate's motion to compel. *Id.* at 731 ("we find that the Select Committee has failed to make the requisite showing" to overcome the presumption).

The OIC's argument is also at odds with the Supreme Court's decision in *United States v. Nixon*. The presidential communications at issue in that case involved private conduct by other individuals, but nonetheless were held presumptively privileged by the Supreme Court. *See Nixon*, 418 U.S. at 713–14. Indeed, nothing in *Nixon* suggests that the conversations at issue were characterized by an overarching public or official purpose, as distinct from discussions pertaining to the potential individual liability of the President (who had, after all, been named an unindicted co-conspirator by the grand jury, and whose subordinates had already been convicted of Watergate-related crimes).[26] Thus, the OIC's legal theory has been rejected by both the D.C. Circuit and the Supreme Court.[27]

The contents of the presidential conversations the Supreme Court held presumptively privileged in *Nixon* indicate that the OIC cannot circumvent the privilege merely by claiming that its sole interest is in the President's actions in his personal, rather than official, capacity. For

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[26] President Nixon did not contend that any of the subpoenaed conversations revealed diplomatic or military secrets. *See Nixon*, 418 U.S. at 706, 710. In holding that the conversations were, nevertheless, presumptively privileged (*id.* at 713–14), the Court obviously rejected any notion that the presidential communications privilege is limited to communications implicating foreign policy or national security. *Accord Sealed Case*, 121 F.3d at 757–58 (presidential communications privilege protects internal White House discussions of investigation of Secretary of Agriculture, which did not implicate military or diplomatic concerns). The OIC's suggestion that the privilege cannot come into play here because no "national security or diplomatic secrets" are involved (OIC Lindsey Br. at 4) ignores *all* the relevant precedent.

[27] The Court in *Nixon* ultimately held that, in the unique circumstances of that case, the Special Prosecutor had made a sufficient showing to support turning over the subpoenaed materials for *in camera* review by the district court. *See Nixon*, 418 U.S. at 713–14. It did so only after finding the materials presumptively privileged, however.

example, some of the conversations that the Supreme Court held presumptively privileged were three discussions between President Nixon and H.R. Haldeman on June 23, 1972. *See Statement Announcing Availability of Additional Transcripts of Presidential Tape Recordings*, 1974 PUBLIC PAPERS OF THE PRESIDENTS 621. These conversations involved President Nixon's attempt to derail the FBI's investigation of the Watergate break-in by falsely alleging a foreign connection over which the FBI had no authority. By contrast, the conversations over which the President has asserted the privilege here are plainly related to his legitimate official functions.

Nor does *Clinton v. Jones* erase the presumption of privilege that attaches to presidential communications under *Nixon* and *Sealed Case*. The OIC suggests that the Supreme Court's characterization of the *Jones* case as "unrelated to any of [the President's] official duties," 117 S. Ct. at 1640, forecloses any application of the presumptive privilege. The Court's holding, however, is in no way inconsistent with the presumptive privilege recognized in *Nixon* and *Sealed Case*. To the contrary, the Court instructed that great deference was owed to the "unique position in the constitutional scheme" the President holds. 117 S. Ct. at 1646 (internal quotations omitted). Although *Clinton v. Jones* held that the Constitution did not mandate a stay of civil proceedings against a sitting President during his term of office, the Court never held or suggested that presidential communications relating to that litigation during the President's term of office were entitled to any less protection than were presidential communications on other subjects. Indeed, *Jones* nowhere suggested that the interests the Court in *Nixon* recognized to underlie the rule of presumptive privilege—the President's need to obtain candid and objective advice and to consider all alternatives in formulating decisions (*see Nixon*, 418 U.S. at 708)—

carry any less force in the context of the public ramifications of civil litigation about personal matters.[28]

C. The OIC Has Made No Showing, Least of All the Extraordinary Showing Required, to Overcome the Privilege

As previously discussed, the case law requires the OIC to make a "focused demonstration of need" before presidential communications may even be turned over to the Court for *in camera* review. *See generally supra* at 25–27. But, in another example of its total disregard of the governing analytical framework, the OIC explicitly concedes that it has made no such showing. (OIC Lindsey Br. at 8). Rather, the OIC asks instead that it be allowed to do so at some unspecified future time. Whether the OIC is allowed the second bite at the apple it has attempted to reserve for itself is a question for another day. For present purposes, the point is merely that nothing on the record now suggests that the OIC can make the showing the law requires. In these circumstances, the OIC plainly cannot overcome the presumptive privilege that attaches to the communications at issue here.

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[28] It is easy to conceive of other instances in which Presidents' "private" concerns have affected the operation of the Presidency as an institution. The question frequently arises, for example, in correction with Presidents' health problems, such as President Reagan's cancer surgery in 1985 or President Bush's treatment for an irregular heartbeat in 1991. Although the health of the individuals holding the Office of the President is no doubt a "private" concern as the OIC uses the term, these incidents raised a plethora of issues regarding the appropriate governmental response to presidential incapacity, the possibility of invoking the Twenty-Fifth Amendment, and related matters—all of which would unmistakably be considered "official," and therefore protected, notwithstanding that they arose out of a President's private concerns.

CONCLUSION

Accordingly, for the reasons stated, the OIC's Motions to Compel should be denied.

Respectfully submitted,

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Dated: March 17, 1998

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Memorandum of the White House in Opposition to OIC's Motions to Compel Bruce R. Lindsey and Sidney Blumenthal to Testify Concerning Conversations Protected by the Attorney-Client, Presidential Communications, and Work Product Privileges were served by hand or Federal Express, this 17th day of March, 1998 upon each of the parties listed below:

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W. NEIL EGGLESTON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: SEALED CASE.	)	Misc. No. 98-95 (UNDER SEAL)

DECLARATION OF CHARLES F.C. RUFF

I, Charles F.C. Ruff, do hereby declare:

I. Introduction

1. I am Counsel to the President of the United States. I have held this position since February 10, 1997. Prior to that time, from 1995 to 1997, I served as Corporation Counsel to the District of Columbia. From 1982-95, I was a partner at the Washington, D.C. law firm of Covington & Burling. During that time, from 1989-90, I served as president of the District of Columbia Bar. I also served as United States Attorney for the District of Columbia from 1979-82. From 1975-77, I served as Watergate Special Prosecutor.

2. In my capacity as Counsel to the President, I provide legal advice to the President regarding a wide variety of matters relating to his constitutional, statutory, ceremonial, and other official duties and the effective functioning of the Executive Branch. At the President's direction, I review various matters that have legal implications and advise him on particular courses of conduct. Those matters include, among numerous others, the assertion of privileges in response to requests for materials and testimony, including executive privilege, attorney-client privilege, and attorney-work-product privilege.

3. The White House Counsel's Office, as a whole, provides confidential counsel to the President, in his official capacity, to the White House, as an institution, and to senior advisors, in

particular, about matters that affect the White House's interests, including investigative matters. To this end, the Counsel's Office receives confidential communications from and provides advice to current and former White House personnel about matters of institutional concern. These individuals provide this information to and solicit advice from our Office with the expectation and understanding that such communications will remain confidential.

II. The *Jones* Litigation

4. In May 1997, the Supreme Court held in *Clinton v. Jones* that the Constitution does not require a stay of private litigation involving the President until after his term. *Clinton v. Jones*, 117 S. Ct. 1636 (1997). Thus, the *Jones* litigation was permitted to proceed during the President's term, with the Court making particular note that the potential burdens that this litigation may place on the President need to be taken into account by the trial court. This decision requires the President to balance two competing demands on his time: (1) his need to defend the *Jones* lawsuit and (2) the absolute requirement that he devote his full time and attention to performing his duties as President.

5. From my experience as a defense attorney in private practice, a civil lawsuit involving these kinds of allegations and monetary claims requires a substantial time commitment by a client, especially during the discovery phase of the litigation. I also found that most of my individual clients, in addition to fulfilling their obligations as a litigant, have a genuine and important interest in being actively involved in the ongoing litigation, including participating in strategy discussions and decisions. This level of commitment necessarily places a substantial burden on a client's schedule.

6. The President, as the Chief Executive of our Nation, has extraordinary demands placed on his time. His schedule cannot accommodate the many demands of his office, independent of his personal and family responsibilities. In most instances, the many competing obligations

facing the President require him to rely on his advisors to meet with certain people, attend meetings, gather information and advise him on particular matters.

7. Thus, the progress of the *Jones* litigation concurrent with President's second term has placed additional obligations on the President's schedule that, under the law, he must fulfill despite the current demands of his office. Consequently, the President must look to his advisors to assist him in determining how he can fulfill the requirements of the lawsuit while not abandoning his duty to the American people.

8. The lawsuit has also spawned issues and the need for decisions (*e.g.*, discovery, the deposition of the President, and the possibility of a resolution of the litigation prior to trial) that affect the Presidency and the President's ability to perform his duties effectively. The President's advisors, who know the scope and weight of matters before the President at any given time, are best situated to advise the President as to how various aspects of the *Jones* litigation may affect the Presidency or official matters. Accordingly, presidential advisors need to know about and discuss those litigation-related issues or matters that may affect the office so that they can give the President informed advice as to how he should proceed.

9. The media's interest in the *Jones* litigation has generated inquiries in hundreds of official presidential press conferences and briefings by the President, his press secretary, and other White House staff, whether held here or in other countries. Indeed, the volume of *Jones*-related inquiries that the White House receives sometimes eclipses the inquiries generated by official White House policy matters. Therefore, presidential advisors need the ability to have informed, candid, and frank discussions about the *Jones* litigation to prepare the President for these inquiries.

III. The Expansion of the Office of Independent Counsel Starr's Jurisdiction

10. On January 16, 1998, at the request of the Attorney General, the Special Division conferred jurisdiction on the Office of Independent Counsel Kenneth Starr ("OIC") to investigate whether "Monica Lewinsky or any other individual" suborned perjury or committed other federal crimes.[1] The allegations surrounding the OIC's investigation involve the President during his tenure, the White House, and many White House employees.

11. Since that time, the OIC has served 13 subpoenas for documents on the White House or current White House employees containing more than 30 separate requests relating to the Lewinsky investigation and calling for expedited production. The OIC has also served at least 25 current and former White House employees with subpoenas calling for their testimony before the grand jury. The OIC also has requested interviews from more than 30 current and former White House employees.

12. Every day since January 21, 1998, the White House has received a flood of press inquiries related to the Lewinsky investigation, and the subject has been raised in virtually every White House press briefing and presidential press appearance.

IV. White House Cooperation with the OIC Investigation

13. Consistent with the practice of my predecessors, as Counsel to the President, I have endeavored to cooperate with the OIC by maintaining an open and constructive dialogue and by responding expeditiously to its requests. Indeed, the White House has responded in a timely fashion to the OIC's document subpoenas and has produced all responsive materials it has

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[1] *Text of Reno's Petition for Starr*, ASSOCIATED PRESS NEWSDAY.COM, Jan. 29, 1998.

located, usually by the designated production date. To accomplish this task, the Counsel's Office circulated a directive to the entire Executive Office of the President's staff and, where appropriate, performed several targeted searches for information.

14. Many current and former White House staff members, other than Mr. Lindsey and Mr. Blumenthal, have been subpoenaed to testify before the grand jury regarding their knowledge of facts pertaining to the relevant time period surrounding the Lewinsky investigation. Others have been asked to submit voluntarily to an interview. I understand that all of these individuals have cooperated with the OIC, and none has asserted privilege over any information that they possess. In particular, the following individuals have provided testimony about their knowledge of this matter: Betty Currie, Patsy Thomasson, Timothy Keating, Stephen Goodin, Kris Engskov, George Stephanopoulos, Deborah Schiff, Marsha Scott, Leon Panetta, Evelyn Leiberman, Carolyn Huber, and Bayani Nelvis.

15. As explained more fully below, with respect to certain individuals subpoenaed to testify, I anticipated that their testimony might implicate confidential communications and information. In an effort to avoid any unnecessary delay in the investigation and needless confrontation, my staff notified the OIC that the issue might arise and discussed ways to reach a mutually agreeable accommodation prior to or following an individual's appearance.

V. Certain Information and Discussions Relating to the Lewinsky Investigation are Subject to Privilege

16. It is my understanding that this and prior administrations, Republican and Democratic, have recognized that, with respect to matters that relate to the President's performance of his duties and the functions of the Executive Branch, presidential advisors, and their staff, must be able to inquire into matters in detail, obtain input from all others with significant expertise in the area, and perform detailed analyses of all possible alternatives before deciding what advice and

information to provide the President. *In re Sealed Case*, 121 F.3d 729, 750 (D.C. Cir. 1997). The President has an important confidentiality interest in seeking and receiving advice -- an interest that is constitutionally based "to the extent this interest relates to the effective discharge of a President's powers." *United States v. Nixon*, 418 U.S. 683, 711 (1974).

17. Moreover, we treat executive privilege as extending to communications among advisors and their staff, even if not communicated directly to President, *In re Sealed Case*, 121 F.3d at 751-52, and to communications in their entirety, not just the deliberative or advice portions, including pre-decisional, final, and post-decisional materials. *In re Sealed Case*, 121 F.3d at 745.

18. The Lewinsky investigation involves allegations regarding the President's conduct toward a federal government employee during his tenure in office. This matter is inextricably intertwined with the daily presidential agenda, and thus has a substantial impact on the President's ability to discharge his obligations. Accordingly, in the course of executing his duties, there have been discussions among advisors and the President involving the Lewinsky investigation, and these discussions have been held in confidence and treated as subject to privilege.

A. Discussion of Possible Proceedings by the House Judiciary Committee

19. Under Article II of the Constitution, Congress possesses the power to initiate proceedings against a sitting President that can ultimately result in his removal from office. Thus, even the mere speculation about such proceedings raises serious issues that a President and his advisors must address.

20. In November 1997, an impeachment resolution was introduced in the House of

Representatives. The resolution did not contain specific allegations regarding the President. Rather, it broadly claimed that there was considerable evidence developed from various "credible sources" that the President had engaged in conduct designed to obstruct the legitimate Executive Branch functions. *See* H. Res. 304, 105th Cong., 1st Sess. (Nov. 5, 1997).

21. Only days after the Special Division expanded the scope of the OIC's investigation, members of the House Judiciary Committee renewed their public discussions about the possibility of initiating proceedings against the President in light of the allegations arising from the Lewinsky investigation.[2] Weeks later, the press continued to report that many people "would like to see [the President] impeached or forced to resign."[3] Congressman Robert Barr recently went so far as to state that "the Republican leadership is beginning to lay the groundwork . . . [for] impeachment proceedings . . . ."[4] Thus, the Lewinsky investigation not only relates to and affects the Presidency -- it also threatens it.

22. Statements by members of Congress and related reports have generated numerous inquiries, some directed at the President, about the possibility of impeachment proceedings.[5]

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[2] *Bryant suggests Clinton should consider stepping aside*, GANNETT NEWS SERVICE, Jan. 27, 1998.

[3] N. Gibbs, *Twin Perils of Love & War*, TIME, March 2, 1998, p.36-39; *see Clinton Accused: Guide to Impeachment* THE INDEPENDENT, Jan. 23, 1998, p.8; *'Smoking Gun' Could Trigger Bid to Boot Bubba*, NEW YORK POST, Jan. 23, 1998, p.9; *Clinton Is Becoming Increasingly Isolated As His Latest Crisis Deepens*, THE SCOTSMAN, Jan. 23, 1998, p.15; *Excerpt of A Telephone Interview With Morton Kondrake and Ed Henry of Roll Call*, 34 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 115 (Jan. 21, 1998).

[4] *Bob Barr Discusses Impeachment Process for Bill Clinton*, CNN BOTH SIDES WITH JESSE JACKSON (Feb. 15, 1998).

[5] JOINT PRESS CONFERENCE OF THE PRESIDENT AND PRIME MINISTER TONY BLAIR OF GREAT BRITAIN, Feb. 6, 1998; PRESS BRIEFING BY MIKE MCCURRY, Jan. 26, 1998; PRESS BRIEFING BY MIKE MCCURRY, Jan. 23, 1998; PRESS BRIEFING BY MIKE MCCURRY, Jan. 21, 1998.

Consequently, presidential advisors must gather information and formulate advice for the President about the Lewinsky investigation to address the myriad of issues and inquiries that the investigation raises in this context. In addition, the Counsel's Office must prepare to defend against any such proceeding.

B. Domestic and Foreign Policy Matters

23. The President's State of the Union address occurred days after the press reported the expansion of the OIC's jurisdiction and the allegations surrounding Ms. Lewinsky. The White House received numerous inquiries as to whether the President would address these allegations in his State of the Union address.[6] The President's advisors obviously were required to gather information, consider available options, and advise the President about how to handle this and related matters.

24. The President's ability to work with Congress to enact legislation is likewise affected by the Lewinsky investigation. Certain legislators have been described as "throwing up their hands at the prospect of doing any serious business,"[7] thereby significantly affecting the President's domestic agenda.[8] Indeed, Senate Majority Leader Trent Lott recently remarked that the Lewinsky investigation "is beginning to have an impact on the presidency, on the president and on his ability to deal with many very important issues for the future of our country -- from Social

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[6] *E.g.*, PRESS BRIEFING BY MIKE MCCURRY, Jan. 26, 1998.

[7] *Clinton Under Fire*, LOS ANGELES TIMES, Jan. 26, 1998, p.A17; *see also The President Under Fire: The Public View*, NEW YORK TIMES, Jan. 27, 1998, p.A1 ("most Americans fear that the scandal will interfere with his future ability to perform his job effectively"); *Alleged Clinton Affair Boosts call for Impeachment Probe*, STATES NEWS SERVICE, Jan. 22, 1998.

[8] *See Lawmakers Return Amidst Scandal*, AP ONLINE, Jan. 26, 1998.

Security to what's going on in Iraq to now what's going on in Kosovo."[9] Therefore, in discussing with the President his ability to achieve the Administration's domestic policy objectives, advisors must take into account the impact of issues arising out of the Lewinsky investigation on his efforts and advise him accordingly.

25. Based upon information from others, I understand that the Lewinsky investigation also affected the President's ability to address foreign policy matters. For example, during the recent crisis with Iraq, certain people speculated that the Lewinsky investigation might harm the President's ability to "influence" the public, thus rendering him incapable of garnering support for the U.S. position on this issue and ultimately negotiating a successful resolution with Iraq.[10] These same concerns were raised when the President addressed Middle East issues, including his recent meetings with Prime Minister Netanyahu and Mr. Arafat.[11] Therefore, the President's advisors necessarily discussed the Lewinsky investigation and advised the President so that he could effectively execute his constitutional duties regarding foreign policy matters.

C. Discussions Regarding the Assertion of Applicable Privileges

26. When an investigative body subpoenas the White House or one of its staff members for

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[9] *Lott Urges Clinton to Give Details*, ASSOCIATED PRESS, March 9, 1998.

[10] *Crisis Develops Inside the White House*, CNN LATE EDITION WITH WOLF BLITZER (Jan. 25, 1998); *see also*, *Twin Perils of Love & War*, TIME, March 2, 1998, p.36-39 ; *Republicans End Silence On Troubles Of President*, THE NEW YORK TIMES, March 1, 1998, sec.1, p.20, col.1; *It's Hard To Believe The Clintons*, CHICAGO TRIBUNE, Jan. 29, 1998, p.19; *Echoes of the past but a far cry from Watergate*, FINANCIAL TIMES, Jan. 24, 1998, p.3; *Scandal tests Clinton on Iraq crisis*, AGENCE FRANCE PRESSE, Jan. 24, 1998.

[11] *N.J. lawmakers worry Clinton's woes could hurt host of issues*, GANNETT NEWS SERVICE, Jan. 30, 1998; *It's Hard To Believe The Clintons*, CHICAGO TRIBUNE, Jan. 29, 1998, p.19 ; *Letters to the Editor: Sex and the president through media eyes*, THE SAN DIEGO UNION-TRIBUNE, Jan. 27, 1998, p.B-7.

information, White House confidentiality interests are often implicated. The Counsel's Office has always attempted to deal with these privilege issues in a careful and deliberate manner.

27. After ascertaining that a subpoenaed individual possesses confidential information, the decision whether to assert privilege over such communications or information is one that the White House approaches thoughtfully, deliberately, and seriously. First, we carefully review the nature and substance of the communication to determine its confidential nature. Second, we evaluate whether the assertion of the privilege is legally sustainable and otherwise appropriate. Finally, we brief the President and advise him in making the ultimate decision. Thus, this process involves core presidential decisionmaking.

28. Accordingly, presidential advisors have engaged in deliberations to determine whether it is necessary to advise the President to assert privilege over certain communications. These discussions are presumptively privileged.

D. Strategy Sessions involving Presidential Advisors and Counsel

29. The President is unable personally to keep abreast of every matter that is handled by or could possibly affect him or the Executive Branch. Accordingly, the President must rely on advisors to ensure the progress and development of these matters and, when appropriate, brief the President with information and advice that will permit him to make decisions and respond to inquiries. Often, issues arise unexpectedly, and thus advisors must always be prepared to assist the President on a moment's notice with the most recent, accurate and comprehensive information, and the full range of options relating to a particular decision.

30. The Lewinsky investigation is no exception to this process. As illustrated in the examples presented above, since first reported, this investigation has affected the President's

ability to execute his constitutional obligations and has been the primary subject of press inquiries. This investigation has also intruded on the work of the President and his immediate advisors and staff, and has raised issues involving privilege, witness availability and subpoena compliance. As a result, the President's advisors and counsel have held regular meetings to gather and exchange information, as well as to formulate recommendations, for the President.

VI. The Subpoenas to Bruce R. Lindsey and Sidney Blumenthal

A. Communications with the OIC before Grand Jury Appearances by Mr. Lindsey and Mr. Blumenthal

31. On January 30, 1998, the OIC served on Bruce Lindsey, Assistant to the President and Deputy Counsel, a subpoena calling for his appearance to testify on February 4, 1998 before the grand jury.

32. In an effort to address, prior to Mr. Lindsey's appearance, the scope of the matters that the OIC sought to discuss with Mr. Lindsey and other senior advisors to the President and to address potential privileges that might be implicated, I contacted the OIC to discuss the matter. On February 3, 1998, Special Counsel Lanny Breuer and I met with Kenneth Starr, Robert Bittman, Steve Collatan, and Jackie Bennett. I explained the nature of the privilege concerns that would arise from broad-ranging inquiries into staff discussions and communications with the President, and I asked OIC to describe with particularity the possible areas of inquiry. They declined to do so.

33. The OIC informed me that it had postponed indefinitely Mr. Lindsey's appearance, and therefore a discussion of their examination of Mr. Lindsey was premature. As a result, our discussions about his testimony were curtailed, and instead we focused on the pending appearance of another presidential advisor, Deputy Chief of Staff John Podesta.

34. On February 4, 1998, Mr. Starr sent me a letter indicating that they intended to inquire into privileged areas based upon their view that executive privilege was inapplicable to information relating to the Lewinsky investigation. (2/4/98 Letter from Starr to Ruff, attached as Exhibit 1).

35. On February 5, 1998, I responded to Mr. Starr's letter and stated that, under the principles of *In re Sealed Case* and other relevant authority, conversations among advisors were presumptively privileged. (2/5/98 Letter from Ruff to Starr, attached as Exhibit 2).

36. I pointed out that the "discussions among and between the President's senior staff involve the very capacity of the President and his staff to govern--to pursue his legislative agenda, to ensure the continued leadership of [the] United States in the world community, and to maintain the confidence of the people who elected him--all of which lie at the heart of his role under Article II of the Constitution." (*Id.* at 2). I concluded by indicating my willingness to explore all possible accommodations of our respective interests. (*Id.*).

37. On February 6, 1998, the OIC sent me a letter rejecting my offer and restating its position regarding the communications about which it intended to inquire. In rejecting my offer, the OIC did not articulate any need for this information, as required by *In re Sealed Case*, but simply asserted that its desire "to resolve this matter in a timely fashion" compelled disclosure. (2/6/98 Letter from Starr to Ruff at 1, attached as Exhibit 3).

38. Finally, on the issue of discussions between witnesses and White House counsel, the OIC stated that, under the Eighth Circuit decision in *In re Grand Jury Subpoena Duces Tecum*, 112 F.3d 910 (8th Cir. 1997), it intended to question White House personnel as to the substance of such communications, and that if a witness asserted the attorney-client privilege, the OIC intended to "take such further steps as are appropriate." (*Id.* at 2).

B. Mr. Lindsey's Communications are Presumptively Privileged

39. As described in his declaration, filed in connection with the White House's opposition to the OIC's motions to compel, Mr. Lindsey testified before the grand jury on February 18 and 19, 1998, and on March 12, 1998. (Declaration of Bruce R. Lindsey ("Lindsey Dec.") ¶ 9).[12] Over the course of those three days of testimony, Mr. Lindsey willingly answered questions about his personal knowledge with respect to any allegations of a personal relationship between Ms. Lewinsky and the President, and any allegations of suborning perjury in connection with the *Jones* litigation, as well as several questions about Mr. Lindsey's discussions with others that involved Ms. Lewinsky. (Lindsey Dec. ¶¶ 15-17).

40. Mr. Lindsey declined to answer other specific categories of questions relating to the *Jones* litigation and the Lewinsky investigation on the grounds that they are subject to executive privilege, attorney-client privilege, attorney-work product privilege, and/or the common interest doctrine. (Lindsey Dec. ¶¶ 10-14).

41. The confidential communications that Mr. Lindsey declined to disclose to the grand jury are presumptively privileged. They occurred while performing his duties as Deputy Counsel to the President and as one of the principal advisors to the President, or as the President's personal attorney prior to the President taking office. (Lindsey Dec. ¶¶ 4-6, 8-14, 17). Mr. Lindsey had these discussions with the President, other White House attorneys, presidential advisors to the President, and/or with the President's private attorneys. (*Id.*). The communications contain information and advice relating to the *Jones* litigation or Lewinsky investigation that Mr. Lindsey gathered or provided for the purpose of assisting the President in making decisions in connection with his official duties or to ensure that the allegations and inquiries surrounding these matters did not impair the President's discharge of his official duties. (*Id.* ¶¶ 10-14).

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[12] Mr. Lindsey's entire declaration is incorporated by reference.

C. **Mr. Blumenthal's Communications are Presumptively Privileged**

42. On February 26, 1998, Mr. Blumenthal testified before the grand jury. (Declaration of Sidney Blumenthal ("Blumenthal Dec.") ¶ 16).[13] Mr. Blumenthal declined to answer certain questions on the grounds that they are subject to executive privilege. (*Id.*).

43. In his capacity as Assistant to the President, Mr. Blumenthal participates in and is consulted on a wide variety of matters, including domestic policy issues, presidential speeches, (including the State of the Union address), national security issues, and international freedom of the press issues. (*Id.* ¶¶ 4-7). Mr. Blumenthal also serves as the liaison for the President to the office of the Prime Minister of Great Britain; a role that requires him to interact with the Prime Minister and his advisors on a variety of subjects, including United States foreign policy matters. (*Id.* ¶¶ 8-12).

44. To perform his duties, Mr. Blumenthal consults with other presidential advisors to gather information and formulate advice to give to the President. (*Id.* ¶¶ 3, 14-15, 17). In carrying out these duties, Mr. Blumenthal has had discussions with the President, First Lady, and other senior advisors regarding the allegations and inquiries surrounding the Lewinsky investigation. (*Id.*). These discussions took place in the context of Mr. Blumenthal's assisting the President to perform his duties; in particular, the President's State of the Union address and the visit by the Prime Minister of Great Britain. (*Id.* ¶¶14-15). Accordingly, these discussions are presumptively privileged.

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[13] Mr. Blumenthal's entire declaration, filed in connection with the White House's opposition to the OIC's motions to compel, is incorporated by reference.

VII. Communications with the OIC in early March 1998

45. The White House sought to avoid needless confrontation by reaching a mutually agreeable accommodation that would permit the OIC access to the information that it purportedly needed to conduct its investigation while maintaining the legitimate confidentiality interests of the White House. On March 2, 1998, W. Neil Eggleston, the attorney representing the Office of the President in connection with litigation arising out of the Lewinsky investigation, sent a letter to the OIC requesting that the White House be consulted about whether such an accommodation was reachable. (3/2/98 Letter from Eggleston to Starr, attached as Exhibit 4). Mr. Eggleston also described to the OIC the well-established accommodation process that the White House historically followed, citing the *Espy* litigation as an example. (*Id.* at 1). Finally, Mr. Eggleston offered to meet with the OIC to discuss the areas of inquiry that implicated privilege concerns and to consider any articulation of need that the OIC might make. (*Id.* at 2).

46. On that same day, the OIC replied to Mr. Eggleston's letter, reiterating its earlier position that executive privilege did not apply to information relating to the Lewinsky investigation. (3/2/98 Letter from Bittman to Eggleston, attached as Exhibit 5). The OIC also stated that the White House was using executive privilege as a dilatory tactic. (*Id.* at 20). Finally, the OIC took the view that the White House was in the better position "to identify the areas it wishe[d] to withdraw the invocation of executive privilege," and thus requested that the White House submit a proposal by noon on March 4, 1998. (*Id.*).

47. On March 4, 1998, Mr. Eggleston responded to the OIC's letter. He began by underscoring the principle that, although the parties may disagree as to whether certain information is privileged, the accommodation process requires the parties to set aside any difference over the applicability of the privilege and focus on trying to reach an acceptable

agreement. (3/4/98 Letter from Eggleston to Starr, attached as Exhibit 6). Mr. Eggleston continued:

> Your Office was unwilling to describe the subject matters about which you intended to question White House officials prior to their testimony. After several weeks of grand jury testimony by White House officials, we now have a sense of the areas that we believe are of interest to your investigation. It appears that, in addition to seeking facts about this matter, you are seeking ongoing advice given to the President by his senior advisors, including attorneys in the Counsel's Office, as well as the substance of these advisors's discussions as to how to address the Lewinsky investigation in a manner that enables the President to perform his constitutional, statutory, and other official duties.

(*Id.* at 1).

48. Mr. Eggleston then explained that the Office of the President was prepared to instruct White House witnesses along the following general lines:

> (1) White House Advisors (Non-Lawyers): Advisors will be permitted to testify as to factual information regarding the Lewinsky investigation, including any such information imparted in conversations with the President. We will continue to assert executive privilege with respect to strategic deliberations and communications.
>
> (2) White House Attorney Advisors: Attorneys in the Counsel's Office will assert attorney/client privilege; attorney work product; and, where appropriate, executive privilege, with regard to communications, including those with the President, related to their gathering of information, the providing of advice, and strategic deliberations and communications.

(*Id.* at 2).

49. Mr. Eggleston stated that he believed that this approach would accommodate the parties' respective interests. (*Id.*). He also stressed that, because the White House did not know the specific questions the OIC intended to ask a particular witness, we would evaluate the application of these instructions in response to specific questions and were willing to discuss any

particular issue. (*Id.*).

50. Mr. Eggleston also rejected the OIC's suggestion that the White House's assertion of privilege was a delaying tactic, pointing out that during the six weeks of the investigation, numerous White House witnesses either appeared or were interviewed, and each had answered all legitimate questions. Moreover, the White House had attempted to address and resolve all privilege issues prior to the appearance or interview of a White House official. (*Id.*).

51. On March 6, 1998, the OIC responded to Mr. Eggleston's letter, maintaining its position that executive privilege did not apply, and rejecting Mr. Eggleston's proposed approach. (3/6/98 Letter from Bittman to Eggleston, attached as Exhibit 7). On that same day, the OIC filed its motions to compel.

VIII. Disclosure of these Communications will Debilitate this and Future Presidencies

52. The President's advisors have not merely assumed that the Lewinsky investigation is a matter that has substantially affected the Presidency. They have taken it upon themselves to evaluate carefully how, if at all, it relates to the President's discharge of his duties. Politicians (both Democratic and Republican), political analysts (both domestic and foreign), and the media have all pronounced that the investigation affects the President's ability to achieve his foreign policy objectives and domestic agenda, and even poses a real threat to his ability to remain in office. In response to these reports, advisors have acted to ensure that they completely understand the scope and ramifications of the Lewinsky investigation so that they can give well-informed advice to the President to enable him to fulfill his responsibilities to the American people.

53. Disclosure of these communications will have a chilling effect on these and future presidential advisors. When a matter like the Lewinsky investigation affects the President's ability to execute his duties, his advisors cannot sit idly by and hope that it will resolve itself with little impact on the President. The President relies on them to assess a particular issue and to help him make sound decisions. To be effective, these advisors need the ability to evaluate relevant information, explore novel approaches, engage in heated debate, and provide blunt, candid, and even harsh, advice to the President. The President has a constitutionally based confidentiality interest in this process, and "the critical role that confidentiality plays in [this process] cannot be gainsaid." *In re Sealed Case*, 121 F.3d at 750.

54. If advisors must perform these duties with the knowledge that they have no expectation of confidentiality, that at some point their deliberations and advice will be disclosed, and that they will be held publicly accountable for their recommendations, they will be disinclined to gather all of the relevant information about a matter and avoid giving novel and frank advice to the President. They will fail in their duty to assist the President in dealing with matters that have an impact on his office and the Executive Branch. In turn, the President will be hindered in performing his duties because he will not receive the full benefit of his advisors' skills. He also will have to waste much of his time performing the functions that intermediaries normally would -- and should -- handle.

55. To strip a President of the core assistance and critical advice that are the lifeblood of his ability to execute his duties will inevitably result in the erosion of the effectiveness of the Office of the President. Such an outcome conflicts with basic constitutional principles and our country's notion of an effective Presidency and a well-balanced, democratic government.

IX. The Decision to Assert Privilege

56. I have discussed with the President these areas of inquiry and the privileged nature of the information sought. The President has directed me to invoke formally the privileges applicable to these communications.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

March 17, 1998
Date

Charles F.C. Ruff
Counsel to the President

Tab 1

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004
(202) 514-8688
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February 4, 1998

The Honorable Charles F.C. Ruff
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Ruff:

I write in response to your visit of yesterday concerning the sensitive matter of Executive privilege. As you know, at the request of the Attorney General, the Special Division recently conferred jurisdiction on this Office to investigate whether "Monica Lewinsky or others" suborned perjury, obstructed justice, or committed other federal crimes. We understand from your discussion that certain witnesses employed by the White House may invoke Executive privilege in response to questions posed by the grand jury in its continuing investigation of that matter. After careful consideration of your comments, including consultation with our Ethics Counselor Samuel Dash, we believe strongly that the grand jury is entitled to inquire into discussions of senior White House staff members, both among themselves and with the President, concerning the Monica Lewinsky matter.

As we understand your comments, there are two principal areas of testimony where the White House may invoke Executive privilege. The first includes discussions, to which the President was not a party, among what you have described as "senior staff." The discussions at issue occurred after the Lewinsky matter became public last month. You indicated that these discussions may have encompassed such topics as how to respond publicly to the news, what political strategies to adopt, and how to advise the President concerning these matters. We further understood you to say that the White House did not expect to assert Executive privilege with respect to whatever factual information, if any, was discussed among the staff.

The second area involves communications between members of the White House staff and the President himself that took place after the public revelations concerning our new jurisdiction. We did not understand you to take a firm position on the question whether the President would assert Executive privilege with respect to his own communications with advisors on this subject.

As a threshold matter, we believe there is serious doubt whether communications of

senior staff and the President concerning the Lewinsky matter fall within the scope of Executive privilege. When the Supreme Court recognized a "presumptive privilege for Presidential communications," United States v. Nixon, 418 U.S. 683, 707 (1974), it explained that the privilege attached to communications in the exercise of the President's Article II powers. Id. at 705. The privilege is limited to communications "in performance of the President's responsibilities," id. at 711, "of his office," id. at 713, and "made in the process of shaping policies and making decisions." Id. at 708 (quoted in Nixon v. Administrator of General Services, 433 U.S. 425, 449 (1977)).

The actions of the President and the White House in response to the Lewinsky matter do not, as we see it, carry out a constitutional duty of the President. Monica Lewinsky was a prospective witness in civil litigation in which the President is a private party. In more recent days, this Office has been charged by the Attorney General and the Special Division with responsibility to conduct a criminal investigation of "Ms. Lewinsky and others." These matters concern the President in his personal capacity. They do not involve the President's execution of the laws. Accordingly, we doubt that presidential and senior staff communications on these matters are entitled to a presumptive Executive privilege.

In any event, assuming the presumptive applicability of an Executive privilege, we are confident that many communications among White House staff and/or the President constitute important evidence in the grand jury's investigation that is not reasonably available elsewhere. See In re Sealed Case, 121 F.3d 729, 753 (D.C. Cir. 1997). The President's own statements are of critical importance to the grand jury's investigation. His statements to advisors represent highly relevant information not available from any other source. Particularly given the President's refusal to make public statements concerning the Lewinsky matter, and his recent decision to decline our invitation to appear before the grand jury, there is no alternative source that even approaches a substitute for direct evidence of the President's statements.

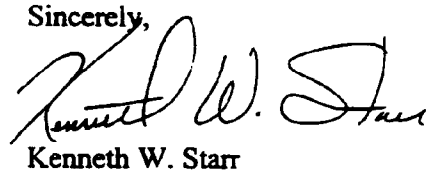
Similarly, the statements of senior White House staff will in many instances be important to the grand jury's investigation. For example, just as factual information in the possession of presidential advisers may reveal the nature of the President's deliberations, see In re Sealed Case, 121 F.3d at 750-51, so too may the discovery of deliberations among the White House staff concerning strategy give the grand jury unique insight to the factual premises on which the President and his staff are operating. Where the grand jury's investigation focuses on not merely "an immediate White House advisor," id. at 755, but on conduct of the President himself, we believe the courts will recognize that evidence of senior staff communications will be "particularly useful" to the grand jury. Id.

If the President ultimately does assert Executive privilege with respect to any evidence sought by the grand jury, then we expect that the district court will be required to determine whether the President's claim of privilege should be upheld under the circumstances. We agree

with your suggestion that a log of conversations among senior staff, including a list of participants and a specific, generic description of the subject matter, may facilitate the process of resolving any such disputes. If you are in a position to provide such a log in fairly short order, then we would consider whether the log is sufficient from our point of view to frame the issues properly for decision by the Court.

If you believe that further discussions of these matters would be helpful, we would be pleased to visit with you again at your convenience.

Sincerely,



Kenneth W. Starr
Independent Counsel

Tab 2

THE WHITE HOUSE

WASHINGTON

February 5, 1998

BY FACSIMILE

Kenneth W. Starr, Esq.
Independent Counsel
Suite 400 North
1001 Pennsylvania Ave., NW
Washington, D.C. 20004

Dear Mr. Starr:

This is in response to your letter of February 4, 1998.

First, I want to inform you that within 45 minutes of its delivery, James Bennet of the New York Times called the White House Press Office to ask whether I had received a letter from you concerning executive privilege. Since there could have been only a few persons on your staff who were aware of the letter's delivery, I ask that you immediately request that the FBI, using agents not affiliated with your office, investigate to determine who disclosed the existence of the letter and its substance (as well as, presumably, the fact and substance of our meeting) to the press. I and the three members of my staff who were aware of the letter before Bennet's call will be happy to be interviewed (under oath) in connection with any such investigation.

Let me move now to the substance of your letter.

As you will not be surprised to learn, I disagree with your position on the applicability of executive privilege to discussions among senior White House staff and between senior staff and the President concerning the Lewinsky matter. In particular, I disagree with your contention that, under In re Sealed Case or any other authority, the grand jury would be permitted to inquire into the substance of deliberations among the President's most senior advisors in order to determine on what factual predicate those deliberations were based. Such an argument would swallow up the entire premise of the court's decision. Indeed, your argument, if followed to its logical conclusion, would mean that the President would be barred from seeking the advice of those responsible for assisting him in carrying out his constitutional responsibilities because every conversation would be the subject of grand jury inquiry.

To the extent that you rely on the fact that the President's counsel has declined your invitation to appear before the grand jury, I find it curious that your office would issue an invitation to the President to appear on a date less than a week hence -- when it is a matter of public knowledge that he is to begin a state visit by the Prime Minister of Great Britain and when, as you are also fully aware, the United States is confronting a major international crisis -- and then argue that the President's declining of that invitation justifies intrusion into his discussions with his advisors. Nor can the President's decision not to comment on the Lewinsky matter -- other than to deny that he had sexual relations with Ms. Lewinsky and that he ever asked her to lie -- justify such an intrusion.

Let me also clarify three points I made in our meeting. First, discussions among and between the President's senior staff involve the very capacity of the President and his staff to govern -- to pursue his legislative agenda, to ensure the continued leadership of he United States in the world community, and to maintain the confidence and support of the people who elected him -- all of which lie at the heart of his role under Article II of the Constitution. Second, as to what position the President himself might take on the assertion of executive privilege as to his communications if he were to be questioned, I did not purport to take any position -- "firm" or otherwise. And third, I indicated that, in deciding whether to assert privilege, we have historically sought to distinguish the substance of advisory and deliberative discussions from segregable facts, not available elsewhere, that may be contained in otherwise privileged communications.

Finally, I remain willing to explore all avenues for resolving our disagreement, although I admit to being more than a little uncertain as to how to conduct discussions without reading about them simultaneously in the press. I am also uncertain about your office's current position with respect to the questioning of senior staff members before the grand jury. Although we had initially been informed that your office did not intend to inquire into the substance of any staff discussions or communications with the President, but rather only to identify the circumstances (date, attendees, general subject matter, etc.) of such discussions in order to establish an appropriate record, we have now been advised that you do intend to pursue such inquiries. We had also been informed that witnesses were not to be questioned concerning communications with White House counsel, but we now understand that you do not intend to follow that practice where there is more than one non-lawyer present -- a rule that I must say seems to have no rational basis.

If we can come to some preliminary agreement as to the protocol that will be followed in connection with Mr. Podesta's appearance and that of other senior staff, it may be that there remains some prospect for addressing both your interests and our very serious concerns. If you believe that further discussions would be fruitful, please call me.

Sincerely,

Charles Ruff

Charles F.C. Ruff
Counsel to the President

Tab 3

Office of the Independent Counsel

1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004
(202) 514-8688
Fax (202) 514-8802

February 6, 1998

The Honorable Charles F. C. Ruff
Counsel to the President
The White House
Washington, D.C. 20500

Dear Mr. Ruff:

I write in response to your February 5 letter.

Let me reiterate the scope of our inquiry: We do not intend to question senior staff about deliberative matters beyond the jurisdictional grant recently crafted by the Attorney General and the Special Division. We do not seek information about discussions that relate solely to the President's foreign policy or his legislative agenda. We do not seek information about military or diplomatic secrets. We do intend to ask about discussions concerning an alleged relationship between Monica Lewinsky and the President, acting in his private capacity.

As to your contention that such discussions fall under Executive privilege, we must respectfully disagree. We believe that the President's relationship with Ms. Lewinsky, and the President's response to a private, civil lawsuit or a criminal investigation, fall outside the scope of his Article II duties. Executive privilege, as a threshold matter, thus appears to us inapplicable.

Even if the privilege did attach, we believe we would satisfy the test set forth in United States v. Nixon. The grand jury is investigating the conduct of Ms. Lewinsky and others with respect to a civil lawsuit against the President in his private capacity. This Office was given responsibility over that investigation after the Attorney General's representative, under exigent circumstances, made an extraordinary oral submission to the Special Division. The grand jury's need for information to resolve this matter in a timely fashion could hardly be more compelling.

In your letter, you suggest that our invitation to appear before the grand jury provided the President with insufficient notice. We fully recognize that the President, in the discharge of his constitutional duties, may have valid scheduling reasons for declining a first invitation to the grand jury. We simply noted the President's response as a partial explanation for why the grand jury needs evidence of his statements from other sources.

Under the circumstances, we do not believe that Executive privilege allows the withholding of important, relevant information that the grand jury needs to complete its inquiry. We cannot agree with you that when senior staff discuss how to handle allegations of the President's private

misconduct, they are aiding the President in the performance of his constitutional duties -- which is the only basis for asserting Executive privilege. Your expansive view of the privilege, it seems to us, could equally cover the communications at issue in Nixon.

You express uncertainty about our position with respect to questioning senior staff members before the grand jury. We will be specific: We intend to inquire into the substance of staff discussions and communications with the President concerning Ms. Lewinsky and related matters. If the witness asserts Executive privilege in the grand jury, we will limit our questioning to those matters necessary to establish an appropriate record for the district court (e.g., whether the communication was for the purpose of advising the President, the official government matter to which the communication relates, date, attendees, etc.). If there is no assertion of privilege, then we will proceed with questions.

You also raise the issue of communications between witnesses and White House Counsel. We hereby notify you that in light of In re Grand Jury Subpoena Duces Tecum, 112 F.3d 910 (8th Cir. 1997), we intend to question witnesses as to the substance of such communications. If a witness asserts attorney-client privilege, we will take such further steps as are appropriate.

Finally, you suggest that someone in this Office disclosed details of our conversations and correspondence to the New York Times. On several occasions in recent weeks, we have been falsely accused of such disclosures. In this particular instance, reporters had been questioning the White House Press Secretary about Executive privilege since January 22; the Wall Street Journal had reported on January 29 that the White House was preparing to assert the privilege (indeed, this was our first notice of your plans); we took extensive steps to arrange for your confidential visit to our offices; subsequent media information plainly came from the White House (e.g., the Associated Press reported on February 5 that "individuals familiar with the letter" said that "Starr's letter left the White House convinced there was no more room for goodwill negotiating"); and the reporter who asked you about our letter covers the White House, not the Office of the Independent Counsel. Under the circumstances, we respectfully suggest that your suspicions are misdirected.

If we can provide further information that may help forestall or resolve any disputes, please let me know.

Yours sincerely,

Kenneth W. Starr
by

KENNETH W. STARR
Independent Counsel

Tab 4

HOWREY & SIMON

W. Neil Eggleston

March 2, 1998

VIA HAND DELIVERY

Kenneth W. Starr, Esq.
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, DC 20004

Dear Mr. Starr:

I represent the Office of the President of the United States in connection with any litigation impacting that Office arising out of your current Grand Jury investigations. This representation extends to potential litigation over the applicability and extent of privileges.

Before you initiate litigation, the White House requests that we be consulted about whether an accommodation is reachable between the President's interest in confidentiality and whatever need the Grand Jury may have for the testimony.

Because these matters involve clashes between branches of government, the usual practice has been for the respective parties to attempt to reconcile their differences and accommodate the needs of the other party to the extent possible.

That was certainly the course that we followed in the Espy litigation. We released to the Espy Independent Counsel documents for which the Independent Counsel had articulated a substantial showing of need. Indeed, the White House determined to release one of these privileged documents during the litigation itself. The White House only invoked privilege over those documents, the release of which we believed would hindered the President's ability to discharge his duties.

We believe a similar attempt to accommodate the respective interests would be appropriate in this matter as well. We would be prepared to meet with you, review the proposed areas of witness questioning, and consider any need you may demonstrate on why any applicable privileges should not be asserted.

Very truly yours,

W. Neil Eggleston

cc: Charles F. C. Ruff, Esq.

Tab 5

Office of the Independent Counsel

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March 2, 1998

HAND DELIVERED

W. Neil Eggleston, Esq.
Howrey & Simon
1299 Pennsylvania Ave., N.W.
Washington, DC 20004-2402

Dear Mr. Eggleston:

We are in receipt here in Washington of your letter dated today to Judge Starr, who is currently in meetings in Little Rock. We have, however, communicated at length with him, and this letter reflects the evaluation and considered judgment of this Office. In brief, you have asked "whether an accommodation is reachable" between the White House and this Office as to the President's invocation of executive privilege, and you suggest a meeting to "reconcile" these differences.

As you are aware, this Office met with White House Counsel a month ago at his request in -- what we believed then to be -- a good-faith attempt to resolve any disputes over privilege without the need to resort to time-consuming litigation. At that meeting and in subsequent correspondence, White House Counsel expressed an unyielding view of the applicability of executive privilege in this setting. Then and since, we have set forth our view that White House Counsel's reading of executive privilege and its applicability to the Monica Lewinsky matter is, with all respect, entirely misplaced. As a threshold matter, the President's communications with regard to Ms. Lewinsky are purely private in nature and therefore fall outside the scope of executive privilege. Such communications were not made in the exercise of the President's Article II powers nor were they made "in performance of the President's responsibilities." United States v. Nixon, 418 U.S. 683, 708, 713 (1974); see also In Re Sealed Case, 121 F.3d 729, 752 (1997) (executive privilege "only applies to communications . . . on official government matters"). In addition, we find the instant invocation of executive privilege odd, given the reported statement of then-White House Counsel Lloyd Cutler that it was the White House's "practice" not to assert executive privilege in "investigations of personal wrongdoing by government officials."

Since our exchanges with White House Counsel, many White House employees have been questioned before the grand jury about Ms. Lewinsky. Several of these witnesses have invoked executive privilege at the direction of the White House. You propose we meet to "review" the areas of questioning and demonstrate our need for the information in an effort to avoid litigation. With all respect, we fail to discern the purpose of such a meeting at this juncture. First, the White House has already begun to litigate these issues as evidenced by Chief Judge Johnson's ordering Bruce Lindsey to testify or invoke a privilege. Second, we have, as you know, already asked the specific questions and identified the "areas of witness questioning." Third, there is no need -- and indeed no requirement -- that we demonstrate why we need these communications, since executive privilege is, for the reasons already stated, simply inapplicable to the personal communications of the President at issue here.

That being said, we are willing to consider any good-faith attempt to resolve these issues promptly. We were in discussions with the White House several weeks ago, but the President subsequently chose to invoke executive privilege as to virtually every communication relating to Ms. Lewinsky. In this respect, we are constrained to make this point clear: this investigation has confronted numerous delaying tactics. Yet we have repeatedly stressed to the White House that the public interest demands a swift resolution of all matters involving Ms. Lewinsky. We believe, moreover, given this history, that the White House is in a better position to identify the areas it wishes to withdraw the invocation of executive privilege. We warmly welcome such a proposal so that we can move the grand jury's investigation forward. If you wish to submit a proposal, kindly do so in writing by noon, Wednesday, March 4, 1998.

Sincerely,

Robert J. Bittman
Deputy Independent Counsel

cc: Honorable Charles F.C. Ruff

Tab 6

HOWREY & SIMON

Attorneys at Law
1299 Pennsylvania Ave., NW
Washington, DC 20004-2402
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W. Neil Eggleston
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March 4, 1998

VIA FACSIMILE and HAND DELIVERY

Kenneth W. Starr, Esq.
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
Suite 490 North
Washington, DC 20004

Dear Mr. Starr:

I received a letter from Deputy Counsel Robert J. Bittman in response to my March 2, 1998 letter outlining our wish to ensure that we had explored, prior to any litigation, all reasonable accommodations to avoid or limit litigation.

Mr. Bittman responded by restating your Office's view that executive privilege does not apply to any questioning of White House officials regarding the Lewinsky investigation—something upon which, as you know, we disagree. Indeed, the impetus for my letter was that we disagree on the law. Despite our legal disagreements, however, we are duty bound to attempt to reach a mutually agreeable accommodation that provides the grand jury with the information it needs while preserving this and future Presidents' legitimate interests in receiving candid and frank advice in confidence from their advisors.

Your Office was unwilling to describe the subject matters about which you intended to question White House officials prior to their testimony. After several weeks of grand jury testimony by White House officials, we now have a sense of the areas that we believe are of interest to your investigation. It appears that, in addition to seeking facts about this matter, you are seeking ongoing advice given to the President by his senior advisors, including attorneys in the Counsel's Office, as well as the substance of these advisors' discussions as to how to address the Lewinsky investigation in a manner that enables the President to perform his constitutional, statutory and other official duties.

In light of these areas of inquiry, we are prepared to discuss an approach that we believe will accommodate our respective interests. To that end, the Office of the President is prepared to instruct White House witnesses along the following general lines:

- White House Advisors (Non-Lawyers): Advisors will be permitted to testify as to factual information regarding the Lewinsky investigation, including any such information imparted in conversations with the President. We will continue to assert executive privilege with respect to strategic deliberations and communications.

- White House Attorney Advisors: Attorneys in the Counsel's Office will assert attorney/client privilege; attorney work product; and, where appropriate, executive privilege, with regard to communications, including those with the President, related to their gathering of information, the providing of advice, and strategic deliberations and communications.

At this point, the instructions that we intend to provide to White House advisors and attorneys are necessarily general, since we do not know the questions you intend to ask. We of course will evaluate the application of these instructions to the advisors and attorneys in response to specific questions and would welcome an opportunity to meet and discuss any particular issues, as needed.

The accommodation we are proposing will permit the grand jury to complete its work in a timely fashion and will provide the factual information that it needs for this investigation. We do not believe, however, that you have demonstrated, or can demonstrate, a need for information about the strategic discussions of White House advisors about this matter.

Although you argue that the Lewinsky investigation is purely private, the intersection of this matter with, for example, the State of the Union, an enumerated duty under Article II, section 3 of the Constitution, and Prime Minister Blair's visit and their joint press conference make it abundantly clear that this investigation has implications for the President's performance of his official duties. These instances also illustrate the very obvious need for the President to receive the candid and frank counsel of his advisors in confidence.

I also reject out-of-hand your suggestion that the assertion of privilege is a delaying tactic or that the White House has in any manner delayed your investigation. While you have been investigating this matter for merely six weeks, numerous White House witnesses have appeared or been interviewed by your agents. None has refused to appear and each has answered all legitimate inquiries. Moreover, we have made every attempt to discuss and resolve potential privilege issues with you before the grand jury appearance of particular White House officials. As you surely are aware, the President's invocation of privilege to permit him and future Presidents to discharge their duties under Article II of the Constitution is a fundamental obligation, not a delaying tactic.

In sum, it is our mutual constitutional obligation to seek a reasonable accommodation of our interests. We are prepared to meet for that purpose at your earliest convenience.

Very truly yours,

W. Neil Eggleston
Attorney for the Office of the President

cc: The Honorable Charles F.C. Ruff
Robert J. Bittman, Esq.

Tab 7

Office of the Independent Counsel

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March 6, 1998

HAND DELIVERED

W. Neil Eggleston, Esq.
Howrey & Simon
1299 Pennsylvania Ave., N.W.
Washington, DC 20004-2402

Dear Mr. Eggleston:

This responds to your letter to this Office dated March 4, 1998.

As you know, since early February we have been in discussions with the White House regarding the applicability of executive privilege to the matters involving Monica Lewinsky. We have great respect for the Office of the President and the important duties and responsibilities of the President. In this case, we have not sought nor will we seek any information implicating state secrets or diplomatic relations. The matters involving Ms. Lewinsky, moreover, relate only to the President acting in his personal capacity, as a private citizen. If there are any communications relating to Ms. Lewinsky which legitimately jeopardize state secrets or diplomatic relations, please identify them and we will review our request.

As fully outlined in our correspondence to you and the White House, the matters regarding Ms. Lewinsky do not involve the President acting his official capacity. Consequently, executive privilege is inapplicable as a threshold and fundamental matter. Any communication pertaining to Ms. Lewinsky is thus not privileged -- no matter the title or position of the person involved in the communication. We therefore cannot agree with your suggestion to keep such highly probative, relevant information from the grand jury.

Sincerely,

Robert J. Bittman
Deputy Independent Counsel

cc: The Honorable Charles F.C. Ruff

GRAND JURY MATTER - FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE GRAND JURY PROCEEDINGS.	)	Misc. Nos. 98-095, 98-096 and 98-097

DECLARATION OF BRUCE R. LINDSEY

1. I am competent to testify from personal knowledge as to the matters set forth in this Declaration. I am filing this Declaration in connection with the Motion to Compel recently filed by the Office of Independent Counsel (OIC).

2. I am an attorney admitted to practice law in Arkansas. From June 1976 until November 1978, and from November 1981 until January 1993, I was an associate and later a partner at Wright, Lindsey & Jennings, a Little Rock, Arkansas law firm.

3. I have known President Bill Clinton for approximately 30 years, and over that period I have worked for and with him in a number of capacities. In 1981 and 1982, President Clinton was affiliated with Wright, Lindsey & Jennings in an "of counsel" capacity. Prior to January 1993, Wright, Lindsey & Jennings also acted on several occasions as personal counsel to Governor Clinton, and as counsel to the 1992 Clinton campaign for the Presidency.

4. For example, during then Governor Clinton's 1990 campaign for re-election, Wright, Lindsey & Jennings acted as personal counsel to Governor Clinton in connection with a lawsuit filed by Larry Nichols, an Arkansas political activist. Mr. Nichols' lawsuit, which was eventually dismissed, asserted that Governor Clinton should be required to reimburse the State of Arkansas for travel and entertainment expenses that the Governor allegedly had incurred on behalf

of several women. Some of those same allegations have "resurfaced" in connection with discovery conducted by attorneys for the plaintiff in *Jones* v. *Clinton.*

5. In addition, during Governor Clinton's 1992 campaign for the presidency, allegations arose concerning Governor Clinton's relationships with various women, including Gennifer Flowers. These allegations also have been the subject of inquiry during the discovery process in *Jones* v. *Clinton.*

6. Since President Clinton's inauguration in January 1993, I have served as an Assistant to the President, and first as Senior Advisor and later as Deputy Counsel to the President. In both those capacities, I have been one of the President's principal advisors on the full range of issues and decisions relating to the President's duties and the effective functioning of the Executive Branch. I have broad responsibility for gathering and providing information and forming advice to give to the President on many matters, and I travel with the President for that purpose. To formulate appropriate advice for the President, I typically gather information and advice from White House staff, other federal employees, and private presidential advisors.

7. The White House Counsel's Office provides confidential counsel to the President in his official capacity, to the White House as an institution, and to senior advisors about legal matters that affect the White House's interests, including investigative matters. To this end, the Counsel's Office, in which I serve as Deputy, receives confidential communications from individuals about matters of institutional concern. White House personnel provide this information to the Counsel's Office with the expectation and understanding that it will remain confidential.

8. In light of the United States Supreme Court decision that the *Jones* v. *Clinton* litigation could proceed during the President's term in office, the President had to develop a method

of communicating with and assisting his private counsel that would minimize distractions from his official duties, which consume his efforts and attention well beyond the limits of a normal working day. Because of my role as the President's longtime confidential advisor and attorney, I often have served as a conduit or intermediary for communications between the President and his private lawyers. Typically, when the President's private lawyers need information in connection with the *Jones* lawsuit, they telephone me with questions for the President. I present questions to the President at opportune times, and later relay the President's answers back to private counsel. I have been able to do this on occasions when the President's official functions and duties are least disrupted by the demands of defending the *Jones* lawsuit. The President knows I serve as an intermediary between him and his lawyers, and he intends that our communications remain private and confidential. In accordance with the President's wishes, I have maintained the confidentiality of these communications.

9. During my two days of grand jury testimony on February 18 and 19, 1998, and more recently on March 12, 1998, I was asked a number of questions about my private communications with the President, with the President's private counsel in *Jones* v. *Clinton*, with the President's private counsel in the OIC investigation, and with other senior advisors to the President. Those questions concerned both the *Jones* v. *Clinton* litigation in general and the effect of the recent controversy regarding the President's alleged relationship with Monica Lewinsky on the President's and the White House's performance of their official responsibilities.

10. With respect to communications that I had with the President or his private attorneys concerning *Jones* v. *Clinton*, I declined to answer on the ground of attorney-client privilege or the common interest doctrine where an answer would disclose confidential communications

between or among the President, his private attorneys and myself, when I was as acting as Deputy Counsel, or when I served as a confidential intermediary as described above.

11. I also declined to answer questions concerning the *Jones* v. *Clinton* litigation, and the allegations regarding Ms. Lewinsky, to the extent that I was asked to reveal discussions that I had with the President, other senior advisors to the President within the White House, or personal advisors to the President about decisions that the President needed to make in connection with his official duties. For example, such discussions focused on issues surrounding the propriety and the wisdom, from an institutional perspective, of the President's seeking a disposition of the *Jones* v. *Clinton* litigation short of trial; whether the President should refer to the allegations surrounding Ms. Lewinsky during his State of the Union address; and whether the President should invoke executive privilege in connection with these proceedings. Other discussions involved advice to the President as to how best to ensure that the allegations concerning Ms. Lewinsky and their political and media ramifications would not impair the President's handling of his official duties. Such senior staff discussions included, for example, how the President should respond to the demands of the media and members of Congress for further information about the Lewinsky allegations, and how the President and White House should address the prospects for referral of the Lewinsky matter to the House of Representatives for a possible inquiry concerning impeachment.

12. The OIC also has inquired about my discussions with the President's private attorneys and other attorneys in the White House Counsel's Office regarding aspects of the grand jury investigation in this matter. In these discussions, I was acting as Deputy Counsel to the President and representing him in his official capacity, and I shared privileged information with other White House attorneys and the private attorneys representing the President in his personal capacity.

I declined to answer questions about these discussions because to do so would require me to reveal confidential communications that I believe to be protected from disclosure by executive privilege, attorney-client privilege, the attorney work product doctrine, and the common interest doctrine.

13. In addition, during my grand jury testimony, the OIC asked several questions about discussions between the White House Counsel's Office and other grand jury witnesses or their counsel. Those discussions were for the purpose of providing legal and other advice to the witnesses and to the President in connection with the ongoing grand jury investigation and potential Congressional proceedings and, therefore, I believe they were protected from disclosure by executive privilege, attorney-client privilege, the attorney work product doctrine, and the common interest doctrine.

14. In the OIC's Brief in Support of Motion to Compel Bruce R. Lindsey to Testify, at page 1, the OIC reports that I stated during my grand jury testimony that I was "not willing to answer any questions concerning conversations about Monica Lewinsky that occurred among White House staff." I do not recall this precise question being asked of me, nor that I answered such a question with a blanket invocation of privilege. In any event, it was my intent to decline to answer such questions that occurred among White House staff, only to the extent that such conversations involved the gathering of information and the formulation of advice to assist the President in the performance of his official responsibilities. Moreover, as I recall my testimony on February 19, I declined the OIC's invitation to invoke a privilege with respect to every conversation that I had had concerning the *Jones* v. *Clinton* litigation, whether or not other attorneys were present.

15. During the first two days of my grand jury testimony, the OIC's representatives failed to ask me about a number of questions concerning Ms. Lewinsky as to which I was prepared

to testify. But even during those first two days I answered several questions about my discussions with others that involved Ms. Lewinsky. I also testified that I had no knowledge concerning the origins of a document identified as "talking points" given to Linda Tripp by Monica Lewinsky.

16. After the pending Motion to Compel my testimony was filed, the OIC requested me to appear before the grand jury investigating the Lewinsky allegations for a third time. I appeared for approximately 2.5 hours on March 12, 1998. During that session, I was asked, for the first time, whether I had ever met or spoken with Ms. Lewinsky. I testified that I had not. I also testified in some detail about the following matters:

a. Two telephone conversations, the first of which was initiated by Linda Tripp, in which Ms. Tripp told me about a story that a *Newsweek* reporter was then preparing regarding an alleged encounter between the President and Kathleen Willey;

b. The fact that I took no actions relating to Monica Lewinsky immediately following President Clinton's deposition in the *Jones* litigation;

c. My lack of knowledge about certain communications between Vernon Jordan and Betty Currie regarding Monica Lewinsky;

d. My lack of knowledge concerning drafts of an affidavit prepared by Ms. Lewinsky in the *Jones* litigation;

e. My lack of knowledge concerning efforts by individuals at the White House to page Monica Lewinsky during the period January 18-19, 1998;

f. My brief discussions with Vernon Jordan about Monica Lewinsky, his efforts to help her obtain a position in private industry, the fact that she had been described in an

Internet report authored or distributed by Matthew Drudge, and my delivery of a copy of the so-called Drudge Report to Mr. Jordan on January 19, 1998;

g. My knowledge of certain efforts by a *Newsweek* reporter to contact Betty Currie about packages or envelopes that had been delivered to Ms. Currie by Monica Lewinsky;

h. My lack of knowledge of any efforts undertaken by Nathan Landow to speak to Kathleen Willey about her role as a witness in the *Jones* litigation; and

i. My lack of knowledge concerning any role performed by Terry Lenzner or Jack Palladino in the *Jones* litigation.

17. The questions that I have declined to answer based on the invocation of privilege all involved my confidential discussions with the President, with other White House attorneys, with senior advisors to the President, and with the President's private attorneys about the *Jones* litigation, the current OIC investigation, or the White House's efforts to respond to the political and media controversy engendered by the *Jones* litigation and the OIC's investigation.

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

See 28 U.S.C. §1748.

Bruce R. Lindsey

Executed on March 17, 1998.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE GRAND JURY PROCEEDINGS,	)	Misc. Nos. 98-95, 98-098 and 98-097

DECLARATION OF SIDNEY BLUMENTHAL

Sidney Blumenthal, under penalty of perjury, hereby declares as follows:

1. I am competent to testify from personal knowledge as to the matters set forth in the Declaration. I am filing this Declaration in connection with the Motion to Compel recently filed by the Office of the Independent Counsel ("OIC").

2. I am an Assistant to the President of the United States of America. My office is in the West Wing of the White House.

3. I assumed this position August 11, 1997. Prior to that time, I was a working journalist and was not employed by the White House. My job duties require me to consult with other White House advisors and with private presidential advisors to gather information and advice so that I can properly advise the President.

4. As a part of my job, I participate in the following policy issues in the White House: global warming, "fast track" trade authority, tobacco issues, health care, general economic issues, Social Security, education, crime, welfare, urban centers, the Race Initiative, environmental issues, and the District of Columbia.

5. As part of my job, I am also responsible for writing major presidential speeches. For example, I was heavily involved in writing the State of the Union Address given by the President January 27, 1998. Under Article II, section 3 of the Constitution, the President has the duty to provide the Congress with "information of the State of the Union." The content

of that address is an important presidential decision on which the President's advisors provide input.

6. I am involved in national security policy as it relates to Latin America, China, Bosnia, Germany, the North Atlantic Treaty Organization (NATO), the Organization of American States (OAS), Iraq, Turkey, Israel, Africa, the United Nations, the Landmines Treaty, Ireland, and Northern Ireland.

7. I am the principal White House official on freedom of the press issues internationally.

8. I am also the liaison for the President to the office of the Prime Minister of Great Britain. In that role, I communicate regularly with Prime Minister Tony Blair directly, his Chief of Staff Jonathan Powell, Director of Policy David Miliband, Official Spokesman Alistair Campbell, Minister Without Portfolio Peter Mandelson, and various other aides, ministers, and members of the British Government.

9. I have had substantial involvement in the foreign relations between the United States and Great Britain. I regularly brief the President on matters concerning Great Britain. I participated in the First Lady's visit to Ireland, Northern Ireland, and England in October and November of 1997. I also participated with the First Lady in the Northern Ireland peace process. That process included talks with British Minister Mo Mowlam. I also assisted the United States delegation at policy discussions held with the Prime Minister of Great Britain and various ministers at Chequers November 1, 1997.

10. I participated in the visit by the Prime Minister of Great Britain to the United States in early February 1998. One of the core functions of the President involves foreign policy, including meetings with Heads of State of foreign countries. The internal discussions as well as the manner in which those meetings are portrayed are important to United States foreign policy.

11. I was responsible for official statements made by the President, for joint appearances of the President and the Prime Minister, a joint press conference, an informal lunch,

a joint radio address on Iraq, an official White House dinner, and a Blair House dinner hosted by the United States and United Kingdom ambassadors of official delegations. I also directed the United States delegation at joint policy discussions that were held during the visit. The coordination of these events, including joint press conferences, is important to the international relations between countries.

12. I am currently involved in arranging the President's trip to the G-8 meeting in Birmingham, England, and his subsequent visits to London, all of which are set to occur in May 1998. In regard to that trip, I am responsible for coordinating policy, drafting statements, planning appearances, and planning and directing the United States delegation in policy discussions with the Prime Minister and various ministers at Chequers. In addition, I am planning the United States delegation in meetings with British ministers and senior aides to the Prime Minister of Great Britain.

13. In carrying out these duties, I am in almost daily contact with the President and other senior administration officials. In the course of carrying out my official duties, I have discussed with the President, the First Lady, and other senior administration officials certain matters and allegations pertaining to the investigation being conducted by the Independent Counsel. The First Lady functions as a senior advisor to the President, and it was in that capacity that I had discussions with her about the Independent Counsel's investigation. The discussions with the President, the First Lady, and with other senior advisors to the President enabled me to advise the President and his advisors concerning the effect of the investigation on his official duties, including how best to frame his public statements, his legislative agenda, and his dealings with foreign countries in light of that investigation. For example, these discussions enabled me to advise the President and his advisors with respect to the content of the State of the Union address and with respect to press relations and other aspects of the visit of Prime Minister Blair.

14. Confidentiality is critical to my ability to provide open, frank, and candid advice at all times, not only to the President, but to other senior advisors as well. Based on my experience in the White House, I believe that the ability of advisors to the President to provide

him with the type of candid advice the President needs would be hindered if the discussions among staff and with the President were not confidential.

15. On February 26, 1998, I testified before a grand jury sitting in the District of Columbia. I had been instructed by the Office of the Counsel to the President to assert executive privilege in response to certain of the questions the Independent Counsel asked me. An answer to those questions would have revealed the communications that I had with other senior advisors, and the confidential advice and counsel that I gave to the President, with regard to policy issues, including the policy issues discussed in the foregoing paragraphs.

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

Executed on March 16, 1998.

Sidney Blumenthal

Tab 43

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Wednesday, March 25, 1998

A Section

Clinton Finds There's No Escape; In Africa, President Sidesteps Executive Privilege Questions

John F. Harris
Washington Post Staff Writer

Yes, President Clinton acknowledged today, he had heard something about a controversy involving executive privilege back in the United States.

And no, he had nothing to say about it.

Seven time zones away from Washington, the uproar about .nton's decision to invoke privilege -- sparking a legal fight over .at testimony a grand jury will hear from top White House aides -- caught up with the president in a photo session with Yoweri Museveni, the president of Uganda.

Clinton, who has yet to acknowledge publicly even that he is asserting executive privilege, was pressed by reporters to explain why he is trying to block testimony. His voice curt and his expression cold, the president responded as though he were a bystander in the controversy, rather than its central character.

"All I know is, I saw an article about it in the paper today," said Clinton, referring to the packet of news clippings faxed each morning to him when he is on the road. "I haven't discussed that with the lawyers. I don't know. You should ask someone who knows."

Specifically, Clinton was responding to a question about why White House lawyers have invoked executive privilege for conversations between first lady Hillary Rodham Clinton and aide Sidney Blumenthal. But he took the same tone on every other question relating to independent counsel Kenneth W. Starr's investigation into the Monica S. Lewinsky controversy.

Even as the president was sidestepping the issue in Africa, his yers back in Washington returned to federal court for a second day of arguments with Starr's attorneys about the privilege dispute.

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~zing a 90-minute, closed-door hearing before Chief U.S. District Judge Norma Holloway Johnson, attorneys continued their discussion about whether executive privilege or attorney-client privilege should prevent Starr from asking certain questions of Blumenthal, White House deputy counsel Bruce R. Lindseyand possibly others.

On another floor of the courthouse, the grand jury looking into the Lewinsky matter had a slow day, with no witnesses known to have appeared. On Wednesday, however, one of the key witnesses is scheduled to return, according to a source familiar with the matter. Marcia K. Lewis, Lewinsky's mother, appeared for two days last month before suffering what associates called severe emotional distress that caused a halt to her testimony. Lewis and Lewinsky share an apartment at the Watergate and are close confidantes.

In Little Rock, another grand jury that has looked into Whitewater for four years is set to expire in May and Starr said yesterday that he may not convene a replacement. Talking with reporters outside his Arkansas office, Starr said the cooperation of former governor Jim Guy Tucker under a recent plea agreement may speed the conclusion of the probe there.

"This investigation could conclude quickly if all persons who ~e relevant and material information would come forward and ~operate with the grand jury," Starr said.

As a general proposition, White House aides often cringe when asked about domestic uproars while overseas -- an anxiety they are feeling even more acutely on Clinton's six-nation, 11-day African tour. It is Clinton's first foreign trip since the Lewinsky controversy broke two months ago, and the president seemed to be forcibly restraining his temper during a brief session with reporters at the State House Lodge here in the Ugandan capital.

A reporter asked why people should not conclude that Clinton's assertion of privilege was "an effort to hide something from them."

"Look, that's a question that's being asked and answered back home by the people who are responsible to do that," Clinton responded. "I don't believe I should be discussing that here."

But as White House press secretary Michael McCurry acknowledged, it's actually a question that is being asked but not answered back home. The White House contends that because Judge Johnson has placed the legal proceeding under seal, Clinton and his lawyers cannot say anything about it -- nor offer a public justification for why he may b~ provoking a constitutional showdown over the scope of his ~sidential powers. Other legal specialists, however, have said such a situation would not preclude the president from acknowledging

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publicly that he is asserting the privilege.

Political advisers in and out of the White House have been uncomfortable about Clinton's use of privilege to shield his aides because of the inevitable comparisons with Richard M. Nixon, who lost his battle during Watergate to assert executive privilege, leading to the disclosure of secret White House tapes and, in the end, to his resignation.

Earlier this month, McCurry said at his daily briefing that if Clinton did assert privilege, "I think the president would want the American people . . . to understand why he would make such an assertion."

Should Clinton be prepared to make such an explanation, it could come on Friday in South Africa. In the only full news conference of his trip, Clinton and South African President Nelson Mandela will face reporters in Cape Town.

Clinton aides said they have dreaded the potential spectacle of Clinton fielding -- or ducking -- questions about his legal controversies and alleged sexual misconduct standing beside one of the world's most respected leaders. But one adviser said the Clinton team has concluded that such a scene, if it comes, will not hurt Clinton at home -- since viewers might resent reporters for asking questions they consider impertinent.

Clinton scoffed at a suggestion that, with Washington so hostile, he would rather be in Africa. "I've looked forward to this [trip] for years," he said testily. "And I think most Americans want me to do the job I was elected to do."

Staff writers Lena H. Sun, Susan Schmidt and Peter Baker contributed to this report from Washington.

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CAPTION: The president's lawyer, Robert S. Bennett, waves to his driver after leaving the federal courthouse.

---- INDEX REFERENCES ----

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Tab 44

Office of the Independent Counsel

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April 17, 1998

VIA HAND DELIVERY

Eric H. Holder, Jr., Esq.
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Room 4111
Washington, DC 20530

Dear Mr. Holder:

I write to express my profound concerns with respect to the deposition of Secret Service Officer Robert Almasy, which took place on April 16, 1998, in our offices. What occurred was, in brief, regrettable and grossly unprofessional. The effect of what happened yesterday was to hinder and impede this investigation.

As you know, we have for some time now been negotiating with the Department and the Secret Service over the testimony of Secret Service personnel. Since the beginning of this investigation, we have received -- and continue to receive -- numerous and credible reports that Secret Service officers and agents have evidence relevant to this investigation. In an effort to accommodate the concerns of the Department and the Secret Service, we have generally been questioning Secret Service personnel in a deposition format in our offices, subject to standard grand jury procedures such as the absence of defense counsel, Rule 6(e) secrecy, and so forth. Yesterday's episode involved unprofessional conduct that was utterly beyond the pale.

Officer Almasy's deposition, which we were unable to finish on April 16, consumed a total of six hours and twenty minutes. Of that time, two hours and fifteen minutes was spent on the record. The remainder -- four hours and five minutes -- was used for consultations between Officer Almasy, the Department of Justice attorney, and the Secret Service attorneys who were present outside the deposition room. In a number of instances, Officer Almasy halted the deposition to consult with his

attorneys for periods of thirty minutes and longer. Virtually every question that was asked of Officer Almasy caused him to leave the deposition room and engage in such consultations. This was the single most disruptive appearance by any witness in any phase of our investigation.

As I mentioned previously, we have been conducting these depositions with the understanding that the Secret Service employees being questioned are to be treated as grand jury witnesses. According to the Department of Justice's Federal Grand Jury Practice Manual, a grand jury witness's consultations with his attorneys "should not be allowed to interfere unduly with the grand jury proceedings and may be appropriately regulated. . . . Although the parameters of the witness's right to consult with counsel outside the grand jury room are unclear, prosecutors and courts generally permit the witness consultation of reasonable length and frequency." The Manual goes on to state that

> [u]nreasonable consultations should not be permitted to obstruct orderly questioning of the witness. A witness who insists upon leaving the grand jury room frequently to consult with an attorney at length may be taken to the court for an order directing the witness to discontinue such a practice and, if necessary, to establish ground rules for such consultations.

Officer Almasy's lengthy and repeated consultations with his attorneys were flatly inconsistent with the Department's policies.

Furthermore, I am even more concerned that, by all appearances, the Secret Service and Department of Justice attorneys that attended Officer Almasy's deposition may have attempted to use it as a discovery device with regard to our investigation. This and other practices we observed in connection with Officer Almasy's deposition are what we would expect to see of criminal defense attorneys who wish to conceal relevant evidence or otherwise stonewall a grand jury investigation. They are most emphatically not what we expected of career attorneys employed by the Department of Justice.

Let me be frank: We have bent over backwards to accommodate the Secret Service's concerns in our questioning of its personnel. We have conducted many weeks of negotiations. We have refrained from calling active duty Secret Service personnel before the grand jury. Each of these actions was taken in good faith. But yesterday, at the same time that you were publicly emphasizing in your press briefing that the Department of Justice

is not "impeding the investigation," we were being blocked from obtaining important evidence.

What happened yesterday was, in my view, an effort by sworn officials of the Executive Branch to hinder this investigation. After careful consideration, we have regretfully concluded that it will henceforth be necessary for us to compel the testimony of Secret Service personnel before the grand jury. I ask that you take appropriate steps to ensure that our investigation is not impeded further.

Sincerely,

Jackie M. Bennett, Jr.
Deputy Independent Counsel

cc: Gary G. Grindler, Esq.
Deputy Assistant Attorney General
Civil Division

Tab 45

An Open Letter to Kenneth Starr

By William H. Ginsburg

Dear Mr. Starr:

If there is one thing I have learned while representing Monica Lewinsky, it is that the government can easily wind up out of control. And the risk of that happening is made all the greater when we deviate from the constitutional checks and balances set forth by the founding fathers. In particular, I've worried these past several months that your investigation into President Clinton's sexual conduct threatens to tear a giant hole in the fabric of our democracy.

I believe you've done that by ignoring one of the most important rights possessed by all Americans—the sacred right to privacy. Even the smallest incursion by the government into the realm of personal privacy, including the questions your investigators have asked my client and others about sexual activity, represents an egregious violation of that right. In the simplest terms, Mr. Starr, the government has no business in our bedrooms. And yet your office has sought to drain the constitutional rights of our republic in the name of your apparent agenda to bring down the presidency. Indeed, you and your staff have done more than invade the privacy of President Clinton and Monica Lewinsky. You've also invaded the privacy of all Americans through your efforts to subpoena books and other materials purchased by Monica for her private reading. Let me remind you that Justice Brandeis 70 years ago, in his famous dissent in *Olmstead v U.S.*, described the right to privacy as one of the most important rights possessed by mankind. And Justice Douglas warned more than 30 years ago, in *Griswold v Connecticut*, that we were in danger of the government entering our bedrooms. It seems that his warning has now come to pass, which makes us the victims of democracy, rather than its beneficiaries.



Now is the time to recall that the founding fathers never provided for an office of independent counsel. Perhaps they even envisioned the potential for abuse in such an office of the sort we see now. Unfortunately, the pass-the-buck mentality so pervasive among modern politicians has helped pave the way for the beyond-the-pale activities of the position you currently hold. Alas, Congress has abdicated its constitutional responsibility to determine the need for a Bill of Impeachment against the president. I would like to see Congress muster the courage to tear down the nonconstitutional office you hold, with the president taking the equally courageous approach of firing you and setting America free once again.

How else, I wonder, are we to avoid the risks of an independent prosecutor running amuck on the scale we've seen in the case involving my client and the president? Surely, there is something flawed in a statutory scheme that has allowed you the leeway to expand your jurisdiction over the Whitewater affair so broadly as to include alleged presidential sexual misconduct. Let me state it as bluntly as I can: There is no relationship at all between Whitewater and the president's sexual conduct. But that has not prevented you from subpoenaing practically everyone in the Washington, D.C., phone book in a misguided effort to find out everything that could possibly be found out about Monica Lewinsky. Your actions have turned this young woman into a virtual prisoner and have created, through an orchestrated campaign of media leaks, a tainted environment in which everyone has an opinion regarding what happened, and with whom it happened.

Congratulations, Mr. Starr! As a result of your callous disregard for cherished constitutional rights, you *may* have succeeded in unmasking a sexual relationship between two consenting adults. In doing so, of course, you've also ruined the lives of several people, including Monica and her family, while costing them each thousands of dollars in legal fees to protect themselves from the abuses carried out by your office.

In doing all of that, you have confirmed the worst image of lawyers in the minds of the public by proceeding

William H. Ginsburg is the senior member of Ginsburg, Stephan, Oringher & Richman, with offices in Century City and Orange County.

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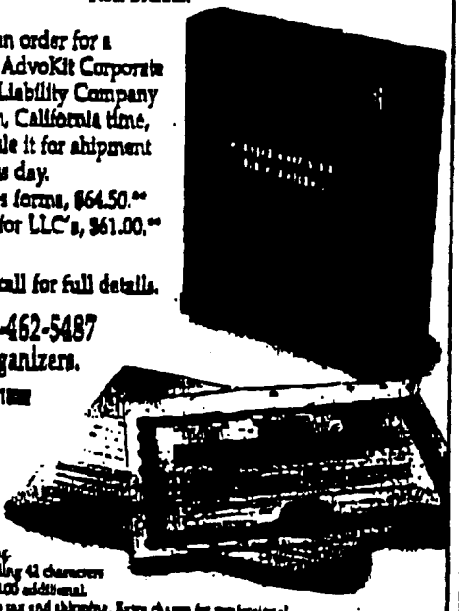
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with an investigation tainted by an apparent, if not actual, conflict of interest on your part. You have demonstrated that lawyers who are charged with the public's trust can and do pursue agendas that are motivated by politics rather than justice. You have proven that prosecutorial abuse can and does exist in America, thus jeopardizing the perceived fairness of every other prosecution in the country. Your office has also become a haven for zealous investigators who act without checks and balances on their behavior. Instead, they resemble prosecutorial civil servants, working for an agency whose sole purpose is to ferret out presidential foibles and titillating tribulations more suited for the tabloids than any courtroom. What a field day you've created for those who already believe that lawyers are a plague on society that threatens fairness under the law.

Mr. Starr, you and your progeny need to be checked before you come to believe that you can do anything in the name of carrying out your statutory duties. You already act as if you're omnipotent. But bear in mind that the American people disapprove of your performance. They abhor your abuse of their constitutional rights. They resent your role in creating a politically charged environment tainted by leaks and innuendo to such an extent that no one involved in your investigation can possibly receive a fair trial, should it come to that.

I call on all Americans to rise up and react to your dangerous abuse of power, for none of us can rest easy as long as anyone's right to privacy is threatened. You may argue that the government needs the kind of information you are seeking from my client and others so that it can ensure proper legal conduct by the president of the United States and other high-level officials. But every single citizen is entitled to question your tactics, which include the threat of indictment and the ability to ruin innocent lives.

As for my own client in this episode, I have told her that we are being confronted by an anticonstitutional monster. He goes by the generic name of independent counsel. It's time to rid ourselves of this dangerous creature. □

Tab 46

UNDER SEAL

SCHEDULED FOR ORAL ARGUMENT ON JUNE 29, 1998

IN THE

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 98-3060, 98-3062, 98-3072

IN RE: SEALED CASE

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
MISC. NO. 98-95 (NHJ)

BRIEF FOR APPELLANT WILLIAM J. CLINTON

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CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES

A. Parties and Amici

The following parties and intervenors appeared before the district court: William J. Clinton, The Office of the President, Bruce R. Lindsey, Sidney Blumenthal, Nancy Hernreich, and the Office of the Independent Counsel. The following are parties in this Court: William J. Clinton, The Office of the President, and the Office of the Independent Counsel. The United States of America, acting through the Attorney General, appeared in the district court as an amicus curiae and is appearing as an amicus curiae in this Court.

B. Rulings Under Review

On May 4, 1998, the United States District Court for the District of Columbia (Johnson, C.J.) ordered Bruce R. Lindsey, a Deputy White House Counsel, to testify before a grand jury concerning matters protected, inter alia, by the President's attorney-client privilege and the work product doctrine. The ruling is at page 152 of the Joint Appendix. The opinion is not yet reported in Federal Supplement but is available, in redacted form, on Westlaw. In re Grand Jury Proceedings, Misc. Nos. 98-095, 98-096, and 98-097, 1998 WL 271539 (D.D.C. May 27, 1998).

On May 26, 1998, after the Office of the President filed a motion for reconsideration in part, the district court issued a sealed memorandum order denying reconsideration but modifying footnote 20 of its May 4 opinion. That second ruling is at page 210 of the Joint Appendix. It has not been published.

The unredacted May 4 opinion, the May 26 memorandum order, and the issues presented in this brief all remain under seal.

C. Related Cases

Counsel are not aware of any related cases.

TABLE OF CONTENTS

CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES i
A. Parties and Amici i
B. Rulings Under Review i
C. Related Cases ii
TABLE OF AUTHORITIES v
JURISDICTION 1
ISSUES PRESENTED 1
STATUTES AND RULES 2
STATEMENT OF THE CASE 2
A. The "Whitewater" Investigation 3
B. The Jones Civil Suit 4
C. Bruce Lindsey's Role 6
D. The Expansion of the OIC's Jurisdiction in January 1998 7
E. Mr. Lindsey's Grand Jury Testimony 8
F. The District Court's Opinion 9
SUMMARY OF ARGUMENT 10
ARGUMENT 11
I. STANDARD OF REVIEW 12
II. COMMUNICATIONS BETWEEN PRESIDENT CLINTON AND HIS LEGAL COUNSEL ENJOY THE ABSOLUTE PROTECTION OF THE ATTORNEY-CLIENT PRIVILEGE 12
III. COMMUNICATIONS AMONG MR. LINDSEY, THE PRESIDENT, AND/OR THE PRESIDENT'S PERSONAL COUNSEL ARE PRIVILEGED AND CONFIDENTIAL 15
A. Communications Facilitating the Provision of Personal Legal Advice to President Clinton 15
1. The Privilege Extends to Agents Who Facilitate the Provision of Legal Advice 16
2. The President Is Not Required to Establish Necessity and, in Any Event, the Use of Mr. Lindsey Was Necessary 18
3. That Mr. Lindsey Served In More Than a Ministerial Capacity Does Not Disqualify Him as a Privileged Agent 22
B. Communications Related to Mr. Lindsey's Former Representation 24
C. Communications in the "Common Interest" 25

1. The Common Interest Doctrine Is a Well-Established Component of the Attorney-Client Privilege 26

2. Communications Between Personal and White House Counsel Are Privileged Under the Common Interest Rule 29

IV. COMMUNICATIONS WITH PERSONAL COUNSEL ARE PROTECTED BY THE WORK-PRODUCT DOCTRINE 36

CONCLUSION 39

TABLE OF AUTHORITIES*

FEDERAL CASES

Bowne of New York City, Inc. v. AmBase Corp., 150 F.R.D. 465 (S.D.N.Y. 1993) 38

Branzburg v. Hayes, 408 U.S. 665 (1972) 14

Burlington Indus. v. Exxon Corp., 65 F.R.D. 26 (D. Md. 1974) 27

Castle v. Sangamo Weston, Inc., 744 F.2d 1464 (11th Cir. 1984) 37

Chan v. City of Chicago, 162 F.R.D. 344 (N.D. Ill. 1995) 27

Chirac v. Reinicker, 24 U.S. (11 Wheat.) 280 (1826) 14

* Clinton v. Jones, ___ U.S. ___, 117 S. Ct. 1636 (1997) 4, 15, 16, 20, 22

Continental Oil Co. v. United States, 330 F.2d 347 (9th Cir. 1964) 28

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F.T.C. v. Texaco, 555 F.2d 862 (D.C. Cir. 1977) 12

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In Re Grand Jury Proceedings Under Seal, 947 F.2d 1188 (4th Cir. 1991) 24

In re Grand Jury Subpoena, 112 F.3d 910 (8th Cir. 1997) 30

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Holland v. Island Creek Corp., 885 F. Supp. 4 (D.D.C. 1995) 36

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Interfaith Hous. Delaware, Inc. v. Town of Georgetown,
841 F. Supp. 1393 (D. Del. 1994) 27, 36

Jaffee v. Redmond, 518 U.S. 1 (1996) 13, 14

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913 F.2d 544 (8th Cir. 1990) 26, 27

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5 F.3d 1508 (D.C. Cir. 1993) 17, 18

Matter of Grand Jury Subpoena Duces Tecum Dated Nov. 16, 1974,
406 F. Supp. 381 (S.D.N.Y. 1974). 28, 29, 31

Miller v. Haulmark Transport Systems, 104 F.R.D. 442 (E.D.Pa. 1984) 23

Natta v. Zletz, 418 F.2d 633 (7th Cir. 1969) 27

SCM Corp. v. Xerox Corp., 70 F.R.D. 508 (D. Conn.), appeal dismissed,
534 F.2d 1031 (2d Cir. 1976) 28

Schachar v. American Academy of Ophthalmology, Inc.,
106 F.R.D. 187 (N.D. Ill. 1985) 28

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In Re Sealed Case, 29 F.3d 715 (D.C. Cir. 1994) 26

In re Sealed Case, 676 F.2d 793 (D.C. Cir. 1982) 36, 38

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United States v. Abdul-Saboor, 85 F.3d 664 (D.C. Cir. 1996) 12

United States v. Aramony, 88 F.3d 1369 (4th Cir. 1996) 29

United States v. Gulf Oil Corp., 760 F.2d 292 (Temp. Emergency Ct. of Ap. 1985) 38

United States v. Judson, 322 F.2d 460 (9th Cir. 1963) 23

United States v. Kovel, 296 F.2d 918 (2d Cir. 1961) 17, 23

United States v. MIT, 129 F.3d 681 (1st Cir. 1997) 28

United States v. McPartlin, 595 F.2d 1321 (7th Cir. 1979) 27, 29

United States v. Moscony, 927 F.2d 742 (3d Cir. 1991) 27

United States v. Nixon, 418 U.S. 683 (1974) 32

United States v. Nobles, 422 U.S. 225 (1975) 37

United States v. Rostenkowski, 59 F.3d 1291 (D.C. Cir. 1995) 21

United States v. Schwimmer, 892 F.2d 237 (2d Cir. 1989) 26, 27

United States v. Zolin, 809 F.2d 1411 (9th Cir. 1987), aff'd in part on other grounds and vacated in part on other grounds, 491 U.S. 554 (1989) 28

* Upjohn Co. v. United States, 449 U.S. 383 (1981) 12, 13, 14, 26, 35

Winpisinger v. Watson, 628 F.2d 133 (D.C. Cir. 1980) 20

DOCKETED CASES

Alexander v. The Executive Office of the President, et al., Civ. No. 96-2123 (D.D.C.) 33

STATUTES

28 U.S.C. § 1291 1

28 U.S.C. § 1331 1

18 U.S.C. § 3231 1

42 U.S.C. §§ 1983, 1985 4

Ethics in Government Act, 28 U.S.C. § 591, et seq 2

28 U.S.C. § 594(a) 32

28 U.S.C. § 595(c) 33

28 U.S.C. § 597(b) 32

Independent Counsel Reauthorization Act of 1994, 108 Stat. 735 3

MISCELLANEOUS

66 U.S.L.W. 3778 (U.S. June 9, 1998) 10

141 Cong. Rec. 18,948 (Daily ed.) (Dec. 20, 1995) 31

ABA Model Rule 1.6, cmt. 22 24

Department of Justice Final Rule, 59 Fed. Reg. 5321 (Feb. 4, 1994) 3

Fed. R. Civ. Evid. 501 14

Restatement of the Law Governing Lawyers § 45(2) 24, 28, 29, 36

Restatement (Third) of the Law Governing Lawyers § 118 13

Restatement of the Law Governing Lawyers § 58 (2)-(3) 24

Restatement of the Law Governing Lawyers § 120 23

Restatement of the Law Governing Lawyers § 126 ..... 28, 29

Restatement of the Law Governing Lawyers § 136 37

Richard E. Neustadt, Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan 130 (1990) 20

Supreme Court Standard 503 ..... 18, 24

Saltzberg et al., Federal Rules of Evidence Manual 599 (6th ed. 1994) 26

The Washington Post (Feb. 14, 1998) 7

Washington Times (March 26, 1998) 33

Wigmore, Evidence § 2317 (McNaughton rev. 1961) 18, 19

Weinstein et al., Weinstein's Federal Evidence § 503 (2d ed. 1997) 18, 19

McCormick on Evidence § 91 (4th ed. 1992) 19

IN THE

UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Nos. 98-3060, 98-3062, 98-3072

IN RE: SEALED CASE

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
MISC. NO. 98-95 (NHJ)

BRIEF FOR APPELLANT WILLIAM J. CLINTON

JURISDICTION

Jurisdiction in the district court was proper under 28 U.S.C. § 1331 and 18 U.S.C. § 3231. William J. Clinton filed a notice of appeal from the district court's May 4, 1998 order on May 13, 1998. Jurisdiction in this Court is proper under 28 U.S.C. § 1291.

ISSUES PRESENTED

1. Whether the district court erred in ruling that President Clinton's conversations with Deputy White House Counsel Bruce Lindsey were not privileged when Mr. Lindsey was being used to facilitate the provision of legal advice to the President by personal counsel.

2. Whether the district court erred in failing to recognize that the attorney-client privilege and work product doctrine encompassed confidential communications among

President Clinton, Mr. Lindsey, and the President's personal counsel related to Mr. Lindsey's previous personal representation of President Clinton.

3. Whether the district court erred in holding that the President in his personal capacity and the Office of the President do not have any common legal, factual or strategic interests that are legally cognizable under the attorney-client privilege's common interest rule.

4. Whether the district court erred in holding that personal counsel's confidential sharing of attorney work product with Mr. Lindsey waived the privilege, based solely on its earlier finding that President Clinton and the White House share no common interest.

STATUTES AND RULES

Federal Rule of Evidence 501, Supreme Court Standard 503, and relevant sections of the Ethics in Government Act, 28 U.S.C. § 591, et seq., are reproduced in the Addendum.

STATEMENT OF THE CASE

This case emerges from the confluence of the long-running "Whitewater" investigation with the Paula Jones civil suit. It presents vital issues involving the ability of the President to be defended in such matters with no less effectiveness than any other citizen. Because such investigations and litigation may well recur in future administrations, it is important that a President's personal attorneys and White House counsel be able to consult freely to assure that both the private and public interests of the President are adequately protected. Thus, this case is, at heart, one about the ability of a President to receive, and his lawyers to provide, effective legal services.

A. The "Whitewater" Investigation

In the Presidential campaign of 1992, the unprofitable joint investment of then-Governor and Mrs. Clinton, along with James and Susan McDougal, in a 1978 Arkansas real estate venture known as the Whitewater Development Company became a matter of some comment and criticism. Four years after the investment, in the early 1980's, the McDougals had acquired a savings and loan company, Madison Guaranty Savings & Loan Association, which was taken over by federal regulators in 1989. In 1992, the Resolution Trust Company (RTC) began an investigation of Madison Guaranty, and in the fall of 1993, newspaper articles were published suggesting that the RTC had asked federal prosecutors in Little Rock to investigate various transactions involving the S&L. Recognizing that they might be witnesses in legal proceedings, in early November, 1993, the President and Mrs. Clinton retained the law firm of Williams & Connolly to represent them with respect to the Madison Guaranty investigation. That same month, the Department of Justice assumed responsibility for this probe.

On January 20, 1994, however, the Attorney General appointed Robert B. Fiske, Jr., as independent counsel with jurisdiction to investigate matters arising out of the President or Mrs. Clinton's relationships with Madison Guaranty, the Whitewater Development Company, and/or Capital Management Services. Department of Justice Final Rule, 59 Fed. Reg. 5321 (Feb. 4, 1994). On August 5, 1994, after enactment of the Independent Counsel Reauthorization Act of 1994, 108 Stat. 735, Kenneth W. Starr was appointed by the Special Division to replace Mr. Fiske and was granted jurisdiction similar to that of Mr. Fiske. During the four and one half years of investigation by Messrs. Fiske and Starr, President and Mrs. Clinton have, with the assistance of personal counsel, testified under oath on numerous occasions, personally produced more than 90,000 pages of documents, answered interrogatories, and provided information informally.

B. The Jones Civil Suit

On May 6, 1994, Paula Jones filed suit in the United States District Court for the Eastern District of Arkansas alleging defamation, emotional distress, and violations of 42 U.S.C. §§ 1983, 1985. The President retained Skadden, Arps, Slate, Meagher & Flom, LLP, to represent him in defense of this action. For the next three years, the parties conducted litigation primarily over the legal issue of whether the suit could go forward against a sitting President. On May 27, 1997, the Supreme Court held that it could, and the case was returned to the district court. Clinton v. Jones, ___ U.S. ___, 117 S.Ct. 1636 (1997). Comprehensive discovery began in the fall of 1997.

The breadth and pace of the litigation is manifest from the sheer size of the district court docket, which reflects 332 entries after jurisdiction was returned to the district court.[1/] Even that number does not fully reflect the demands of the litigation, however. In the 16 weeks between October 1, 1997 and January 31, 1998, plaintiff Jones conducted 35 depositions, the defendants conducted 27 depositions, and approximately 90 motions were litigated in the district court in Arkansas as well as courts in Virginia, Michigan, California and the District of Columbia. In this short time period, plaintiff propounded 23 interrogatories, 72 requests for admissions, and 77 document requests to the President. Plaintiff also obtained leave to file an Amended Complaint, which the President answered. The district court held weekly hearings via conference call throughout this period to hear argument and resolve disputes.

As in any extremely active and aggressively litigated civil case, it was necessary for the President's counsel regularly to update and consult their client concerning substantive and strategic decisions that had to be made with respect to a variety of matters, such as what

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1/ Much of the material on the docket remains under seal. The publicly available docket reflects the total number of items docketed.

depositions to take, potential areas of questioning and other preparations for depositions, and what positions to take vis-a-vis discovery and other motions. These discussions were in addition to those obviously necessary to enable the President to respond to discovery directed to him. The hectic activity during this period required frequent communications between the President and his private counsel, because the primary focus of discovery sought by plaintiff was the conduct of the President himself. Indeed, most of plaintiff's discovery related to matters far broader than the few purported contacts between the President and Ms. Jones. In particular, plaintiff was permitted to seek discovery about the defendant's alleged conduct with respect to other women over a twenty-year period while he was Governor and Attorney General of Arkansas, as well as the efforts of President Clinton's 1992 campaign to respond to similar unfounded allegations.

Plaintiff also attempted to pursue discovery into matters relating to the defendant's conduct while President, including matters of significant interest to the White House and the Presidency as an institution. For example, plaintiff sought

- to obtain medical records generated by White House physicians;
- to depose members of the Secret Service charged with protecting the President and the White House;
- to depose certain members of the President's staff; and
- to conduct discovery into the President's alleged conduct with respect to two former White House employees, including Monica Lewinsky.

Plaintiff's document requests to the President also required consultation with the White House as to whether the records sought were official White House records or the personal records of the President. Additionally, plaintiff twice issued subpoenas duces tecum to the White House (one was withdrawn, the other quashed).

The President was himself deposed for several hours on January 17, 1998. More than half the questions asked by plaintiff's counsel related to matters occurring at the White House or after Mr. Clinton became President. The interests of the Presidency in this proceeding were such that all parties acknowledged the right of White House Counsel Charles Ruff to be present.

C. Bruce Lindsey's Role

Throughout the civil litigation, and especially during the intense discovery period in late 1997, the President needed to keep abreast of the demands of the litigation while attending to the exigencies of his official duties, and he therefore on occasion needed to rely on someone on his staff to be his agent and to facilitate communications with his personal counsel. Mr. Lindsey served in this capacity. J.A. 44-45, ¶8. He was ideally suited for this liaison role because he was a White House lawyer, a long-time trusted advisor, and a personal friend of the President who could be relied upon to maintain the confidentiality of any such discussions. Mr. Lindsey traveled on almost every trip the President took and had prompt access to the President wherever he was. He was therefore in a position to communicate with the President concerning the Jones litigation at times least disruptive to the President's official duties. J.A. 44-45, ¶8.

Moreover, prior to joining the White House staff, Mr. Lindsey was in private practice in Little Rock, and he and his law firm had served as Governor Clinton's personal attorneys and as counsel to the Clinton presidential campaign in 1992. J.A. 43-44, ¶¶4-5. When plaintiff's attorneys in the Jones case sought to revisit allegations that had surfaced while Mr. Lindsey was Governor Clinton's personal attorney, President Clinton's private counsel consulted Mr. Lindsey about the prior representation.

Because discovery issues trenched upon matters of legal significance to the White House, the President's private counsel found it necessary to consult from time to time with White

House counsel about such matters. Mr. Lindsey participated in these consultations in his role as Deputy White House Counsel. As an incident of this work as a White House lawyer representing the President in his official capacity, he necessarily conferred with the President's personal counsel who were dealing with the Jones case and the "Whitewater" investigation about matters of common interest to both. J.A. 46-47, ¶12. These conversations were intended to remain confidential and occurred within the context of Mr. Lindsey's representation of the White House. J.A. 45-46, ¶10.

D. The Expansion of the OIC's Jurisdiction in January 1998

Just two days prior to the President's deposition in the Jones case, the Office of the Independent Counsel ("OIC") covertly sought on an expedited basis to expand its jurisdiction 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, Div. No. 94-1 (Jan. 16, 1998) (Div. for Purpose of Appointing Independent Counsels) (D.C. Cir.). The OIC's request was granted by a sealed order of the Special Division on January 16, 1998, the day before the President's deposition. Ibid. On the evening of January 16, according to news reports, the OIC's main cooperating witness with respect to Ms. Lewinsky, Ms. Linda Tripp, met with counsel for Ms. Jones.[2/] At the President's deposition the following day, Ms. Jones' counsel asked the President 95 questions regarding Ms. Lewinsky.[3/]

2/ See, e.g., Baker, "Linda Tripp Briefed Jones Team on Tapes," The Washington Post (Feb. 14, 1998).

3/ Discovery in the Jones matter closed on January 31, 1998. Promptly thereafter, President Clinton filed a motion for summary judgment, which was granted. Ms. Jones' appeal is pending.

E. Mr. Lindsey's Grand Jury Testimony

Mr. Lindsey testified before the OIC's grand jury on February 18 and 19 and on March 12, 1998. J.A. 45, ¶9. He answered numerous questions relating to the Jones litigation and Ms. Lewinsky. J.A. 47-49, ¶¶15-16. He was also asked, however, "a number of questions about [his] private communications with the President, with the President's private counsel in Jones v. Clinton, with the President's private counsel in the OIC investigation, and with other senior advisors to the President." J.A. 45, ¶9. Counsel for appellants are not privy to the precise questions asked of Mr. Lindsey in the grand jury,[4/] but the OIC made an in camera submission of fourteen categories of information it sought from Mr. Lindsey. Because of Rule 6(e) concerns, the court simply summarized these categories as including but not limited to the following:

> "Lindsey's conversations with the President regarding the Jones litigation; his conversations with the President regarding Monica Lewinsky and the grand jury's investigation; his communications with White House advisers, including White House Counsel members, about the Jones litigation and the Monica Lewinsky matter; the identities of grand jury witnesses who have been interviewed by the White House after their appearances and the substance of those interviews; his communications with Steven Goodin, a White House employee called to testify before the grand jury; whether Lindsey heard during the weekend of January 24-25, 1998, that Betty Currie was cooperating with the OIC; communications regarding the President's knowledge of whether Betty Currie called Vernon Jordan to help Monica Lewinsky find a job in New York; and communications with Peter McGrath, a New Hampshire lawyer representing a client with information about the Lewinsky matter."

J.A. 198-199 (footnote omitted).

Mr. Lindsey declined, on attorney-client privilege and attorney work product grounds, to answer questions concerning confidential communications with the President's

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4/ The district court denied Mr. Lindsey's motion for a copy of the transcript but directed the OIC to make the transcripts available to the court. J.A. 147.

personal attorneys because he was serving as a confidential agent and intermediary for the President in dealing with the President's private counsel J.A. 45-46, ¶10, because some of the questions addressed topics with which he was familiar because of his prior service as the President's personal attorney J.A. 43-45, ¶¶3-5, 8-9, and because as Deputy White House Counsel he was addressing issues of common interest to the White House and the President in his personal capacity J.A. 46-47, ¶¶11-12.

F. The District Court's Opinion

On March 6, the OIC moved to compel answers to the questions Mr. Lindsey had declined to answer, inter alia, on the basis of the President's personal attorney-client privilege and the work product protections. Both the President and the Office of the President filed oppositions, and the district court heard argument on March 24, 1998. J.A. 86. Pursuant to a subsequent court order, the OIC made an in camera submission on April 24, 1998, concerning its need for the testimony. J.A. 149.

On May 4, 1998, the district court issued a sealed opinion, rejecting the President's privilege claims. The court did not question that personal counsel enjoyed a privileged relationship with the President in both the Jones case and the Lewinsky investigation, and it recognized that case law approves the use in certain circumstances of an agent or intermediary to facilitate the provision of legal advice. But it was "not persuaded that the use of an intermediary was necessary" in the instant case. J.A. 169.[5/]

With respect to the President's assertion of privilege based upon the common interest between the President personally and his Office, the district court recognized that "[t]he

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5/ The district court did not address the President's separate contention that part of the legal assistance Mr. Lindsey furnished to private counsel arose out of Mr. Lindsey's experience as personal counsel to then-Governor Clinton.

President and the White House certainly share some concerns in a broad sense," but held that "in terms of the Paula Jones civil suit and the grand jury investigation, they do not share a 'common interest' in the legal sense of the phrase." J.A. 175. This was so, the court concluded, because "the White House cannot be implicated in any criminal or civil action." J.A. 176. The court construed the need of private and White House counsel to consult in order to coordinate legal advice to the President personally and officially as evidence of a lack of common interest between the two: "[w]hether President Clinton chose to follow the interests of the White House or his own personal interests in this situation, it remains true that the individual and the office have opposing interests." J.A. 177.

Finally, the district court ruled that any personal work product protection was waived when material otherwise covered by that doctrine was shared with Mr. Lindsey, since "the White House and President Clinton in his personal capacity do not face the OIC as an 'opposing party' and do not share a common interest in the matter." J.A. 179.

The President in his personal capacity filed a timely notice of appeal. J.A. 206.[6/]

SUMMARY OF ARGUMENT

The decision below improperly denies President Clinton, in his personal capacity, the protections of the attorney-client privilege and the work product doctrine available to all other litigants. The decision incorrectly interprets or fails to recognize four independent but overlapping reasons why the communications at issue here are privileged. First, the district court erred in holding that President Clinton's attorney-client privilege was breached by his use of Deputy White House Counsel Lindsey to facilitate the provision of legal advice to him by personal counsel. Second, the district court erred in failing to recognize that Mr. Lindsey's prior

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6/ On May 28, 1998, the OIC filed a petition for certiorari before judgment, which the Supreme Court denied on June 4, 1998. 66 U.S.L.W. 3778 (U.S. June 9, 1998).

personal representation of President Clinton made privileged communications among Mr. Lindsey, President Clinton, and President Clinton's current personal counsel relating to the earlier representation. Third, the district court erred in holding that the President and the Office of the President do not have any common legal, factual or strategic interests that are cognizable under the common interest rule. Finally, the district court erred in holding that its decision that President Clinton and the Office of the President could not share a common interest necessarily meant that personal counsel's confidential sharing of work product with Mr. Lindsey waived that privilege.

ARGUMENT

It is uncontested and indisputable that President Clinton, like every other citizen, enjoys the right to personal legal counsel. The district court decision does not purport to question this right, but it nonetheless directly challenges the President's ability to receive appropriate and fully informed legal advice.

If the ruling below stands, the President's personal and official counsel cannot communicate in confidence. As a result, the President cannot obtain from his personal counsel legal advice informed by the possible ramifications of that advice for his official duties. Nor may the President determine for himself how to seek and obtain confidential legal advice without undue intrusion on his constitutional obligations under Article II. The district court has second-guessed, and disallowed, his chosen course.

One key guiding principle emerges from a review of the law governing attorney-client privilege: the need to be flexible in defining the workings of the privilege to achieve the paramount goal of assuring that individuals are able to obtain fully informed and factually well-founded legal advice. The doctrines at issue here – the absolute nature of the privilege, the permissible use of intermediaries, and the protection of communications in the common interest

– reflect the courts' longstanding effort to find practical solutions to encourage and facilitate the receipt of such advice. The district court decision flies directly in the face of these core principles. It ignores the practical need of the President to obtain meaningful personal legal advice and instead throws insurmountable obstacles in the path of that effort. It does so based on fundamental misinterpretations of governing law and cannot stand.

I. STANDARD OF REVIEW

This appeal addresses conclusions of law by the district court concerning the attorney-client privilege and the work product doctrine. Conclusions of law are subject to de novo review. United States v. Abdul-Saboor, 85 F.3d 664, 667 (D.C. Cir. 1996). Where the district court made factual findings dependent on, and related to, an erroneous legal understanding, review also is de novo. See F.T.C. v. Texaco, 555 F.2d 862, 876 n.29 (D.C. Cir. 1977).

II. COMMUNICATIONS BETWEEN PRESIDENT CLINTON AND HIS LEGAL COUNSEL ENJOY THE ABSOLUTE PROTECTION OF THE ATTORNEY-CLIENT PRIVILEGE

It has long been settled that the societal benefits of an absolute attorney-client privilege outweigh any intrusion that the privilege may have on the factfinding process. Recognizing the value of certainty that derives from the guarantee of confidentiality, once courts determine that a communication is made in confidence for the purpose of obtaining or providing legal advice, they do not consider the need for particular information, or the context of the request.

The privilege "is the oldest of the privileges for confidential communications known to the common law." Upjohn Co. v. United States, 449 U.S. 383, 389 (1981) (citation omitted). Its purpose is "to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration

of justice." Ibid. It "exists to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice." Id. at 390.[7/]

Testimonial privileges like the attorney-client privilege are justified "by a public good transcending the normally predominant principle of utilizing all rational means for ascertaining the truth," Jaffee v. Redmond, 518 U.S. 1, 9 (1996) (quotations omitted). As the Supreme Court has observed, "[t]he privilege recognizes that sound legal advice or advocacy serves public ends and that such advice or advocacy depends upon the lawyer's being fully informed by the client." Upjohn, 449 U.S. at 389. See also Hunt v. Blackburn, 128 U.S. 464, 470 (1888). Thus, although the attorney-client privilege may sometimes have the effect of withholding relevant information from the factfinder, the privilege is justified by larger public benefits – the greater law compliance and fairer judicial proceedings resulting from the "sound legal advice [and] advocacy" the privilege promotes. Upjohn, 449 U.S. at 389.

Moreover, any loss to the factfinder engendered by the privilege is more apparent than real. Because the privilege only protects communications "which might not have been made absent the privilege," Fisher v. United States, 425 U.S. 391, 403 (1976), the factfinder loses access only to a communication that may never have been made without the assurance of confidentiality. "Without a privilege, much of the desirable evidence to which litigants . . . seek access . . . is unlikely to come into being. This unspoken 'evidence' will therefore serve no

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7/ The elements required to establish the existence of the attorney-client privilege are: (1) a communication; (2) made between privileged persons; (3) in confidence; (4) for the purpose of obtaining or providing legal assistance for the client. Restatement (Third) of the Law Governing Lawyers §118 (Proposed Final Draft No. 1, 1996) (tentatively approved May 1996) ("Restatement of the Law Governing Lawyers"). Relevant sections of the Restatement of the Law Governing Lawyers are included in the attached Addendum.

greater truth-seeking function than if it had been spoken and privileged." Jaffee, 518 U.S. at 12; see also Upjohn, 449 U.S. at 395.

Once the privilege has been held applicable, it is absolute and cannot be overcome by a showing of a prosecutor's or factfinder's need. As the Supreme Court explained in Upjohn, the very effectiveness of the attorney-client privilege depends upon its absolute nature because "[a]n uncertain privilege, or one which purports to be certain but results in widely varying applications by the courts, is little better than no privilege at all." 449 U.S. at 393. The Court again emphasized this same point in a related context in Jaffee, explaining that "[m]aking the promise of [a therapist's] confidentiality contingent . . . would eviscerate the effectiveness of the privilege."[8/] 518 U.S. at 17. Accordingly, the attorney-client privilege remains absolute irrespective of the nature of the legal issues or forum involved. It applies with equal force in criminal and civil settings, see, e.g., Fed. R. Civ. Evid. 501 advisory committee notes ("privileges shall continue to be developed by the courts of the United States under a uniform standard applicable both in civil and criminal cases") (emphasis added), and it is well settled that the privilege remains absolute even in the grand jury setting. Although the Supreme Court's decision in Branzburg v. Hayes, 408 U.S. 665, 688 (1972), often is cited as support for the right of the grand jury to "every man's evidence," in that same sentence the Court went out of its way to except privileged evidence, stating in full that even in a grand jury setting "the public has a right to every man's evidence, except for those persons protected by a constitutional, common law, or statutory privilege." (emphasis added).

8/ The absolute nature of the attorney-client privilege has been recognized by more than 170 years of Supreme Court opinions. See, e.g., Chirac v. Reinicker, 24 U.S. (11 Wheat.) 280, 294 (1826); Connecticut Mut. Life Ins. Co. v. Schaefer, 94 U.S. 457, 458 (1876).

III. COMMUNICATIONS AMONG MR. LINDSEY, THE PRESIDENT, AND/OR THE PRESIDENT'S PERSONAL COUNSEL ARE PRIVILEGED AND CONFIDENTIAL

The questions asked of Mr. Lindsey in the grand jury, to which he has been ordered to respond, implicate three separate but overlapping roles that he played in relation to personal legal matters of the President. First, he communicated with the President and the President's personal counsel in his role as an agent and intermediary for the purpose of facilitating the President's ability to obtain legal advice in the Jones litigation. Second, he consulted with the President and the President's personal counsel in his role as a former personal counsel to Mr. Clinton on matters related to current legal disputes. And third, as Deputy White House Counsel, he discussed issues of common legal interest with personal counsel in the Jones and Lewinsky matters. As set forth below, the law recognizes and protects the confidentiality of communications made in each of these roles, or in any combination of them. The district court erred by failing to give effect to these protections here.

A. Communications Facilitating the Provision of Personal Legal Advice to President Clinton

In rejecting the President's claim of a temporary immunity from civil litigation during his term in office, the Supreme Court predicted that the Jones v. Clinton suit, if properly managed by the courts below, would be "highly unlikely to occupy any substantial amount of [the President's] time." Jones, 117 S.Ct. at 1648. To this end, however, the Court stressed that courts below should display a keen sensitivity to the burden on the President of having to defend the Jones litigation while discharging the duties of his Office:

> Although we have rejected the argument that the potential burdens on the President violate separation of powers principles, those burdens are appropriate matters for the District Court to evaluate in its management of the case. The high respect that is owed to the Office of the Chief Executive, though not justifying a rule of

> categorical immunity, is a matter that should inform the conduct of the entire proceeding, including the timing and scope of discovery.

Jones, 117 S.Ct. at 1650-51 (emphasis added).

Here, far from displaying the requisite sensitivity, the district court stripped the President of the ability to balance the demands of his office and the Jones litigation through the use of an agent to facilitate his receipt of personal legal advice. The district court reached this result by turning the Jones caution on its head: the court limited the means available to the President to defend the litigation by construing the scope of the attorney-client privilege as it applies to agents more restrictively than this Court and courts generally have done in litigation involving parties other than the President. This cramped interpretation of the privilege as it applies to agents constitutes legal error.

1. The Privilege Extends to Agents Who Facilitate the Provision of Legal Advice

After Clinton v. Jones was remanded, the trial court set a brisk discovery and motions schedule. The President concluded that without some assistance, he could not properly attend to his official duties while simultaneously attending to his defense in the Jones litigation. Accordingly, the President asked Bruce Lindsey to serve as his agent to assist him at times in marshalling information for, and securing advice from, private counsel. J.A. 45-46, ¶10. For the many reasons set forth above, Mr. Lindsey was ideal for this responsibility. See pp. 4-7, supra.

In determining to use Mr. Lindsey as a privileged agent, the President acted in conformity with well-established law in this Circuit and elsewhere. Where a client utilizes an intermediary to develop and present information to his counsel, or to assist counsel otherwise in the formulation and presentation of legal advice to the client, the protections of the attorney-client privilege apply to communications involving the client, the agent, and counsel.

The district court recognized that the President had designated Mr. Lindsey as his agent for purposes of securing legal advice in the Jones litigation. However, it asserted that "[t]he D.C. Circuit has never explicitly decided whether a client's agent, such as Lindsey, can claim the attorney-client privilege." J.A. 168. That is flatly incorrect. On two separate occasions in recent years, this Court has stated that where an agent is used to facilitate the provision of legal advice to a client, the communications between client and agent are privileged.

In Linde, Thomson, Langworthy, Kohn & Van Dyke, P.C. v. Resolution Trust Corporation, 5 F.3d 1508 (D.C. Cir. 1993), this Court observed that where an insurer facilitates an insured's receipt of legal advice through its communications with the insured and with counsel, the attorney-client privilege protects those communications, notwithstanding the absence of a general insurer/insured privilege:

> Certainly, where the insured communicates with the insurer for the express purpose of seeking legal advice with respect to a concrete claim, or for the purpose of aiding an insurer-provided attorney in preparing a specific legal case, the law would exalt form over substance if it were to deny application of the attorney-client privilege.

5 F.3d at 1515. The "critical factor" in determining the existence of the privilege is whether communications with the agent are made "in confidence for the purpose of obtaining legal advice from the lawyer" for the client. 5 F.3d at 1514 (quoting FTC v. TRW, 628 F.2d 207, 212 (D.C. Cir. 1980) (emphasis omitted)).

In TRW, this Court likewise declared that the use of an agent in facilitating the provision of advice from attorney to client falls within the protections of the attorney-client privilege. The Court noted that "[a] line of appellate cases beginning with Judge Friendly's opinion for the court in United States v. Kovel, 296 F.2d 918 (2d Cir. 1961), has recognized that the attorney-client privilege can attach to reports of third parties made at the request of the

attorney or the client where the purpose of the report was to put in usable form information obtained from the client." 628 F.2d at 212. This Court stressed that it believed such "holdings to be correct and necessary to preserve the effectiveness of counsel in our legal system." Id. Only because it could not be sure that the third party's communications in the case before it had been made to obtain legal advice for the client did this Court find the privilege inapplicable. Id. at 212-13.

Supreme Court Standard 503[9/] incorporates this principle into its definition of the privilege, see §§(a)(4) and (b)(1) and (4), and the evidence treatises have given full recognition to it as well. See, e.g., 8 Wigmore, Evidence § 2317 at 618 (McNaughton rev. 1961) ("[a] communication . . . by any form of agency employed or set in motion by the client is within the privilege) ("Wigmore"); Jack B. Weinstein et al., Weinstein's Federal Evidence § 503.15[3] (2d ed. 1997) (privilege applies to communications involving "non-client [who] furthers the interest of effective representation") ("Weinstein").

The district court failed to recognize the force of this authority. Here, there is no dispute that Mr. Lindsey's role was to facilitate the provision of legal advice to the President through the communication of information to the President's private counsel and the communication in return of counsel's questions and advice to the President. The district court's failure to hold accordingly was legal error.

2. The President Is Not Required to Establish Necessity and, in Any Event, the Use of Mr. Lindsey Was Necessary

The district court offered several other reasons for denying the protections of the attorney-client privilege to the President in connection with his use of Mr. Lindsey in

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9/ While this Standard was not enacted by Congress, this Court has looked to it for guidance. See, e.g., Linde, 5 F.3d at 1514.

communicating with private counsel. The first of these was that the court was "not persuaded that the use of [Mr. Lindsey] was necessary." J.A. 169. In superimposing a necessity requirement on the use of agents, the district court again committed legal error.

This Court has never held that the privilege applies in agency situations only when "necessary." To the contrary, this Court quite plainly has avoided adoption of such a requirement. In Linde, for example, it was sufficient to warrant application of the privilege that the client and counsel intended that the communications be confidential, and that they facilitated the client's receipt of legal advice. Indeed, it was irrelevant to the Linde analysis whether or not the insured could have communicated directly with counsel. Similarly, in TRW, this Court nowhere stated that communications between an agent, counsel and client are privileged only where the use of the agent is a necessity.

The evidence treatises have also rejected necessity as a prerequisite to application of the privilege, focusing instead, as has this Court, on whether the use of an agent facilitates the provision of legal advice. Thus, Weinstein writes that "the question should not be whether the third person is necessary, but whether he or she is helpful to the interests of the lawyer-client relationship." Weinstein § 503.15[3] (emphasis added). Wigmore states quite plainly that "a communication . . . by any form of agency employed or set in motion by the client is within the privilege." Wigmore § 2317 (emphasis in original). And McCormick declares that it should not matter whether the use of an agent "was in the particular instance reasonably necessary to the matter in hand." McCormick on Evidence § 91 at 335 (4th ed. 1992).

An examination of the "necessity" for an agent's use would embroil the courts in second-guessing the determinations of attorney and client that the utilization of an agent would better help the client secure proper legal advice. This is second-guessing that the courts are

poorly equipped to handle, as amply illustrated by this case. As noted above, see p. 4, supra, when the Jones case was remanded to the district court in 1997, a hectic period of discovery ensued, involving numerous depositions, motions, and pleadings of all kinds, including numerous interrogatories and admissions requests. In the face of this intensive litigation, the President determined that, without the assistance of an agent, he simply could not attend to his defense while fulfilling his official duties. J.A. 44-45, ¶8. That this was the case is hardly surprising. As one of the most respected scholars of the modern Presidency has written, official deadlines "rule [the President's] personal agenda, . . . drain[ing] his energy and crowd[ing] his time regardless of all else."[10/] Indeed, based on numerous authorities, the Supreme Court accepted the premise that the President "occupies a unique office with powers and responsibilities so vast and important that the public interest demands he devote his undivided time and attention to his public duties." Clinton, 117 S. Ct. at 1646.

The district court's statement that it was inappropriate for a government lawyer to serve as the President's agent because this meant the use of "White House staff for personal matters," J.A. 172, reflects a fundamental misunderstanding of the Supreme Court's explicitly expressed concerns. Mr. Lindsey's efforts made it possible for the President to transact his official business more efficiently. The Supreme Court admonished that the lower courts must give "the utmost deference to Presidential responsibilities," Jones, 117 S.Ct. at 1652; indeed, there are fundamental separation-of-powers limitations on the ability of a court to supervise how the Executive and Legislative branches organize themselves to discharge their constitutional responsibilities, see Winpisinger v. Watson, 628 F.2d 133, 140 & 141 n.30 (D.C. Cir. 1980) ("[t]he judiciary is not to act as a management overseer of the Executive Branch") ; see also

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10/ Richard E. Neustadt, Presidential Power and the Modern Presidents: The Politics of

United States v. Rostenkowski, 59 F.3d 1291, 1307-11 (D.C. Cir. 1995) (holding that separations-of-powers concerns render questions whether Congressional employees are performing permissible "official work" as opposed to impermissible "personal service" non-justiciable unless Congress has supplied clear rule of decision).

Instead of recognizing the extent of the President's burdens, the district court cavalierly dismissed the determination of the President that he needed an agent to facilitate communications with his personal counsel. Remarkably, the only evidence the district court cited for its position were two oral argument statements by the President's counsel, both of which the court misconstrued. In the first, the President's counsel in the Jones case explained that he would use Mr. Lindsey to obtain information from the President, having Mr. Lindsey speak directly to the President when he was travelling with him, or having Mr. Lindsey call the President otherwise. J.A. 170. The district court questioned why counsel could not call the President directly instead of Mr. Lindsey. It completely ignored counsel's point that Mr. Lindsey usually travels with the President, and hence is best positioned to raise issues with him at a time that is least intrusive on other matters. It also overlooked the fact that even when Mr. Lindsey is not travelling with the President, he still is in frequent contact with him on a variety of matters and is far better positioned than counsel to raise issues with the President at times least likely to disrupt the President's official duties.

In the second statement, counsel for the President in the OIC investigation stated that they had not yet found it necessary to use Mr. Lindsey to facilitate their communications with the President in that new matter. The district court declared that this "fact strongly suggests . . . that Lindsey was not 'reasonably necessary' as the President's agent for communication with

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Leadership from Roosevelt to Reagan 130 (1990).

respect to the Jones case." J.A. 170-71. In doing so, the district court completely ignored the second half of counsel's statement, that it had not been necessary to rely on Mr. Lindsey as an agent in the OIC matter "because we haven't had the immediacy of the civil litigation." J.A. 133. The district court simply failed to distinguish between the requirements of the two matters.

Ultimately, the most troubling aspect of the district court's determination that Mr. Lindsey was not a "necessary" agent is its misreading of the Jones decision. Far from "giving 'the utmost deference,'" 117 S.Ct. at 1652, to the President's decision that he should use an agent to secure proper advice in the Jones litigation while fulfilling his constitutional duties – a deference compelled both by that decision and the separation of powers principles it reflects – the court imposed a "necessity" requirement that is not the law of this Circuit, and then applied that test in a manner that ignored the President's own determination of how best to fulfill his constitutional duties while meeting the pre-trial schedule in the Jones matter.

3. That Mr. Lindsey Served In More Than a Ministerial Capacity Does Not Disqualify Him as a Privileged Agent

The district court also refused to apply the privilege because Mr. Lindsey was not used as a "true intermediar[y], [someone] whose function is simply to ensure that messages from a client to his or her attorney are received and understood." J.A. 171. This holding also was legal error.

On numerous occasions, courts have held that the privilege can apply in situations where an agent, far from just passing information back and forth between counsel and client, has enhanced the value of those communications. In TRW, for example, the district court had held that the privilege could not apply to a study of the client's credit reporting system that had been prepared by a third party consultant, on the grounds that only "ministerial agents" who do not engage in the "independent compilation and analysis" of information can be brought within the

ambit of the privilege. 628 F.2d at 212. This Court affirmed the result, but expressly not for the reasons articulated by the district court. Id. Rather, the Court stated that the privilege would attach to the agent's report if it had been prepared for the purpose of obtaining legal advice from counsel. Id. at 212-13. That the agent had plainly done more than relay information from the client did not affect the analysis.

A host of other courts have held the privilege applicable to agents who have added value to attorney-client communications. See, e.g., United States v. Judson, 322 F.2d 460, 462-63 (9th Cir. 1963); Miller v. Haulmark Transport Systems, 104 F.R.D. 442, 445 (E.D.Pa. 1984). Perhaps no court has made the point more emphatically than did Judge Friendly in Kovel: "[w]e cannot regard the privilege as confined to 'menial or ministerial' [agents]." 296 F.2d at 921. He provided several examples of agency situations in which the privilege might apply, including "where [an] attorney, ignorant of [a] foreign language [spoken by his client], sends the client to a non-lawyer proficient in it, with instructions to interview the client on the attorney's behalf and then render his own summary of the situation, perhaps drawing on his own knowledge in the process, so that the attorney can give the client proper legal advice." Id. (emphasis added).

In holding to the contrary, the district court cited Restatement of the Law Governing Lawyers § 120, cmt (f). But those very examples confirm that a privileged agent can do more than serve as a conduit for information. Thus, the Restatement describes as privileged agents parents who accompany their 16-year-old to a meeting with the child's lawyer, and the "Accountant [who] accompan[ies] Client to a consultation with Lawyer so that Accountant can explain the nature of Client's legal matter to Lawyer." Id. In these situations, the agents are clearly doing more than passing messages between counsel and client -- they are enhancing the

quality of the communication between the two. These examples also make clear the district court's error in concluding that the privilege does not attach to meetings at which the President, private counsel and Mr. Lindsey were all present. See J.A. 167 n.7. Mr. Lindsey was not limited in his role as agent to the ministerial task of relaying messages, but could properly assist the President by providing additional insight and information during such discussions. See also In Re Grand Jury Proceedings Under Seal, 947 F.2d 1188, 1190 (4th Cir. 1991).

B. Communications Related to Mr. Lindsey's Former Representation

Prior to 1993, Mr. Lindsey served as then-Governor Clinton's personal counsel on a number of occasions. He dealt in that capacity with issues that the President's present personal counsel also have had to address. J.A. 43-44, ¶¶3-5; J.A. 171. The district court noted that "Lindsey was consulting with [personal counsel] regarding litigation strategy and describing his past representation of President Clinton," J.A. 171, but it overlooked entirely the point that conferences between present and prior counsel as to such issues fall squarely within the attorney-client privilege.

Three points are indisputable. First, attorney-client confidences remain privileged after the termination of a representation. Supreme Court Standard 503(c) (former attorney can invoke the privilege); Restatement of the Law Governing Lawyers § 45(2) (former lawyer must continue to protect the client's confidences); ABA Model Rule 1.6, cmt. 22 ("[t]he duty of confidentiality continues after the client-lawyer relationship has terminated). Second, consistent with the privilege, prior counsel can –indeed must -- communicate confidences to subsequent counsel to facilitate the ongoing representation of the client. Restatement of the Law Governing Lawyers § 45, cmt (b) ("[t]he lawyer must make the client's . . . papers available to the client or the client's new lawyer"); § 58 (2)-(3) (same). Third, information acquired by counsel

subsequent to a representation relating to the subject matter of the representation remains confidential. Id. § 111 and cmt. (c) ("Confidential client information consists of information relating to that client, acquired by a lawyer . . . in the course of or as a result of representing the client. . . . Information acquired . . . after the representation is confidential so long as it is not generally known and relates to the representation.").

The application of these principles here is straightforward. Where Mr. Lindsey has communicated confidences arising out of his representation of then-Governor Clinton to the President's present counsel, those confidences have not lost their privileged status. By the same token, where present counsel have communicated information to Mr. Lindsey relating to his prior representation of the Governor, "for example, in the form of information on subsequent developments," id., those communications are also privileged. The district court committed legal error in holding that Mr. Lindsey's testimony about such matters could be compelled before the grand jury.[11/]

C. Communications in the "Common Interest"

The court below held that "President Clinton in his personal capacity does not share a legal 'common interest' with the White House such that communications between White House attorneys and the President's personal attorneys fall within the attorney-client privilege." J.A. 178. More generally, the district court held that a "federal government agency cannot share a 'common interest' with a private individual against the United States, here represented by the OIC." J.A. 175. The court based these holdings on the grounds that (1) "the White House cannot be implicated in any criminal or civil action and thus does not share President Clinton's

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11/ Lawyers who enter government service are not exempt from the duty to ensure an orderly transition in the representation of their former clients, and no authority suggests that they breach the privilege or violate their public obligations in doing so.

legal interests, J.A. 176; and (2) that President Clinton and the White House necessarily have opposing interests with respect to issues such as whether to invoke privileges, id., and whether to offer a particular defense in the Jones litigation, J.A. 177. The district court committed legal error both in these statements of the common interest rule and in its refusal to recognize its applicability here.

1. The Common Interest Doctrine Is a Well-Established Component of the Attorney-Client Privilege

The common interest rule is an application of the attorney-client privilege that is uniformly accepted and endorsed, particularly in this Circuit. See In Re Sealed Case, 29 F.3d 715, 719 (D.C. Cir. 1994).[12/] It enables counsel for clients who share a common interest "to exchange privileged communications and attorney work product in order to adequately prepare a defense without waiving either privilege." Haines v. Liggett Group, Inc., 975 F.2d 81, 94 (3d Cir. 1992). The rationale behind this doctrine is the same as the attorney-client privilege itself – that the sharing of information between counsel for clients with a common interest will "encourage full and frank communications between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice." Upjohn, 449 U.S. at 389. As noted by one court, "[t]he need to protect the free flow of information from client to attorney logically exists whenever multiple clients share a common interest about a legal matter." United States v. Schwimmer, 892 F.2d 237, 243 (2d Cir. 1989) (citation omitted).[13/]

12/ See also John Morrell & Co. v. Local Union 304A of United Food & Commercial Workers, 913 F.2d 544, 555-56 (8th Cir. 1990); United States v. AT&T, 642 F.2d 1285, 1300-01 (D.C. Cir. 1980) (application of common interest privilege in work product context); Supreme Court Proposed Rule 503(b)(3).

13/ See also 2 Stephen A. Saltzberg et al., Federal Rules of Evidence Manual 599 (6th ed. 1994) ("Saltzberg").

The doctrine covers an array of communications, including among counsel for clients with common interests, between two sets of clients and their lawyers, and between an individual, her personal counsel, and an attorney for a different party with a common interest, as long as the purpose of the communication is to obtain legal advice in the common interest. Indeed, the doctrine encompasses communications between a defendant client and a co-defendant's agents,[14/] communications between clients jointly represented by a single attorney,[15/] communications between in-house counsel for a corporation and outside counsel,[16/] communications between governmental and private entities,[17/] and communications between two governmental entities[18/] -- again, as long as a common interest is pursued and the communications are for the purpose of providing effective legal advice. Since the privilege belongs to both clients, it may be invoked by either and cannot be waived unilaterally.[19/]

Two additional observations demonstrate the legal error in the district court's determination that President Clinton "does not share a legal 'common interest' with the White House." First, courts generously construe the kinds of overlapping concerns that constitute a

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14/ See Schwimmer, 892 F.2d at 244; United States v. McPartlin, 595 F.2d 1321, 1337 (7th Cir. 1979).

15/ See United States v. Moscony, 927 F.2d 742, 753 (3d Cir. 1991).

16/ See, e.g., Natta v. Zletz, 418 F.2d 633, 637 (7th Cir. 1969) (collecting cases); Burlington Indus. v. Exxon Corp., 65 F.R.D. 26, 36 (D. Md. 1974) (collecting cases).

17/ See, e.g., United States v. AT&T, 642 F.2d at 1300-01 (common interest rule applied to documents shared between the government and MCI).

18/ See Chan v. City of Chicago, 162 F.R.D. 344, 345-46 (N.D. Ill. 1995) (draft affidavits of an FBI agent held to be privileged under a joint defense agreement between the FBI and the City of Chicago, despite fact that the FBI was not party to the suit).

19/ See, e.g., John Morrell & Co., 913 F.2d at 556; Interfaith Hous. Delaware, Inc. v. Town of Georgetown, 841 F. Supp. 1393, 1400-02 (D. Del. 1994).

"common interest." The shared interest may take many forms and may be "legal, factual, or strategic in character."[20/] Often, a common interest exists where two or more clients face the same adversary or are involved in the same investigation, including both grand jury and administrative investigations,[21/] but that need not be the case, as long as there is a legal, factual, or strategic overlap. Nor must the client be actively involved in litigation or even facing immediate exposure; witnesses in the same investigation share a common interest, as do clients who engage in a joint effort to avoid litigation, even if the litigation is not imminent or probable.[22/]

The district court's second error was its failure to recognize that even clients with interests that are not generally congruent may still have sufficient common interest to permit confidential information sharing.[23/] The courts and other authorities repeatedly have made this

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20/ Restatement of the Law Governing Lawyers § 126, cmt e; see also Schachar v. American Academy of Ophthalmology, Inc., 106 F.R.D. 187, 191-92 (N.D. Ill. 1985) (plaintiffs in separate litigation found to have sufficient mutuality of factual and/or legal interest to invoke common interest privilege).

21/ See Continental Oil Co. v. United States, 330 F.2d 347, 349-50 (9th Cir. 1964) (common interest privilege applied to corporations which exchanged witness interviews of their respective employees who had testified before a grand jury); Matter of Grand Jury Subpoena Duces Tecum Dated Nov. 16, 1974, 406 F. Supp. 381, 389-92 (S.D.N.Y. 1974)(common interest privilege applied to clients facing SEC investigation).

22/ See, e.g., SCM Corp. v. Xerox Corp., 70 F.R.D. 508, 513 (D. Conn.) ("The privilege need not be limited to legal consultations . . . in litigation situations . . . . Corporations should be encouraged to seek legal advice in planning their affairs to avoid litigation as well as in pursuing it."), appeal dismissed, 534 F.2d 1031 (2d Cir. 1976); United States v. Zolin, 809 F.2d 1411, 1417 (9th Cir. 1987) (common interest found among those present in "sorting out the respective affairs of the Church and Mr. Hubbard" even though some of the persons present had not been sued and did not face any immediate liability), aff'd in part on other grounds and vacated in part on other grounds, 491 U.S. 554 (1989).

23/ The district court misapplied two factually distinct cases to support its view that there could be no legally cognizable common interest between President Clinton and the Office of the President. The court in United States v. MIT, 129 F.3d 681 (1st Cir. 1997), enforced an IRS summons for documents that MIT previously had shared with the

point. "The fact that clients with common interests also have interests that conflict, perhaps sharply, does not mean that communications on matters of common interest are non-privileged." Restatement of the Law Governing Lawyers §126, Reporter's Notes cmt. e.[24/] Indeed, "[m]ost courts broadly construe the phrase 'common interest,' and deny the privilege only if the interests of the parties are completely antagonistic." Weinstein § 503(b)[06] (emphasis added). "That a joint defense may be made by somewhat unsteady bedfellows does not in itself negate the existence or viability of the joint defense." In re Grand Jury Subpoena Duces Tecum Dated Nov. 16, 1974, 406 F. Supp. 381, 392 (S.D.N.Y. 1974). The privilege remains intact as long as there is a shared legal, factual or strategic interest at the time of the communication.[25/]

2. Communications Between Personal and White House Counsel Are Privileged Under the Common Interest Rule

In ruling that the President and the Presidency do not share a common interest, as a matter of law, the district court overlooked the significant congruence of interests between the

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Defense Contract Audit Agency, despite MIT's argument that they were protected under the common interest doctrine, because the only "common interest" the court could find was the highly "abstract" interest in "the proper performance of MIT's defense contracts and the proper auditing and payment of MIT's bills." 129 F.3d at 686. This comes no where near the multitude of interests shared by President Clinton and the White House in connection with the swirl of civil litigations and congressional and grand jury investigations with which they both are so entwined. The decision in United States v. Aramony, 88 F.3d 1369 (4th Cir. 1996) is totally inapposite; since Aramony had been accused of defrauding the party with which he asserted a common interest, their relationship was plainly adversarial.

24/ See also Eisenberg v. Gagnon, 766 F.2d 770, 787-88 (3d Cir. 1985) ("Communications to an attorney to establish a common defense strategy are privileged even though the attorney represents another client with some adverse interests.") (collecting cases); McPartlin, 595 F.2d at 1336-37 (common interest privilege does not require complete compatibility of interests).

25/ See, e.g., Proposed Supreme Court Rule 503(b), advisory committee notes (common interest rule applies "where different lawyers represent clients who have some interests in common") (emphasis added).

President personally and his Administration in all matters, including the Paula Jones suit and the Lewinsky investigation.[26/] It reached this erroneous result with dramatically unrealistic references to the "White House" as a party,[27/] appearing to posit some abstract entity that exists wholly apart from its current occupant. As a party in this case, the "White House" is not simply a building or even an institution; it is a group of people assembled by a particular elected President at a distinct time in history. The Clinton Administration is, obviously, not fungible with some previous Presidency but is comprised of specially selected people pursuing specific goals, and the current President's mandate to do this stems from election by the populace.

These observations may seem elementary, but they were entirely ignored by the district court. In a very real and significant way, the objectives of William J. Clinton, the person, and his Administration (the Clinton White House) are one and the same. The latter would not exist without the former and without the former's electoral success. Innumerable decisions that he makes affect him both officially and personally.

Indeed, the "commonality" at issue here is more significant than in the usual "common interest" cases discussed above involving two separate clients. In this proceeding, of course, President Clinton and William J. Clinton, the person, are one and the same. This one individual has separate roles, and separate sets of counsel to advise him in each role, and in this respect resembles a corporate officer who may in a grand jury investigation be advised by

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26/ The common interest analysis of the Eighth Circuit in In re Grand Jury Subpoena, 112 F.3d 910 (8th Cir. 1997), on which the district court relied, is not applicable here given the unique constitutional status of the President.

27/ While the district court stated that "the OIC is not investigating the White House, . . . [and] [t]he White House is not involved in any adversarial proceeding," J.A. 202, the OIC has in fact issued many subpoenas to the White House, both for documents and testimony, and has examined before the grand jury many Administration officials, sometimes several times.

corporate counsel with respect to business matters and by private counsel with respect to personal matters. In such circumstances, a common interest privilege is recognized to allow corporate and personal counsel to consult candidly and comprehensively, thereby assuring that factually well founded legal advice is given.[28/] But the case is even stronger here because, with respect to both personal and official interests, the President is the ultimate decisionmaker. (In this respect he is more akin to one client with two sets of counsel.)[29/] No matter how disparate these interests may be, he ultimately must fuse them into one decision for which he is responsible.

The district court's comment that "[a] federal government agency cannot share a 'common interest' with a private individual against the United States, here represented by the OIC," J.A. 175, is therefore both mistaken and a considerable oversimplification. First, of course, a government entity and a private one may share a common interest for purposes of preserving the attorney-client privilege for conferences between their respective counsel. See, e.g., AT&T, 642 F.2d 1285. Second, however, the comment misstates the issue. The OIC

28/ See, e.g., Matter of Grand Jury Subpoena Duces Tecum Dated November 16, 1974, 406 F. Supp. 381 (communications between counsel for corporation and corporate officer's personal counsel covered by common interest rule).

29/ Professor Geoffrey Hazard has observed in a letter to White House Counsel John M. Quinn, that:

> "One way to analyze the situation is simply to say that the 'President' has two sets of lawyers, engaged in conferring with each other. On that basis there is no question that the privilege is effective. Many legal consultations for a client involve the presence of more than one lawyer.
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> Another way to analyze the situation is to consider that the 'President' has two legal capacities, that is, the capacity ex officio – in his office as President – and the capacity as an individual. The concept that a single individual can have two distinct legal capacities or identities has existed in law for centuries. . . ."

141 Cong. Rec. 18,948 (Daily ed.) (Dec. 20, 1995).

represents only the prosecutorial interests of the "United States" in this case, pursuant to 28 U.S.C. § 594(a). The Ethics in Government Act specifically authorizes the Department of Justice to represent the broader interests of the United States with respect to "issues of law" by filing a brief amicus curiae in any proceeding in which the OIC is involved. 28 U.S.C. § 597(b). Finally, the interests of the "United States" may be sufficiently divergent within the Executive Branch as to make justiciable a dispute between a President and a special prosecutor. See United States v. Nixon, 418 U.S. 683, 697 (1974). In this case, the Department of Justice, the Clinton White House, and the OIC each in a significant sense constitutes a facet of the "United States," and they have surely found themselves on opposing sides in these matters, in which they have advocated significantly different views on various legal questions.

The district court also supported its holding that there was no common interest "in the legal sense of the phrase," J.A. 175, between the President personally and officially with the observation that "[i]n the situation at hand, the White House cannot be implicated in any criminal or civil action and thus does not share President Clinton's legal interests," J.A. 176. But that is demonstrably false. The White House is, from time to time, sued civilly.[30/] Moreover, the impeachment and removal of a President obviously has a catastrophic effect on that President's "White House," subjecting the individuals working there to termination and the Administration's policy initiatives to extinction. And, in this very case the President is facing investigation by a prosecutor challenging him simultaneously in his personal and official capacities. Under the governing statute, the independent counsel is mandated to investigate conduct both in the traditional role of a prosecutor and, also, as an agent of the House of Representatives to report

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30/ See, e.g., complaint in Alexander v. The Executive Office of the President, et al., Civ. No. 96-2123 (D.D.C.), alleging that the Executive Office of the President acquired FBI

"any substantial and credible information . . . that may constitute grounds for an impeachment." 28 U.S.C. § 595(c). The OIC's investigation, therefore, necessarily "implicates" both the President personally and the Clinton Presidency as well, contrary to the district court's assertion.

The court below also appeared to suggest that the common interest cases require a similarity of legal jeopardy, but that also is not the case. When this Court recognized in AT&T that the Justice Department and MCI shared a common interest in a civil antitrust case for purposes of pooling attorney work product, it did not do so because the two entities faced similar perils. It rather recognized that the work product umbrella could cover both the government agency and the private telecommunications corporation because in conducting the civil litigation, they had a common objective in successfully prosecuting their respective actions against AT&T. As the Court observed there, "[t]he Government has the same entitlement as any other party to assistance from those sharing common interests, whatever their motives." AT&T, 642 F.2d at 1300. Since there can be no question that both the OIC, by virtue of its statutory duties, and the House of Representatives, by virtue of its constitutional duties and its public statements,[31/] are adverse to this President in many respects requiring common legal and strategic responses, there should be no doubt as to its applicability here.

The district court also gave an erroneous significance to the fact that there may at times be tension between the interests of the President personally and those of his Administration, ruling that the doctrine did not apply "precisely because the President as an individual has interests that conflict with the interests of the Office of the President." J.A. 176. But as indicated above, for the common interest protection to apply, there need not be a perfect

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file summaries in violation of the Privacy Act.

31/ See, e.g., "House Funds Path to Impeachment," Washington Times (March 26, 1998).

identity of interest but only a commonality of some interests. The ruling also ignores the very rationale for the doctrine. It is because President Clinton personally starts out with significant common interests with his own Administration that there is a need, and a justification, for the two sets of counsel to confer. The frank discussions and ironing out of differences in a way that will best maximize, within the bounds of the law, both the personal and official objectives of the President is exactly what the common interest is designed to protect. Indeed, it is plain from this Court's decision in the AT&T case that the Department of Justice and MCI had many different goals and strategies, but protection of the confidential discussions of their attorneys about legal issues in the law suits enabled both entities to conduct their cases with as much harmony and synergy as possible toward the achievement of the goals they shared. The case is even stronger here, precisely because the President must himself confront and resolve any competing interests of the kind on which the district court focused.

Finally, the court totally dismissed the compelling practical need of personal counsel to confer confidentially with White House counsel on myriad topics to assure that sound and factually based legal advice is given to the President personally and in his role as Chief Executive. The very matters that personal counsel must attend to with respect to the Jones civil suit and the Whitewater grand jury investigation are also possible grist for the OIC and impeachment inquiries, which obviously affect William J. Clinton in both his official and personal capacities. Neither set of counsel can provide fully informed legal advice unless they are able to confer candidly on a host of legal, factual and strategic matters, such as considering the appropriateness of asserting various defenses, objections, and privileges, analyzing tactical decisions that may have significant long-term ramifications, dealing with leaks from the OIC, assigning responsibility for document searches and production to assure a comprehensive

subpoena response is made, understanding how requests for official information – such as White House medical records – should be addressed, dealing responsibly and accurately with public and press inquiries, monitoring factual developments, assuring that different counsel do not take inconsistent or uninformed legal positions, assuring that the client fulfills his constitutional duties while aware of their impact on his personal interests, and the list goes on. Absent the ability to confer, private counsel cannot assure they are fully apprised of the official implications of decisions to be made and advice to be given, and their own advice is necessarily of limited use. The same is true of official counsel, who must be able to advise the President qua President cognizant of any personal detriment to which their advice might expose him.

It is undeniable that both the President personally and his White House have faced numerous and complicated legal demands as a result of the Jones suit and the OIC's investigation. It is only by "encourag[ing] full and frank communication between attorneys" for the President personally and for the White House that the "broader public interests in the observance of law and administration of justice" can effectively be promoted. Upjohn, 449 U.S. at 389.[32/]

32/ As the Brief for the White House demonstrates, the attorney-client privilege applies to confidential communications between government attorneys and their government clients in the same absolute manner in which it applies to communications between private counsel and their clients. If this Court were to conclude, however, that as a general matter the privilege that applies to government attorneys may be qualified rather than absolute, this should not dilute the absolute nature of the privileged common interest communications with personal counsel, whose privilege indisputably is and must remain absolute to effectuate its underlying purpose.

The absolute personal privilege must trump a hypothetical qualified privilege in the common interest context in order to be consistent with the common interest rule's unanimity requirement for waiver. An integral component of the common interest rule is that the privilege cannot be waived without the consent of all parties to the confidential communication. See p. 27 and n.19, supra. The unanimity requirement is necessary to guarantee the confidentiality that makes the attorney-client privilege work. See, e.g., Interfaith Housing Delaware, Inc. v. The Town of Georgetown, 841 F. Supp. 1393, 1400-

IV. COMMUNICATIONS WITH PERSONAL COUNSEL ARE PROTECTED BY THE WORK-PRODUCT DOCTRINE

The district court held that the work product protection was waived when information was shared with Mr. Lindsey, based on its earlier finding that President Clinton and the White House share no common interest. J.A. 179. This holding is in error both because President Clinton and the White House do share "common interests," as set out previously in Part III(c)(2), and because, in any event, the attorney-client common interest inquiry and the attorney work product waiver inquiry are not the same.

"The work product doctrine is an independent source of immunity from discovery, separate and distinct from the attorney-client privilege." In re Grand Jury, 106 F.R.D. 255, 257 (D.N.H. 1985). It covers "not only confidential communications between the attorney and client. It also attaches to other materials prepared by attorneys (and their agents) in anticipation of litigation." In re Sealed Case, 107 F.3d 46, 51 (D.C. Cir. 1997). See generally Hickman v. Taylor, 329 U.S. 495, 510-11 (1947). However, litigation need only be contemplated at the time the work is performed for the doctrine to apply, see Holland v. Island Creek Corp., 885 F. Supp. 4, 7 (D.D.C. 1995), and the term "litigation" is defined broadly to encompass any adversary proceedings, including legislative, administrative and other federal investigations, and grand jury proceedings, as well as civil litigation.[33/]

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01 (D. Del. 1994). To treat the government attorney-client privilege as qualified in the common interest context would undermine the guarantee of confidentiality just as would allowing one party's waiver to govern the privilege for all others.

33/ See, e.g., In re Grand Jury Proceedings (Doe), 867 F.2d 539 (9th Cir. 1989) (grand jury investigation); In re Sealed Case, 676 F.2d 793 (D.C. Cir. 1982) (SEC and IRS investigations); In re Grand Jury Proceedings (Duffy), 473 F.2d 840, 846 (8th Cir. 1973) ("policies supporting protection of an attorney's work product . . . are even more strongly applicable in criminal proceedings"); In re Grand Jury Subpoena Duces Tecum, 685 F. Supp. 49 (S.D.N.Y. 1988) (grand jury investigation); see also Restatement of the Law

The doctrine applies with even greater force in criminal litigation, where "its role in assuring the proper functioning of the criminal justice system is even more vital," since "[t]he interests of society and the accused in obtaining a fair and accurate resolution of the question of guilt or innocence demand that adequate safeguards assure the thorough preparation and presentation of each side of the case." United States v. Nobles, 422 U.S. 225, 238 (1975).[34/] The doctrine also applies with equal force to work product that is shared among attorneys having a common interest, including government and private attorneys.[35/]

This Court addressed work product waiver in the AT&T case. The question was whether MCI had waived its attorney work product rights to documents that had been prepared by MCI during the course of its prosecution of a civil antitrust suit against AT&T and then shared with the government in a different case brought by the government against AT&T. AT&T then sought those documents from the government. The Court reviewed the case law and noted that the more modern cases tended to hold that "despite voluntary disclosure of the documents to persons not on the same side of the litigation, the privilege remained intact." 642 F.2d at 1298. The Court explained that "the work product privilege does not exist to protect a confidential relationship, but rather to promote the adversary system by safeguarding the fruits of an attorney's trial preparations from the discovery attempts of the opponent." Id. at 1299. Thus, while "[t]he existence of common interests between transferor and transferee is relevant to

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Governing Lawyers § 136 & cmt h (anticipation of litigation includes "a proceeding such as a grand jury . . . or an investigative legislative hearing").

34/ The Supreme Court in Nobles recognized that the work product doctrine applies to the "files of the prosecution" even though the government plainly does not risk sanction or imprisonment in a criminal case. 422 U.S. at 238 & n.12.

35/ See, e.g., AT&T, 642 F.2d at 1300; Castle v. Sangamo Weston, Inc., 744 F.2d 1464, 1466-67 (11th Cir. 1984); In re Sunrise Sec. Litig., 130 F.R.D. 560, 583 (E.D. Pa. 1989).

deciding whether the disclosure is consistent with the nature of the work product privilege," the ultimate inquiry is whether the disclosure is "inconsistent with maintaining secrecy against opponents." Ibid. (emphasis added).[36/]

The district court erred in concluding on the common interest issue alone that President Clinton's personal counsel's work product privilege was waived. As AT&T makes clear, the absence of a common interest is not sufficient to conclude that there has been a waiver. Indeed, "[a]s articulated by most courts, [a work product] waiver will be found only if the party has voluntarily disclosed the work-product in such a manner that it is likely to be revealed to his adversary. Thus, disclosure simply to another person who has an interest in the information but who is not reasonably viewed as a conduit to a potential adversary will not be deemed a waiver of the protection of the rule." Bowne of New York City, Inc. v. AmBase Corp., 150 F.R.D. 465, 479 (S.D.N.Y. 1993).

If the district court had examined the circumstances surrounding the disclosure of work product to Mr. Lindsey, beyond its common interest analysis, it would have found that the disclosures had been made consistently with "maintaining secrecy against [the adversary]." AT&T, 642 F.2d at 1299. The record is clear and undisputed that disclosures made to Mr. Lindsey were made in confidence and that Mr. Lindsey "maintained the confidentiality of these

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36/ See also In re Sealed Case, 676 F.2d 793, 809 (D.C. Cir. 1982) ("because it looks to the vitality of the adversary system rather than simply seeking to preserve confidentiality, the work product privilege is not automatically waived by any disclosure to a third party"); United States v. Gulf Oil Corp., 760 F.2d 292, 295 (Temp. Emergency Ct. of Ap. 1985) ("A transfer made to a party with 'strong common interests in sharing the fruit of trial preparation efforts,' or such a transfer made concurrently with a guarantee of confidentiality, does not necessarily constitute a waiver of the work product privilege") (quoting AT&T); Latin Investment Corp. v. Drabkin, 160 B.R. 262, 264 (D.C. Bank. Ct. 1993).

communications." J.A. 44-45, ¶8. The district court's failure to examine and be guided by this record was legal error.

CONCLUSION

The district court's order should be reversed.

Respectfully submitted,

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CERTIFICATION OF WORD COUNT PURSUANT TO CIRCUIT RULE 28(d)(1)

According to the law firm's word processing system, the preceding brief does not contain more than 12,500 words, including footnotes and citations.

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