

105TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } 105-

IMPEACHMENT OF WILLIAM JEFFERSON CLINTON,
PRESIDENT OF THE UNITED STATES

DECEMBER , 1998.—Referred to the House Calendar and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

The Committee on the Judiciary, to whom was referred the consideration of recommendations concerning the exercise of the constitutional power to impeach William Jefferson Clinton, President of the United States, having considered the same, reports thereon pursuant to H. Res. 581 as follows and recommends that the House exercise its constitutional power to impeach William Jefferson Clinton, President of the United States, and that articles of impeachment be exhibited to the Senate as follows:

RESOLUTION

Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors.

Resolved, That William Jefferson Clinton, President of the United States, is impeached for high crimes and misdemeanors, and that the following articles of impeachment be exhibited to the United States Senate:

Articles of impeachment exhibited by the House of Representatives of the United States of America in the name of itself and of the people of the United States of America, against William Jefferson Clinton, President of the United States of America, in maintenance and support of its impeachment against him for high crimes and misdemeanors.

ARTICLE I

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a Federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate Government employee; (2) prior perjurious, false and misleading testimony he gave in a Federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE II

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has willfully corrupted and manipulated the judicial process of the United States for his personal gain and exoneration, impeding the administration of justice, in that:

(1) On December 23, 1997, William Jefferson Clinton, in sworn answers to written questions asked as part of a Federal civil rights action brought against him, willfully provided perjurious, false and misleading testimony in response to questions deemed relevant by a Federal judge concerning conduct and proposed conduct with subordinate employees.

(2) On January 17, 1998, William Jefferson Clinton swore under oath to tell the truth, the whole truth, and nothing but the truth in a deposition given as part of a Federal civil rights action brought against him. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading

ing testimony in response to questions deemed relevant by a Federal judge concerning the nature and details of his relationship with a subordinate Government employee, his knowledge of that employee's involvement and participation in the civil rights action brought against him, and his corrupt efforts to influence the testimony of that employee.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE III

In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding.

The means used to implement this course of conduct or scheme included one or more of the following acts:

(1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

(2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

(3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

(4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

(5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton

corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

(6) On or about January 18 and January 20–21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

(7) On or about January 21, 23 and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

ARTICLE IV

Using the powers and influence of the office of President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in disregard of his constitutional duty to take care that the laws be faithfully executed, has engaged in conduct that resulted in misuse and abuse of his high office, impaired the due and proper administration of justice and the conduct of lawful inquiries, and contravened the authority of the legislative branch and the truth seeking purpose of a coordinate investigative proceeding, in that, as President, William Jefferson Clinton refused and failed to respond to certain written requests for admission and willfully made perjurious, false and misleading sworn statements in response to certain written requests for admission propounded to him as part of the impeachment inquiry authorized by the House of Representatives of the Congress of the United States. William Jefferson Clinton, in refusing and failing to respond and in making perjurious, false and misleading statements, assumed to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives and exhibited contempt for the inquiry.

In doing this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subver-

sive of the rule of law and justice, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

TABLE OF CONTENTS

Articles of Impeachment

Table of Contents

I. Introduction

II. Narrative

A. The Paula Jones Litigation

B. The Relationship Between President Clinton and Monica Lewinsky

C. The Events of December 5-6, 1997 - President Clinton Learns Ms. Lewinsky is on the Witness List

D. The Search for a Job for Ms. Lewinsky

E. The Events of December 17, 1997 - President Clinton Informs Ms. Lewinsky that She is on the Witness List

F. The Events of December 19, 1997 - Ms. Lewinsky Receives a Subpoena

G. The Events of December 28, 1997 - Ms. Currie Retrieves the Gifts

H. The Events of January 5-9, 1997 - Ms. Lewinsky Signs the False Affidavit and Gets the Job

I. The Filing of the False Affidavit

J. The Events of January 17, 1998 - President Clinton and Mr. Bennett at the Deposition

K. The Events of Late January, 1998 - The Deposition Aftermath

L. The Events of August 17, 1998 - The Grand Jury Testimony

M. Answers to the Committee's Requests for Admission

III. Explanation of Articles of Impeachment

A. Article I - Perjury in the Civil Case

1. The Committee concluded that, on August 17, 1998, the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning the nature and details of his relationship with a subordinate government employee.
2. The Committee concluded that the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning prior perjurious, false, and misleading testimony he gave in a federal civil rights action brought against him.
3. The Committee concluded that the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action.
4. The Committee concluded that the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.
 - a. The President gave perjurious, false and misleading testimony before the grand jury when he denied engaging in a plan to hide evidence that had been subpoenaed in the federal civil rights action against him.
 - b. The President made false and misleading statements before the grand jury regarding his knowledge that the contents of an affidavit executed by a subordinate federal employee who was a witness in the federal civil rights action brought against him were untrue.
 - c. The President made false and misleading statements before the grand jury when he recited a false account of the facts regarding his interactions with Monica Lewinsky to Betty Currie, a potential witness in the federal civil rights action brought against him.
 - d. The President made perjurious, false and misleading statements before the grand jury concerning statements he made to aides regarding his relationship with Monica Lewinsky.

5. Explanation of the Rogan Amendment to Article I

B. Article II - Perjury in the Civil Case

1. The Committee concluded that, in the civil case, the President provided perjurious, false, and misleading testimony in a Federal civil rights action in response to written questions.
2. The Committee concluded that, in the civil case, the President provided

perjurious, false, and misleading testimony in a Federal civil rights action in his deposition.

- a. The President lied in his deposition about the nature of his conduct with a subordinate federal employee who was a witness in the federal civil rights action brought against him.
- b. The President lied in his deposition after being asked if anyone had reported to him within the past two weeks that they had had a conversation with Monica Lewinsky concerning the *Jones v. Clinton* lawsuit.
- c. The President lied in his deposition about his being alone or in certain locations with a subordinate federal employee who was a witness in the action brought against him.
- d. The President lied in his deposition about his knowledge of gifts exchanged between himself and a subordinate federal employee who was a witness in the action brought against him.
- e. The President lied in his deposition about his knowledge about whether he had ever spoken to a subordinate federal employee about the possibility that such subordinate employee might be called as a witness to testify in the federal civil rights action brought against him.
- f. The President lied in his deposition about his knowledge of the service of a subpoena to a subordinate federal employee to testify as a witness in the federal civil rights action brought against him.
- g. The President lied in his deposition about his knowledge of the final conversation he had with a subordinate employee who was a witness in the federal civil rights action brought against him.
- h. The President lied in his deposition about his knowledge that the contents of an affidavit executed by a subordinate federal employee who was witness in the federal civil rights action brought against him.

C. Article III - Obstruction of Justice

1. The Committee concluded that on or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.
2. The Committee concluded that on or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action

brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

3. The Committee concluded that on or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

4. The Committee concluded that beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

5. The Committee concluded that on January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

6. The Committee concluded that on or about January 18 and January 20-21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

7. The Committee concluded that on or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

D. Article IV - Abuse of Power

1. The President abused his power by refusing and failing to respond to certain written requests for admission and willfully made perjurious, false, and misleading sworn statements in response to certain written requests for admission propounded to him by the Committee.

a. Request for Admission Number 19

b.. Request for Admission Number 20

- c. Request for Admission Number 24
- d. Request for Admission Number 26
- e. Request for Admission Number 27
- f. Request for Admission Number 34
- g. Request for Admission Number 42
- h. Request for Admission Number 43
- i. Request for Admission Number 52
- j. Request for Admission Number 53

2. Explanation of the Gekas Amendment to Article IV

IV. The Constitutional Process of Impeachment

A. General Arguments About Impeachment

- 1. Constitutional Provisions
- 2. Impeachment is Not Removal from Office
- 3. Impeachment Does Not Overturn an Election
- 4. A Senate Trial of an Impeachment is a Constitutional Process

B. Articles of Impeachment Against President Clinton

1. Article I - Grand Jury Perjury

a. Facts

b. Lessons from the Judicial Impeachments of the 1980s

i. Federal Judges v. Presidents

ii. Perjurious, False, and Misleading Statements Made Under Oath of Subject to Penalty for Perjury

a. Judge Harry E. Claiborne

- b. Judge Walter Nixon
- c. Judge Alcee Hastings
- d. Conclusion

iii. Conduct Not Related to Official Duties

- 2. Article II - Perjury in the Civil Case
- 3. Article III - Obstruction of Justice
 - a. Lessons from the Impeachment of President Nixon
 - b. Federal Obstruction of Justice Statutes
- 4. Article IV - Abuse of Power

V. Committee Consideration of Impeachment Proceedings

A. Votes of the Committee

- 1. Rollcall No. 1 - Amendment to Article I Offered by Rep. Rogan
- 2. Rollcall No. 2 - Article I
- 3. Rollcall No. 3 - Article II
- 4. Rollcall No. 4 - Article III
- 5. Rollcall No. 5 - Amendment to Article IV Offered by Rep. Gekas
- 6. Rollcall No. 6 - Article IV
- 7. Rollcall No. 7 - Censure Resolution

B. Committee Oversight Findings

C. Committee on Government Reform and Oversight Findings

D. New Budget Authority and Tax Expenditures

E. Committee Cost Estimate

F. Constitutional Authority

VI. Arguments About Censure

- A. Prohibited Bill of Attainder
- B. Censure of President Andrew Johnson

VII. Appendices

- A. House Resolution 525
- B. House Resolution 581
- C. Correspondence Log
- D. The Committee's 81 Requests to the President for Admission, the President's Responses, and Citations to Relevant Parts of the Record Provided by the Committee's Majority Staff

VIII. Additional and Dissenting Views

I. INTRODUCTION

“Equal Justice Under Law” – That principle so embodies the American constitutional order that we have carved it in stone on the front of our Supreme Court. The carving shines like a beacon from the highest sanctum of the Judicial Branch across to the Capitol, the home of the Legislative Branch, and down Pennsylvania Avenue to the White House, the home of the Executive Branch. It illuminates our national life and reminds those other branches that despite the tumbling tides of politics, ours is a government of laws and not of men. It was the inspired vision of our founders and framers that the Judicial, Legislative, and Executive branches would work together to preserve the rule of law.

But “Equal Justice Under Law” amounts to much more than a stone carving. Although we cannot see or hear it, this living, breathing force has real consequences in the lives of average citizens every day. Ultimately, it protects us from the knock on the door in the middle of the night. More commonly, it allows us to claim the assistance of the government when someone has wronged us -- even if that person is stronger or wealthier or more popular than we are. In America, unlike other countries, when the average citizen sues the Chief Executive of our nation, they stand equal before the bar of justice. The Constitution requires the judicial branch of our government to apply the law equally to both. That is the living consequence of “Equal Justice Under Law.”

The President of the United States must work with the Judicial and Legislative branches to sustain that force. The temporary trustee of that office, William Jefferson Clinton, worked to defeat it. When he stood before the bar of justice, he acted without authority to award himself the special privileges of lying and obstructing to gain an advantage in a federal civil rights action in

the United States District Court for the Eastern District of Arkansas, in a federal grand jury investigation in the United States District Court for the District of Columbia, and in an impeachment inquiry in the United States House of Representatives. His resistance brings us to this most unfortunate juncture.

So “Equal Justice Under Law” lies at the heart of this matter. It rests on three essential pillars: an impartial judiciary, an ethical bar, and a sacred oath. If litigants profane the sanctity of the oath, “Equal Justice Under Law” loses its protective force. Against that backdrop, consider the actions of President Clinton.

On May 27, 1997, the nine justices of the Supreme Court of the United States unanimously ruled that Paula Corbin Jones could pursue her federal civil rights actions against William Jefferson Clinton. *Clinton v. Jones*, 520 U.S. 681 (1997). On December 11, 1997, United States District Judge Susan Webber Wright ordered President Clinton to provide Ms. Jones with answers to certain routine questions relevant to the lawsuit. Acting under the authority of these court orders, Ms. Jones exercised her rights -- rights that every litigant has under our system of justice. She sought answers from President Clinton to help her prove her case against him – just as President Clinton sought and received answers from her. President Clinton used numerous means to prevent her from getting truthful answers.

On December 17, 1997, he encouraged a witness, whose truthful testimony would have helped Ms. Jones, to file a false affidavit in the case and to testify falsely if she were called to testify in the case. On December 23, 1998, he provided, under oath, false written answers to Ms. Jones’s questions. On December 28, 1997, he began an effort to get the witness to conceal evidence that would have helped Ms. Jones. Throughout this period, he intensified efforts to

provide the witness with help in getting a job to ensure that she carried out his designs.

On January 17, 1998, President Clinton provided, under oath, numerous false answers to Ms. Jones's questions during his deposition. In the days immediately following the deposition, he provided a false and misleading account to another witness, Betty Currie, in hopes that she would substantiate the false testimony he gave in the deposition. These actions denied Ms. Jones her rights as a litigant, subverted the fundamental truth seeking function of the United States District Court for the Eastern District of Arkansas, and violated President Clinton's constitutional oath to "preserve, protect and defend the Constitution of the United States" and his constitutional duty to "take care that the laws be faithfully executed."

Beginning shortly after his deposition, President Clinton became aware that a federal grand jury empaneled by the United States District Court for the District of Columbia was investigating his actions before and during his civil deposition. President Clinton made numerous false statements to potential grand jury witnesses in hopes that they would repeat these statements to the grand jury. On August 17, 1998, President Clinton appeared before the grand jury by video and, under oath, provided numerous false answers to the questions asked. These actions impeded the grand jury's investigation, subverted the fundamental truth seeking function of the United States District Court for the District of Columbia, and violated President Clinton's constitutional oath to "preserve, protect and defend the Constitution of the United States" and his constitutional duty to "take care that the laws be faithfully executed."

President Clinton's actions then led to this inquiry. On October 8, 1998, the United States House of Representatives passed House Resolution 581 directing the Committee on the Judiciary to begin an inquiry to determine whether President Clinton should be impeached. As part of that

inquiry, the Committee sent written requests for admission to him. On November 27, 1998, President Clinton provided, under oath, numerous false statements to this Committee in response to the requests for admission. These actions impeded the committee's inquiry, subverted the fundamental truth seeking function of the United States House of Representatives in exercising the sole power of impeachment, and violated President Clinton's constitutional oath to "preserve, protect and defend the Constitution of the United States" and his constitutional duty to "take care that the laws be faithfully executed."

By these actions, President Clinton violated the sanctity of the oath without which "Equal Justice Under Law" cannot survive. Rather than work with the Judicial and Legislative branches to uphold the rule of law, he directly attacked their fundamental truth seeking function. He has disgraced himself and the high office he holds. His high crimes and misdemeanors undermine our Constitution. They warrant his impeachment, his removal from office, and his disqualification from holding further office.

II. NARRATIVE

A. The Paula Jones Litigation

On May 6, 1994, Paula Corbin Jones filed a federal civil rights lawsuit against President Clinton in the United States District Court for the Eastern District of Arkansas. This lawsuit arose out of an incident that Ms. Jones alleged occurred in 1991 while she was an Arkansas state employee and President Clinton was Governor of Arkansas. Ms. Jones alleged that then Governor Clinton had an Arkansas state trooper invite Ms. Jones to his hotel room where he made a crude sexual advance toward her and she rejected it.

After Ms. Jones brought the lawsuit, President Clinton claimed that the Constitution requires that any such lawsuit be deferred until his term ended. The parties litigated this question, and ultimately the Supreme Court of the United States decided unanimously that Ms. Jones could proceed with her lawsuit without waiting for President Clinton's term to end. *Clinton v. Jones*, 520 U.S. 681 (1997).

The discovery phase of the lawsuit began shortly thereafter. During the discovery phase, Judge Susan Webber Wright of the United States District Court for the Eastern District of Arkansas ordered President Clinton to answer certain questions about any history he had of involvement in sexual relationships with state or federal employees. Such questions are standard in sexual harassment lawsuits, and they help to establish whether the defendant has engaged in a pattern and practice of harassing conduct. President Clinton's efforts to resist giving truthful answers to these questions gave rise to this matter.

B. The Relationship Between President Clinton and Monica Lewinsky

Monica Lewinsky, a 21-year-old intern, was working at the White House during the government shutdown in November, 1995. Before their first intimate encounter, she had never even spoken with the President. Sometime on November 15, 1995, Ms. Lewinsky made an improper gesture to the President. Rather than rebuff the gesture, President Clinton invited this unknown young intern into a private area off the Oval Office, where he kissed her. He then invited her back to the same area later that day. When she returned, the two engaged in the first of many acts of inappropriate sexual contact.

Thereafter, the two continued their secret liaisons, and they concocted a cover story to use if they were discovered. If Ms. Lewinsky was seen, she was to say she was bringing papers to the

President. That story was false. The only papers she brought were personal messages having nothing to do with her duties or the President's. After Ms. Lewinsky moved from the White House to the Pentagon, she and President Clinton disguised her frequent visits to the White House as visits to Betty Currie. Those cover stories play a vital role in the later perjuries and obstruction of justice.

Over the term of their relationship the following significant matters occurred:

1. Monica Lewinsky and President Clinton were alone on at least 21 occasions;
2. They had at least eleven personal sexual encounters, other than phone sex: 3 in 1995, 5 in 1996, and 3 in 1997;
3. They had at least 55 telephone conversations, at least 17 of which involved phone sex;
4. President Clinton gave Ms. Lewinsky 24 presents; and,
5. Ms. Lewinsky gave President Clinton 40 presents.

See generally Appendices at 116-26.

These essential facts form the backdrop for all of the subsequent events. During the fall of 1997, the relationship was largely dormant. Ms. Lewinsky was working at the Pentagon and looking for a high paying job in New York. Discovery in the Paula Jones case was proceeding slowly, and no one seemed to care about the outcome. Then, in the first week of December 1997, things began to unravel.

The sexual details of the President's encounters with Ms. Lewinsky need not be described in detail. However, those encounters are highly relevant because the President repeatedly lied about that sexual relationship in the civil case, before the grand jury, and in his responses to this Committee's questions. In an effort to support the original lies he told in the civil case, he has

consistently maintained that Ms. Lewinsky performed sexual acts on him, while he never touched her in a sexual manner. President Clinton's characterization of the relationship directly contradicts Ms. Lewinsky's testimony, the sworn grand jury testimony of three of her friends, and the statements by two professional counselors with whom Ms. Lewinsky contemporaneously shared the details of her relationship.

C. The Events of December 5-6, 1997 - President Clinton Learns Ms. Lewinsky is on the Witness List

On Friday, December 5, 1997, Ms. Lewinsky asked Betty Currie, President Clinton's personal secretary, if President Clinton could see her the next day, Saturday. Ms. Currie said that he was scheduled to meet with his lawyers all day. Lewinsky 8/6/98 GJT at 107-08. Later that Friday, Ms. Lewinsky spoke briefly to President Clinton at a Christmas party. Lewinsky 7/31/98 302 at 1; Lewinsky 8/6/98 GJT at 108.

That evening, Paula Jones's attorneys faxed a list of potential witnesses to President Clinton's attorneys. The list included the name of Ms. Lewinsky. However, Ms. Lewinsky did not find out that her name was on the list until President Clinton told her ten days later on December 17. Lewinsky 8/6/98 GJT at 121-23. That delay is significant.

After her conversation with Ms. Currie and her conversation with President Clinton at the Christmas party, Ms. Lewinsky drafted a letter to President Clinton terminating their relationship. Lewinsky 7/31/98 302 at 2. The next morning, Saturday, December 6, Ms. Lewinsky went to the White House to deliver the letter and some gifts for President Clinton to Ms. Currie. Lewinsky 8/6/98 GJT at 108-09. When she arrived at the White House, Ms. Lewinsky spoke to several Secret Service officers, and one of them told her that President Clinton was not with his lawyers,

as she had been told, but rather, he was meeting with another woman. Lewinsky 8/6/98 GJT at 111; Mondale 7/16/98 302 at 1. Ms. Lewinsky called Ms. Currie from a pay phone, angrily exchanged words with her, and went home. Lewinsky 8/6/98 GJT at 112-13; Currie 1/27/98 GJT at 37. After that phone call, Ms. Currie told the Secret Service watch commander that President Clinton was so upset about the disclosure of his meeting with the woman that he wanted to fire someone. Purdie 7/23/98 GJT at 13, 18-19.

At 12:05 p.m. on December 6th, records demonstrate that Ms. Currie paged Bruce Lindsey with the message: "Call Betty ASAP." Around that same time, according to Ms. Lewinsky, while she was back at her apartment, Ms. Lewinsky and President Clinton spoke on the telephone. President Clinton was very angry; he told Ms. Lewinsky that no one had ever treated him as poorly as she had. Lewinsky 8/6/98 GJT at 113-14. President Clinton acknowledged to the grand jury that he was upset about Ms. Lewinsky's behavior and considered it inappropriate. Clinton 8/17/98 GJT at 85. Nevertheless, in a sudden change of mood, he invited her to visit him at the White House that afternoon. Lewinsky 8/6/98 GJT at 114.

Ms. Lewinsky arrived at the White House for the second time that day, and she was cleared to enter at 12:52 p.m. Although, in Ms. Lewinsky's words, the President was "very angry" with her during their recent telephone conversation, he was "sweet" and "very affectionate" during this visit. Lewinsky 8/6/98 GJT at 113-15. He also told her that he would talk to Vernon Jordan, a Washington lawyer and close personal friend of President Clinton's, about her job situation. Lewinsky 8/6/98 GJT at 115-16.

President Clinton also suddenly changed his attitude toward the Secret Service. Ms. Currie informed some officers that if they kept quiet about the Lewinsky incident, they would not

be disciplined. Currie 7/22/98 GJT at 91-92; Williams 7/23/98 GJT at 25, 27-28; Chinery 7/23/98 GJT at 22-23. According to the Secret Service watch commander, Captain Jeffrey Purdie, the President personally told him, "I hope you use your discretion" or "I hope I can count on your discretion." Purdie 7/17/98 GJT at 3, 7/23/98 GJT at 32. Deputy Chief Charles O'Malley, Captain Purdie's supervisor, testified that he knew of no other incident in his fourteen years of service at the White House in which a President raised a performance issue with a member of the Secret Service Uniformed Division. O'Malley 9/8/98 Dep. at 40-41. After his conversation with President Clinton, Captain Purdie told a number of officers that they should not discuss the Lewinsky incident. Porter 8/13/98 GJT at 12; Niedzwiecki 7/30/98 GJT at 30-31.

When President Clinton was questioned before the grand jury about his statements to the Secret Service, he testified "I don't remember what I said and I don't remember to whom I said it." Clinton 8/17/98 GJT at 86. When confronted with Captain Purdie's testimony, the President testified, "I don't remember anything I said to him in that regard. I have no recollection of that whatever." Clinton 8/17/98 GJT at 91.

President Clinton testified before the grand jury that he learned that Ms. Lewinsky was on the Jones witness list that evening, Saturday, December 6, during a meeting with his lawyers. Clinton 8/17/98 GJT at 83-84. He stood by this answer in response to Request Number 16 submitted by this Committee. The meeting occurred around 5 p.m., after Ms. Lewinsky had left the White House. Lindsey 3/12/98 GJT at 64-66. According to Bruce Lindsey, at the meeting, Robert Bennett, the President's attorney, had a copy of the Jones witness list which had been faxed to Bennett the previous night. Lindsey 3/12/98 GJT at 65-67.

However, during his deposition, President Clinton testified that he had heard about the

witness list *before* he saw it. Clinton 1/17/98 Dep. at 70. In other words, if President Clinton testified truthfully in his deposition, then he knew about the witness list before the 5 p.m. meeting. It is reasonable to infer that hearing Ms. Lewinsky's name on a witness list prompted President Clinton's sudden and otherwise unexplained change from "very angry" to "very affectionate" that Saturday afternoon. It is also reasonable to infer that it prompted him to give the unique instruction to a Secret Service watch commander to use "discretion" regarding Ms. Lewinsky's visit to the White House, which the watch commander interpreted as an instruction to remain silent about the incident. Purdie 7/17/98 GJT at 20-21.

D. The Search for a Job for Ms. Lewinsky

Ms. Lewinsky had been searching for a highly paid job in New York since the previous July. She had not had much success despite President Clinton's promise to help. In early November, Ms. Currie arranged a meeting with Mr. Jordan who was supposed to help.

On November 5, Ms. Lewinsky met for 20 minutes with Mr. Jordan. Lewinsky 8/6/98 GJT at 104. No action followed, no job interviews were arranged, and Ms. Lewinsky had no further contacts with Mr. Jordan at that time. Mr. Jordan made no effort to find a job for Ms. Lewinsky. Indeed, it was so unimportant to him that he testified that he "had no recollection of an early November meeting" and that finding a job for Ms. Lewinsky was not a priority. Jordan 3/3/98 GJT at 50, 5/5/98 GJT at 76. Nothing happened during the month of November because Mr. Jordan was either gone or would not return Ms. Lewinsky's calls. Lewinsky 8/6/98 GJT at 105-06.

During the December 6 meeting with President Clinton, Ms. Lewinsky mentioned that she had not been able to reach Mr. Jordan and that it did not seem he had done anything to help her.

Clinton 8/17/98 GJT at 84. President Clinton responded by stating, “Oh, I’ll talk to him. I’ll get on it,” or something to that effect. Lewinsky 8/6/98 GJT at 116. There was still no urgency to help Ms. Lewinsky. Mr. Jordan met President Clinton the next day, December 7, but the meeting had nothing to do with Ms. Lewinsky. Jordan 5/5/98 GJT at 83, 116.

The first activity calculated to help Ms. Lewinsky actually get a job took place on December 11. Mr. Jordan met with Ms. Lewinsky and gave her a list of contact names. The two also discussed President Clinton. Lewinsky 8/6/98 GJT at 119-20. Mr. Jordan remembered that meeting. Jordan 3/5/98 GJT at 41. Mr. Jordan immediately placed calls to two prospective employers. Jordan 3/3/98 GJT at 54, 62-63. Later in the afternoon, he even called President Clinton to report on his job search efforts. Jordan 3/3/98 GJT at 64-66. Suddenly, Mr. Jordan and President Clinton were now *very* interested in helping Ms. Lewinsky find a good job in New York. Jordan 5/5/98 GJT at 95.

Something happened that changed the priority assigned to the job search. On the morning of December 11, 1997, Judge Susan Webber Wright ordered President Clinton to provide information regarding any state or federal employee with whom he had, proposed, or sought sexual relations. To keep Ms. Lewinsky satisfied was now of critical importance.

E. The Events of December 17, 1997 - President Clinton Informs Ms. Lewinsky that She is on the Witness List

On December 17, 1997, between 2:00 and 2:30 in the morning, Monica Lewinsky’s phone rang unexpectedly. It was President Clinton. He said that he wanted to tell Ms. Lewinsky two things. One was that Ms. Currie’s brother had been killed in a car accident. Second, he said that he “had some more bad news” – that he had seen the witness list for the Jones case and Ms.

Lewinsky's name was on it. Lewinsky 8/6/98 GJT at 123. He told Ms. Lewinsky that seeing her name on the list "broke his heart." He then told her that "if [she] were to be subpoenaed, [she] should contact Betty and let Betty know that [she] had received the subpoena." Lewinsky 8/6/98 GJT at 123. Ms. Lewinsky asked what she should do if subpoenaed. President Clinton responded: "Well, maybe you can sign an affidavit." Lewinsky 8/6/98 GJT at 123. Both knew that the affidavit would have to be false and misleading to avoid Ms. Lewinsky's having to testify.

Then, the President made a pointed suggestion to Monica Lewinsky, a suggestion that left little room for compromise. He did not say specifically "go in and lie." What he did say is "you know, you can always say you were coming to see Betty or that you were bringing me letters." To understand the significance of this statement, one must recall the cover stories that President Clinton and Ms. Lewinsky had previously agreed on to deceive those who protected and worked with the President.

Ms. Lewinsky was to say that she was simply delivering papers when she visited President Clinton. When she saw him, she would say: "Oh, gee, here are your letters," and he would answer, "okay that's good." After Ms. Lewinsky left employment at the White House, she was to return to the Oval Office under the guise of visiting Betty Currie, not President Clinton. Moreover, Ms. Lewinsky promised him that she would always deny the sexual relationship and always protect him. The President would respond "that's good" or similar language of encouragement.

When President Clinton called Ms. Lewinsky to tell her she was on the witness list, he made sure to remind her of those prior cover stories. Ms. Lewinsky testified that when he brought up the misleading story, she understood that the two would continue their pre-existing

pattern of deception. President Clinton had no intention of making his sexual relationship with Ms. Lewinsky a public affair. He would use lies, deceit, and deception to ensure that the truth would not be known.

When the President was asked by the grand jury whether he remembered calling Monica Lewinsky at 2:00 a.m., he responded: “No sir, I don’t. But it would - it is quite possible that that happened. . .” Clinton 8/17/98 GJT at 116. When he was asked whether he encouraged Ms. Lewinsky to continue the cover stories of “coming to see Betty” or “bringing the letters,” he answered: “I don’t remember exactly what I told her that night.” Clinton 8/17/98 GJT at 117.

Six days earlier, he had become aware that Ms. Jones’s lawyers were now able to inquire about other women. Ms. Lewinsky could file a false affidavit, but it might not work. It was absolutely essential that both parties tell the same story. He knew that he would lie if asked about Ms. Lewinsky; and he wanted to make certain that she would lie also.

But President Clinton had an additional problem. It was not enough that he and Ms. Lewinsky simply deny the relationship. The evidence was accumulating. And the evidence was driving the President to reevaluate his defense. By this time, the evidence was establishing, through records and eyewitness accounts, that President Clinton and Ms. Lewinsky were spending a significant amount of time together in the Oval Office complex. The unassailable facts were forcing President Clinton to acknowledge the relationship. But at this point, he still had the opportunity to establish an explanation for their meetings that did not reveal the sexual relationship. He still had this opportunity because his DNA had not yet been identified on Ms. Lewinsky’s blue dress. For that reason, President Clinton needed Ms. Lewinsky to go along with the cover story to provide an innocent explanation for their frequent meetings. And that innocent

explanation came in the form of “document deliveries” and “friendly chats with Betty Currie.”

When the President was deposed on January 17, 1998, he used the exact same cover stories that Ms. Lewinsky had used. In doing so, he maintained consistency with any future Lewinsky testimony while also maintaining his defense in the Jones lawsuit. In his deposition, he was asked whether he was ever alone with Ms. Lewinsky. He responded: “I don’t recall. . . She - it seems to me *she brought things to me* once or twice on the weekends. In that case, whatever time she would be in there, *drop it off*, exchange a few words and go, she was there.” Clinton 1/17/98 Dep. at 52-53 (emphasis added).

Additionally, whenever questions were posed regarding Ms. Lewinsky’s frequent visits to the Oval Office, President Clinton never hesitated to bring Betty Currie’s name into his answers:

A. And my recollection is that on a couple of occasions after [the pizza party meeting], she was there [in the oval office] but my secretary, Betty Currie, was there with her.

Clinton 1/17/98 Dep. at 58.

Q. When was the last time you spoke with Monica Lewinsky?

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

Clinton 1/17/98 Dep. at 68. Or in another example:

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

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

we're working all the time, and typically I would do some work on one of the day of the weekends in the afternoon.

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

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

.....

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

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

.....

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

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

Q. Do you remember anything that was said in any of those meetings?

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

Clinton 1/17/98 Dep. at 52-53, 58-59.

F. The Events of December 19, 1997 - Ms. Lewinsky Receives a Subpoena

President Clinton and Ms. Lewinsky realized their greatest fears on December 19, 1997, when Ms. Lewinsky received a subpoena to testify in a deposition on January 23, 1998 in the Jones case. Lewinsky 8/6/98 GJT at 128. It also called for her to produce gifts given to her by President Clinton, including a hat pin. Extremely distraught, she immediately called Mr. Jordan.

Ms. Lewinsky testified that President Clinton previously told her to call Ms. Currie if she were subpoenaed. She called Mr. Jordan instead because Ms. Currie's brother recently died, and Ms. Lewinsky did not want to bother her. Lewinsky 8/6/98 GJT at 128-29.

Mr. Jordan invited Ms. Lewinsky to his office and she arrived shortly before 5 p.m. She was still extremely distraught. Sometime around this time, Mr. Jordan called President Clinton and told him Ms. Lewinsky had been subpoenaed. Jordan 5/5/98 GJT at 145. During the meeting with Ms. Lewinsky, which Mr. Jordan characterized as "disturbing," she talked about her infatuation with President Clinton. Jordan 3/3/98 GJT at 100, 150. Mr. Jordan also decided that he would call a lawyer for her. Jordan 3/3/98 GJT at 161. That evening, Mr. Jordan met with President Clinton and relayed his conversation with Ms. Lewinsky. The details are important because President Clinton, in his deposition, testified that he did not recall that meeting.

Mr. Jordan told President Clinton again that Ms. Lewinsky had been subpoenaed, that he was concerned about her fascination with President Clinton, and that Ms. Lewinsky had asked Mr. Jordan if he thought President Clinton would leave the First Lady. He also asked President Clinton if he had sexual relations with Ms. Lewinsky. Jordan 3/3/98 GJT at 169. President Clinton was asked:

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

A. I don't think so.

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

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

Clinton 1/17/98 Dep. at 68-69.

In the grand jury, President Clinton first repeated his denial that Mr. Jordan told him Ms. Lewinsky had been subpoenaed. Clinton 8/17/98 GJT at 39. Then, when given more specific facts, he admitted that he “knows now” that he spoke with Mr. Jordan about the subpoena on the night of December 19, but his “memory is not clear.” Clinton 8/17/98 GJT at 41-42. In an attempt to explain away his false deposition testimony, the President testified in the grand jury that he was trying to remember who told him first. Clinton 8/17/98 GJT at 41. But that was not the question. So his answer was again false and misleading. When one considers the nature of the conversation between President Clinton and Mr. Jordan, the suggestion that President Clinton forgot it defies common sense.

G. The Events of December 28, 1997 - Ms. Currie Retrieves the Gifts

December 28, 1997 is a crucial date because the evidence shows that President Clinton made false and misleading statements to the federal court, the federal grand jury and the Congress of the United States about the events on that date. He also continued his course of obstructing justice.

President Clinton testified that it was “possible” that he invited Ms. Lewinsky to the White House for a visit on this date. Clinton 8/17/98 GJT at 34. He admitted that he “probably” gave Ms. Lewinsky the most gifts he had ever given her on that date and that he had given her gifts on other occasions. Clinton 8/17/98 GJT at 35. Among the many gifts the President gave Ms. Lewinsky on December 28 was a bear that he said was a symbol of strength. Clinton 8/17/98 GJT at 176. Yet on January 17, just three weeks later, the President forgot that he had given any gifts to Monica:

Q. Well, have you ever given any gifts to Monica Lewinsky?

A. I don't recall. Do you know what they were?

Q. A hat pin?

A. I don't, I don't remember. But I certainly could have.

Clinton 1/17/98 Dep. at 75.

As an attorney, he knew that the law will not tolerate someone who says "I don't recall" when that answer is unreasonable under the circumstances. He also knew that, under those circumstances, his answer in the deposition could not be believed. When asked in the grand jury why he was unable to remember, though he had given Ms. Lewinsky so many gifts only three weeks before the deposition, the President gave a contrived explanation:

A. I think what I meant there was I don't recall what they were, not that I don't recall whether I had given them.

Clinton 8/17/98 GJT at 51.

President Clinton adopted that same answer in Response No. 42 to the Committee's Requests for Admissions. He was not asked in the deposition to identify the gifts. He was simply asked, "Have you ever" given gifts to Ms. Lewinsky. The law does not allow a witness to insert "unstated premises" or mental reservations into the question to make his answer technically true, if factually false. The essence of lying is in deception, not in words.

His false testimony with respect to gifts also extends to whether Ms. Lewinsky gave him gifts. President Clinton was asked in the deposition if Ms. Lewinsky ever gave him gifts.

Q. Has Monica Lewinsky ever given you any gifts?

A. Once or twice. I think she's given me a book or two.

Clinton 1/17/98 Dep. at 76-77. This is also false testimony. He answered this question in his Response Number 43 to the Committee by saying that he receives numerous gifts, and he did not focus on the precise number. The law again does not support the President's position. An answer that "baldly understates a numerical fact" in "response to a specific quantitative inquiry" can be deemed "technically true" but actually false. For example, a witness is testifying falsely if he says he went to the store five times when in fact he had gone fifty, even though technically he had gone five times also. So too, when the President answered once or twice in the face of evidence that Ms. Lewinsky brought him 40 gifts, he was lying.

On December 28, one of the most blatant efforts to obstruct justice and conceal evidence occurred. Ms. Lewinsky testified that she discussed with President Clinton her having been subpoenaed and the subpoena's calling for her to produce gifts. She recalled telling him that the subpoena requested a hat pin and that that caused her concern. Lewinsky 8/6/98 GJT at 151-52. He told her that it "bothered" him, too. Lewinsky 8/20/98 GJT at 66. Ms. Lewinsky then suggested that she take the gifts somewhere, or give them to someone, possibly Ms. Currie. The President answered: "I don't know" or "Let me think about that." Lewinsky 8/6/98 GJT at 152-53. Later that day, Ms. Lewinsky got a call from Ms. Currie, who said: "I understand you have something to give me" or "the President said you have something to give me." Lewinsky 8/6/98 GJT at 154-55. Ms. Currie has an unclear memory about this incident, but says that "the best she can remember," Ms. Lewinsky called her. Currie 5/6/98 GJT at 105. Key evidence shows that Ms. Currie's unclear recollection is wrong. Ms. Lewinsky said that she thought Ms. Currie called from her cell phone. Lewinsky 8/6/98 GJT at 154-55. Ms. Currie's cell phone record corroborates Ms. Lewinsky and proves conclusively that Ms. Currie called Ms. Lewinsky from

her cell phone several hours after she had left the White House. The evidence strongly suggests that President Clinton directed her to do so.

Ms. Currie's actions buttress that conclusion. There is no evidence that she asked why Ms. Lewinsky would have called her for this strange task. Rather, she simply took the gifts and placed them under her bed without asking a single question. Currie 1/27/98 GJT at 57-58, 5/6/98 GJT at 105-08, 114.

President Clinton stated in his Response to Requests for Admissions No. 24 and 25 from this Committee that he was not concerned about the gifts. In fact, he said that he recalled telling Ms. Lewinsky that if the Jones lawyers request gifts, she should turn them over. He testified that he is "not sure" if he knew the subpoena asked for gifts. Clinton 8/17/98 GJT at 42-43. There would be no reason for Ms. Lewinsky and President Clinton to discuss turning over gifts to the Jones lawyers if Ms. Lewinsky had not told him that the subpoena asked for gifts.

On the other hand, knowing the subpoena requested gifts, his giving Ms. Lewinsky more gifts on December 28 seems odd. But Ms. Lewinsky's testimony reveals why he did so. She said that she never questioned "that we were ever going to do anything but keep this private" and that meant to take "whatever appropriate steps needed to be taken" to keep it quiet. Lewinsky 8/6/98 GJT at 166. The only logical inference is that the gifts -- including the bear symbolizing strength -- were a tacit reminder to Ms. Lewinsky that they would deny the relationship -- even in the face of a federal subpoena.

Furthermore, President Clinton, at various times in his deposition, seriously misrepresented the nature of his meeting with Ms. Lewinsky on December 28. First, he was asked: "Did she tell you she had been served with a subpoena in this case?" He answered flatly:

“No. I don’t know she had been.” Clinton 1/17/98 Dep. at 68.

He was also asked if he “ever talked to Monica Lewinsky about the possibility of her testifying.” “I’m not sure...,” he said. He then added that he may have joked to her that the Jones lawyers might subpoena every woman he had ever spoken to, and that “I don’t think we ever had more of a conversation than that about it...” Clinton 1/17/98 Dep. at 70. Not only does Ms. Lewinsky directly contradict this testimony, but President Clinton also directly contradicted himself before the grand jury. Speaking of his December 28, 1997 meeting, he said that he “knew by then, of course, that she had gotten a subpoena” and that they had a “conversation about the possibility of her testifying.” Clinton 8/17/98 GJT at 35-36. He had this conversation about her testimony only three weeks before his deposition. Again, his version is not reasonable.

H. The Events of January 5-9, 1997 - Ms. Lewinsky Signs the False Affidavit and Gets the Job

President Clinton knew that Monica Lewinsky was going to sign a false affidavit. He was so certain of the content that when she asked if he wanted to see it, he told her no, that he had seen fifteen of them. Lewinsky 8/2/98 302 at 3. He got his information in part from his attorneys and in part from discussions with Ms. Lewinsky and Mr. Jordan about the content of the affidavit. Besides, he had suggested the affidavit himself and he trusted Mr. Jordan to be certain the mission was accomplished.

In the afternoon of January 5, 1998, Ms. Lewinsky met with her lawyer, Mr. Frank Carter, to discuss the affidavit. Lewinsky 8/6/98 GJT at 192. Mr. Carter asked her some hard questions about how she got her job. Lewinsky 8/6/98 GJT at 195. After the meeting, she called Ms. Currie, and said that she wanted to speak to President Clinton before she signed anything.

Lewinsky 8/6/98 GJT at 195. Ms. Lewinsky and President Clinton discussed the issue of how she would answer under oath if asked about how she got her job at the Pentagon. Lewinsky 8/6/98 GJT at 197. He told her: "Well, you could always say that the people in Legislative Affairs got it for you or helped you get it." Lewinsky 8/6/98 GJT at 197. That was another lie.

Mr. Jordan also kept President Clinton advised as to the contents of the affidavit. Jordan 5/5/98 GJT at 224. On January 6, 1998, Ms. Lewinsky picked up a draft of the affidavit from Mr. Carter's office. Lewinsky 8/6/98 GJT at 199. She delivered a copy to Mr. Jordan's office because she wanted Mr. Jordan to look at the affidavit in the belief that if he approved, President Clinton would also. Lewinsky 8/6/98 GJT at 194-95. Ms. Lewinsky and Mr. Jordan conferred about the contents and agreed to delete a paragraph Mr. Carter inserted which might open a line of questions concerning whether she had been alone with President Clinton. Lewinsky 8/6/98 GJT at 200. By contrast, Mr. Jordan said he had nothing to do with the details of the affidavit. Jordan 3/5/98 GJT at 12. He admits, though, that he spoke with President Clinton after conferring with Ms. Lewinsky about the changes made to her affidavit. Jordan 5/5/98 GJT at 218.

The next day, January 7, Monica Lewinsky signed the false affidavit. Lewinsky 8/6/98 GJT at 204-05. She showed the executed copy to Mr. Jordan that same day. Jordan 5/5/98 GJT at 222. She did this so that Mr. Jordan could report to President Clinton that it had been signed and another mission had been accomplished. Jordan 3/5/98 GJT at 26.

On January 8, 1998, Ms. Lewinsky had an interview arranged by Mr. Jordan with MacAndrews and Forbes in New York. Lewinsky 8/6/98 GJT at 206. The interview went poorly. Afterwards, Ms. Lewinsky called Mr. Jordan and informed him. Lewinsky 8/6/98 GJT at

206. Mr. Jordan, who had done nothing from early November to mid December, then called the chief executive officer of MacAndrews and Forbes, Ron Perelman, to “make things happen, if they could happen.” Jordan 5/5/98 GJT at 231. Mr. Jordan called Ms. Lewinsky back and told her not to worry. Lewinsky 8/6/98 GJT at 208-09. That evening, MacAndrews and Forbes called Ms. Lewinsky and told that she would be given more interviews the next morning. Lewinsky 8/6/98 GJT at 209.

The next morning, Ms. Lewinsky received her reward for signing the false affidavit. After a series of interviews with MacAndrews and Forbes personnel, she was informally offered a job. Lewinsky 8/6/98 GJT at 210. When Ms. Lewinsky called Mr. Jordan to tell him, he passed the good news on to Ms. Currie -- Tell the President, “Mission Accomplished.” Jordan 5/28/98 GJT at 39. Later, Mr. Jordan called President Clinton and told him personally. Jordan 5/28/98 GJT at 41.

After months of looking for a job -- since July according to the President’s lawyers -- Mr. Jordan makes the call to a CEO the day after the false affidavit is signed. Mr. Perelman testified that Mr. Jordan had never called him before about a job recommendation. Perelman 4/23/98 Dep. at 11. Mr. Jordan on the other hand, said that he called Mr. Perelman to recommend for hiring: 1) former Mayor Dinkins of New York; 2) a very talented attorney from his law firm, Akin, Gump; 3) a Harvard business school graduate; and 4) Ms. Lewinsky. Jordan 3/5/98 GJT at 58-59. Even if Mr. Perelman’s testimony is mistaken, Ms. Lewinsky does not have qualifications that would merit Mr. Jordan’s direct recommendation to a CEO of a Fortune 500 company.

Mr. Jordan knew that the people with whom Ms. Lewinsky worked at the White House did not like her and that she did not like her Pentagon job. Jordan 3/3/98 GJT at 43-44, 59. Mr.

Jordan was asked if at “any point during this process you wondered about her qualifications for employment?” He answered: “No, because that was not my judgment to make.” Jordan 3/3/98 GJT at 44. Yet when he called Mr. Perelman the day after she signed the affidavit, he referred to Monica as a bright young girl who is “terrific.” Perelman 4/23/98 Dep. at 10. Mr. Jordan said that she had been hounding him for a job and voicing unrealistic expectations concerning positions and salary. Jordan 3/5/98 GJT at 37-38. Moreover, she narrated a disturbing story about President Clinton leaving the First Lady and how the President was not spending enough time with her. Yet, none of that gave Mr. Jordan pause in making the recommendation. Jordan 3/3/98 GJT at 156-57. People like Mr. Jordan do not call CEOs for marginal employees unless there is a compelling reason. The compelling reason was that President Clinton told him this was a top priority, especially after Ms. Lewinsky received a subpoena.

I. The Filing of the False Affidavit

Ms. Lewinsky’s false affidavit was important to President Clinton’s deposition. It enabled him, through his attorneys, to assert at his January 17, 1998 deposition that “. . . there is absolutely no sex of any kind in any manner, shape or form with President Clinton” Clinton 1/17/98 Dep. at 54. When his own attorney questioned him in the deposition, the President stated specifically that the now famous paragraph 8 of Ms. Lewinsky’s affidavit was “absolutely true.” Clinton 1/17/98 Dep. at 204. President Clinton later affirmed the truth of that statement when testifying before the grand jury. Clinton 8/17/98 GJT at 20-21. Paragraph 8 of Ms. Lewinsky’s affidavit states:

I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual

relationship.

Appendices at 1235-36.

Ms. Lewinsky reviewed the draft affidavit on January 6, and signed it on January 7 after deleting a reference to being alone with President Clinton. She showed a copy of the signed affidavit to Mr. Jordan who called President Clinton and told him that she signed it. Jordan 3/5/98 GJT at 24-26, 5/5/98 GJT at 222.

Getting the affidavit signed was only half the battle. To have its full effect, it had to be filed with the Court and provided to President Clinton's attorneys in time for his deposition on January 17. On January 14, the President's lawyers called Mr. Carter and left a message, presumably to find out if he had filed the affidavit with the Court. Carter 6/18/98 GJT at 123. On January 15, President Clinton's attorneys called Mr. Carter twice. When they finally reached him, they requested a copy of the affidavit, and asked him, "Are we still on time?" Carter 6/18/98 GJT at 123. Mr. Carter faxed a copy on January 15. Carter 6/18/98 GJT at 123. President Clinton's counsel knew of its contents and used it powerfully in the deposition.

Mr. Carter called the Court in Arkansas twice on January 15 to ensure that the affidavit could be filed on Saturday, January 17. Carter 6/18/98 GJT at 124-25. He finished the Motion to Quash Ms. Lewinsky's deposition in the early morning hours of January 16, and mailed it to the Court with the false affidavit attached for Saturday delivery. Carter 6/18/98 GJT at 134. President Clinton's lawyers called him again on January 16 telling him, "You'll know what it's about." Carter 6/18/98 GJT at 135. President Clinton needed that affidavit to be filed with the Court to support his plans to mislead Ms. Jones's attorneys in the deposition.

On January 15, Michael Isikoff, a Newsweek reporter, called Ms. Currie and asked her

whether Ms. Lewinsky had been sending gifts to her by courier. Currie 5/6/98 GJT at 123; Lewinsky 8/6/98 GJT at 228. Ms. Currie then called Ms. Lewinsky and told her about it. Lewinsky 8/6/98 GJT at 228-29. President Clinton was out of town. Later, Ms. Currie called Ms. Lewinsky back and asked for a ride to Mr. Jordan's office. Lewinsky 8/6/98 GJT at 229; Currie 5/6/98 GJT at 130-31. Mr. Jordan advised her to speak with White House Deputy Counsel Bruce Lindsey and White House Press Secretary Mike McCurry. Jordan 3/5/98 GJT at 71. Ms. Currie testified that she spoke immediately to Mr. Lindsey about Mr. Isikoff's call. Currie 5/6/98 GJT at 127.

J. The Events of January 17, 1998 - President Clinton and Mr. Bennett at the Deposition

President Clinton also provided false and misleading testimony in the grand jury when he was asked about his attorney, Robert Bennett's representation to Judge Wright, the judge in the Jones case, that President Clinton is "fully aware" that Ms. Lewinsky filed an affidavit saying that "there is absolutely no sex of any kind in any manner, shape or form, with President Clinton...." Clinton 1/17/98 Dep. at 54. In the grand jury, President Clinton was asked about his lawyer's representation in his presence and whether he felt obligated to inform Judge Wright of the true state of affairs. President Clinton answered that he was "not even sure I paid much attention to what [Mr. Bennett] was saying." Clinton 8/17/98 GJT at 24. When pressed further, he said that he did not believe he "even focused on what Mr. Bennett said in the exact words he did until I started reading this transcript carefully for this hearing. That moment, the whole argument just passed me by." Clinton 8/17/98 GJT at 29.

This last statement by President Clinton is critical. First, he had planned his answer to the grand jurors. He spent literally days with his attorney going over that deposition in detail and

crafting answers in his mind that would not be obviously false. Second, he knew that he could only avoid an admission that he allowed a false affidavit to be filed by convincing the grand jury that he had not been paying attention. The videotape of the deposition shows clearly that President Clinton was paying close attention and that he followed his lawyer's argument.

President Clinton had every reason to pay attention. Mr. Bennett was talking about Ms. Lewinsky, at the time the most dangerous person in his life. If the false affidavit worked and Ms. Jones's lawyers could not question him about her, the Lewinsky problem was solved. President Clinton was vitally interested in what Mr. Bennett was saying. Nonetheless, when he was asked in the grand jury whether Mr. Bennett's statement was false, he still was unable to tell the truth -- even before a federal grand jury. He answered with the now famous sentence, "It depends on what the meaning of the word 'is' is." Clinton 8/17/98 GJT at 58.

But President Clinton reinforced Ms. Lewinsky's lie. Mr. Bennett read to him the paragraph in Ms. Lewinsky's affidavit in which she denied a sexual relationship with President Clinton:

Q. In paragraph eight of her affidavit, she says this, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for rejecting a sexual relationship." Is that a true and accurate statement as far as you know it?

A. That is absolutely true.

Clinton 1/17/98 Dep. at 204. When asked about this in the grand jury and when questioned about it by this Committee, the President said that if Ms. Lewinsky believed it to be true, then it was a true statement. Clinton 8/17/98 GJT at 21.

First, Ms. Lewinsky admitted to the grand jury that the paragraph was false. Lewinsky

8/6/98 GJT at 204. Second, President Clinton was not asked about Ms. Lewinsky's belief.

Rather, he was asked quite clearly and directly by his own lawyer whether the statement was true.

His answer was unequivocally, yes. That statement is false.

Lastly, President Clinton asserts that according to his reading of the definition of "sexual relations" given to him at the deposition, he did not have sexual relations with Ms. Lewinsky. His reading of the definition was an afterthought conceived while preparing for his grand jury testimony. His explanation to the grand jury, then, was also false and misleading.

Apart from that defined term, President Clinton does not explain his denial of an affair or a sexual affair – he cannot. Neither can he avoid his unequivocal denial of sexual relations in the answers to interrogatories in the Jones case – answered before the definition of sexual relations used in the deposition had been developed.

Q. Did you have an extramarital sexual affair with Monica Lewinsky?

A. No.

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

A. It's certainly not the truth. It would not be the truth.

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

MR. BENNETT: I object because I don't know that he can remember –

JUDGE WRIGHT: Well, it's real short. He can – I will permit the question and you may show the witness definition number one.

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

Clinton 1/17/98 Dep. at 78.

K. The Events of Late January, 1998 - The Deposition Aftermath

By the time President Clinton concluded his deposition, he knew that someone was talking about his relationship with Ms. Lewinsky. He also knew that the only person who could be talking was Ms. Lewinsky herself. The cover story that he and Ms. Lewinsky created and that he used during the deposition was now in jeopardy. He needed not only to contact Ms. Lewinsky, but also to obtain corroboration from his trusted secretary, Ms. Currie. At around 7 p.m. on the night of the deposition, the President called Ms. Currie and asked that she come in the following day, a Sunday. Currie 7/22/98 GJT at 154-55. Ms. Currie could not recall the President ever before calling her that late at home on a Saturday night. Currie 1/27/98 GJT at 69.

In the early morning hours of January 18, 1998 -- i.e. the night of the deposition, President Clinton learned about the Drudge Report mentioning Ms. Lewinsky released earlier that day. Clinton 8/17/98 GJT at 142-43. Between 11:49 a.m. and 2:55 p.m., Mr. Jordan and President Clinton had three phone calls. At about 5 p.m., Ms. Currie met with President Clinton. Currie 1/27/98 GJT at 67. He told her that he had just been deposed and that the attorneys asked several questions about Ms. Lewinsky. Currie 1/27/98 GJT at 69-70. This, incidentally, violated Judge Wright's gag order prohibiting any discussions about the deposition testimony. He then made a series of statements to Ms. Currie:

- (1) I was never really alone with Monica, right?
- (2) You were always there when Monica was there, right?
- (3) Monica came on to me, and I never touched her, right?
- (4) You could see and hear everything, right?

(5) She wanted to have sex with me, and I cannot do that.

Currie 1/27/98 GJT at 70-75, 7/22/98 GJT at 6-7.

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

Q. Would it be fair to say, then - based on the way he stated [these five points] and the demeanor that he was using at the time that he stated it to you - that he wished you to agree with that statement?

A. I can't speak for him, but -

Q. How did you take it? Because you told us at these [previous] meetings in the last several days that that is how you took it.

A. (Nodding)

Q. And you're nodding you head, "yes", is that correct?

A. That's correct.

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

A. Correct.

Currie 1/27/98 GJT at 74.

In the grand jury, President Clinton was questioned about his intentions when he made those five statements to Ms. Currie in his office on that Sunday afternoon. He stated:

And what I wanted to establish was that Betty was there at all other times in the complex, and I wanted to know what Betty's memory was about what she heard, what she could hear. And what I did not know was - I did not know that. And I was trying to figure out in a hurry because I knew something was up.

....

So, I was not trying to get Betty Currie to say something that was untruthful. I was trying

to get as much information as quickly as I could.

....

. . . I thought we were going to be deluged by the press comments. And I was trying to refresh my memory about what the facts were.

Clinton 8/17/98 GJT at 54, 56, 131. Though Ms. Currie would later intimate that she did not necessarily feel pressured by President Clinton, she did state that she felt he was seeking her agreement (or disagreement) with those statements. Currie 7/22/98 GJT at 27.

Logic tells us that his plea that he was just trying to refresh his memory is contrived and false. First, consider his options after he left his deposition:

(1) He could abide by Judge Wright's order to remain silent and not divulge any details of his deposition;

(2) He could defy Judge Wright's order, and call Ms. Currie on the phone and ask her open ended questions (i.e., "What do you remember about ...?"); or

(3) He could call Ms. Currie and arrange a Sunday afternoon meeting – a time when the fewest distractions exist and the presence of White House staff is minimal. He chose the third option.

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

When Ms. Currie testified before the grand jury, she could not recall whether she had another one-on-one discussion with President Clinton on Tuesday, January 20 or Wednesday,

January 21. But she did state that on one of those days, he summoned her back to his office. At that time, he recapped their Sunday afternoon discussion in the Oval Office. When he spoke to her in this second meeting, he spoke in the same tone and demeanor that he used in his January 18 Sunday session. Currie 1/27/98 GJT at 70-75, 7/22/98 GJT at 6-7. Ms. Currie stated that the President may have mentioned that she might be asked about Monica Lewinsky. Currie 1/24/98 302 at 8.

During these meetings, President Clinton made short, clear, understandable, declarative statements *telling* Ms. Currie what his testimony was. He was not interested in what she knew. Rather, he did not want his personal secretary to contradict him. The only way to ensure that was by telling her what to say, not asking her what she remembered. One does not refresh someone else's memory by *telling* that person what he or she remembers. One certainly does not make declarative statements to someone regarding factual scenarios of which the listener was unaware.

Ms. Currie could not possibly have any personal knowledge of the facts that the President was asking. Ms. Currie could not know if they were ever alone. If they were, Ms. Currie was not there. She could not know that the President never touched Monica.. President Clinton was not trying to refresh his recollection – instead, it was witness tampering pure and simple.

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

The Eighth Circuit rejected this argument stating:

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

United States v. Shannon, 836 F.2d 1125, 1128 (8th Cir.), *cert. denied*, 486 U.S. 1058 (1988), *citing, e.g., United States v. Friedland*, 660 F.2d 919, 931 (3d Cir. 1981), *cert. denied*, 456 U.S. 989 (1982). Indeed, under the witness tampering statute, there need not even be a proceeding pending, 18 U.S.C. § 1512(e)(1). As discussed, President Clinton and Ms. Lewinsky concocted a cover story that brought Ms. Currie into the fray as a corroborating witness. True to this scheme, President Clinton invoked Ms. Currie's name frequently as a witness who could corroborate his false and misleading testimony about the Lewinsky affair. For example, during his deposition, when asked whether he was alone with Ms. Lewinsky, he said that he was not alone with her or that Ms. Currie was there with Ms. Lewinsky. Clinton 8/17/98 GJT at 58. When asked about the last time he saw Ms. Lewinsky, which was December 28, 1997, he falsely testified that he only recalled that she was there to see Ms. Currie. Clinton 1/17/98 Dep. at 70. He also told the Jones lawyers to "ask Betty" whether Ms. Lewinsky was alone with him or with Ms. Currie in the White House between the hours of midnight and 6 a.m. Clinton 1/17/98 Dep. at 64-66. Asked whether Ms. Lewinsky sent packages to him, he stated that Ms. Currie handled packages for him. Clinton 1/17/98 Dep. at 64. Asked whether he may have assisted in any way with Ms. Lewinsky's job search, he stated that he thought Ms. Currie suggested Mr. Jordan talk to Ms. Lewinsky, and that Ms. Lewinsky asked Ms. Currie to ask someone to talk to Ambassador Richardson about a job at the United Nations. Clinton 1/17/98 Dep. at 72-74.

Ms. Currie was a prospective witness, and President Clinton clearly wanted her to be

deposed, as his “ask Betty” testimony demonstrates. He claims that he called Ms. Currie into work on a Sunday night only to find out what she knew. But he knew the truth about his relationship with Ms. Lewinsky, and if he had told the truth during his deposition the day before, then he would have no reason to worry about what Ms. Currie knew. More importantly, the President’s demeanor, Ms. Currie’s reaction to his demeanor, and the suggested lies clearly prove that the President was not merely interviewing Ms. Currie. Rather, he was looking for corroboration for his false cover-up, and that is why he coached her.

Soon after his Sunday meeting with Ms. Currie, at 5:12 p.m., the flurry of telephone calls began looking for Ms. Lewinsky. Between 5:12 p.m. and 8:28 p.m., Ms. Currie paged Ms. Lewinsky four times. At 11:02 p.m., President Clinton called Ms. Currie at home to ask if she has reached Ms. Lewinsky. Currie 7/22/98 GJT at 160.

The following morning, January 19, Ms. Currie continued to work diligently for President Clinton. Between 7:02 a.m. and 8:41 a.m., she paged Ms. Lewinsky another five times. After the 8:41 a.m. page, Ms. Currie called President Clinton at 8:43 a.m. and said that she was unable to reach Ms. Lewinsky. Currie 8/22/98 GJT at 161-62. One minute later, at 8:44 a.m., she again paged Ms. Lewinsky. This time, Ms. Currie’s page stated: “Family Emergency,” apparently in an attempt to alarm Ms. Lewinsky into calling back. That may have been President Clinton’s idea because Ms. Currie had just spoken with him. He was quite concerned because he called Ms. Currie only six minutes later, at 8:50 a.m. Immediately thereafter, at 8:51 a.m., Ms. Currie tries a different tactic sending the message: “Good news.” Ms. Currie said that she was trying to encourage Ms. Lewinsky to call, but there was no sense of “urgency.” Currie 7/22/98 GJT at 165. Ms. Currie’s recollection of why she was calling was again unclear. She said at one point

that she believes President Clinton asked her to call Ms. Lewinsky, and she thought she was calling just to tell her that her name came up in the deposition. Currie 7/22/98 GJT at 162. Ms. Lewinsky had been subpoenaed. It was no surprise that her name came up in the deposition. There was another and more important reason the President needed to get in touch with her.

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

Later that afternoon, matters deteriorated for President Clinton. At 4:54 p.m., Mr. Jordan called Mr. Carter. Mr. Carter informed Mr. Jordan that he had been told he no longer represented Ms. Lewinsky. Jordan 3/5/98 GJT at 141. Mr. Jordan then made feverish attempts to reach President Clinton or someone at the White House to tell them the bad news, as represented by the six calls between 4:58 p.m. and 5:22 p.m. Mr. Jordan said that he tried to relay this information to the White House because "[t]he President asked me to get Monica Lewinsky a job," and he thought it was "information that they ought to have." Jordan 6/9/98 GJT at 45-46. Mr. Jordan then called Mr. Carter back at 5:14 p.m. to "go over" what they had already talked about. Jordan 3/5/98 GJT at 146. Mr. Jordan finally reached the President at 5:56 p.m., and tells him that Mr. Carter had been fired. Jordan 6/9/98 GJT at 54.

This activity occurred because it was important for the President of the United States to find Monica Lewinsky to learn to whom she was talking. Ms. Currie was in charge of contacting Ms. Lewinsky. President Clinton had just completed a deposition in which he provided false and

misleading testimony about his relationship with Ms. Lewinsky. She was a co-conspirator in hiding this relationship from the Jones attorneys, and he was losing control over her. He never got complete control over her again.

But President Clinton's efforts to obtain false corroboration did not end there. On Wednesday, January 21, 1998, the Washington Post published a story entitled "Clinton Accused of Urging Aide to Lie; Starr Probes Whether President Told Woman to Deny Alleged Affair to Jones' Lawyers." The White House learned the substance of the Post story on the evening of January 20, 1998.

After President Clinton learned of that story, he made a series of telephone calls. At 12:08 a.m. he called his attorney, Mr. Bennett, and they had a conversation. The next morning, Mr. Bennett was quoted in the Post stating: "The President adamantly denies he ever had a relationship with Ms. Lewinsky and she has confirmed the truth of that." He added, "This story seems ridiculous and I frankly smell a rat."

After that conversation, President Clinton had a half hour conversation with White House Deputy Counsel Bruce Lindsey. At 1:16 a.m., he called Ms. Currie and spoke to her for 20 minutes. He then called Mr. Lindsey again. At 6:30 a.m. the President called Mr. Jordan. After that, he again conversed with Bruce Lindsey.

This flurry of activity was a prelude to the stories which President Clinton would soon inflict on top White House aides and advisors. On the morning of January 21, 1998, he met with White House Chief of Staff, Erskine Bowles and his two deputies, John Podesta and Sylvia Matthews. Mr. Bowles recalled entering the President's office at 9:00 a.m. that morning. He then recounts President Clinton's immediate words as he and two others entered the Oval Office:

And he looked up at us and he said the same thing he said to the American people. He said, "I want you to know I did not have sexual relationships with this woman, Monica Lewinsky. I did not ask anybody to lie. And when the facts came out, you'll understand."

Bowles 4/2/98 GJT at 84. After he made that blanket denial, Mr. Bowles responded:

I said, "Mr. President, I don't know what the facts are. I don't know if they're good, bad, or indifferent. But whatever they are, you ought to get them out. And you ought to get them out right now."

Bowles 4/2/98 GJT at 84. When counsel asked whether President Clinton responded to Bowles's suggestion that he tell the truth, Mr. Bowles responded: "I don't think he made any response, but he didn't disagree with me." Bowles 4/2/98 GJT at 84.

Deputy Chief of Staff John Podesta also recalled a meeting with President Clinton on the morning of January 21, 1998. He testified before the grand jury as to what occurred in the Oval Office that morning:

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

Q. What else did he say?

A. He said that - that he had not had a sexual relationship with her, and that he never asked anybody to lie.

Podesta 6/16/98 GJT at 85.

Two days later on January 23, 1998, Mr. Podesta had another discussion with the President:

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

Podesta 6/16/98 GJT at 92. Then Mr. Podesta testified as follows:

Q. Okay. Not explicit, in the sense the he got more specific than sex, than the word "sex."

A. Yes, he was more specific than that.

Q. Okay, share that with us.

A. Well, I think he said - he said that - there was some spate. Of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever -

Q. Okay.

A. That they had not had oral sex.

Podesta 6/16/98 GJT at 92.

Later in the day on January 21, 1998, President Clinton called Sidney Blumenthal to his office. His lies became more elaborate and pronounced when he had time to concoct his newest line of defense. When the President spoke to Mr. Bowles and Mr. Podesta, he simply denied the story. By the time he spoke to Mr. Blumenthal, he had added three new angles to his defense strategy: (1) he now portrays Ms. Lewinsky as the aggressor; (2) he launches an attack on her reputation by portraying her as a "stalker"; and (3) he presents himself as the innocent victim being attacked by the forces of evil.

Mr. Blumenthal recalled in his June 4, 1998 testimony:

And it was at this point that he gave his account of what had happened to me and he said that Monica - and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, "I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again." She threatened him. She said that she would tell people they'd had an affair, that she was known as the stalker among her peers, and that she hated it and if she had an affair or said she had an affair then she wouldn't be the stalker anymore.

Blumenthal 6/4/98 GJT at 49. Mr. Blumenthal said President Clinton told him moments later:

And he said, "I feel like a character in a novel. I feel like somebody who is surrounded by

an oppressive force that is creating a lie about me and I can't get the truth out. I feel like the character in the novel *Darkness at Noon*."

And I said to him, "When this happened with Monica Lewinsky, were you alone?" He said, "Well, I was within eyesight or earshot of someone."

Blumenthal 6/4/98 GJT at 50. At one point, Mr. Blumenthal is asked by the grand jury to describe the President's manner and demeanor during the exchange.

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

A. It was generally sympathetic to the President. And I certainly believed his story. It was a very heartfelt story, he was pouring out his heart, and I believed him.

Blumenthal 6/25/98 GJT at 16-17.

President Clinton also implemented a win-at-all-costs strategy. Former presidential advisor Dick Morris testified that on January 21, 1998, he spoke to President Clinton and they discussed the turbulent events of the day. President Clinton again denied the accusations against him. After further discussions, they decided to have an overnight poll taken to determine if the American people would forgive the President for adultery, perjury, and obstruction of justice.

When Mr. Morris received the results, he called the President:

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

Morris 8/18/98 GJT at 28. Mr. Morris then recalls the following exchange:

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

President Clinton: Well, we just have to win, then.

Morris 8/18/98 GJT at 30. President Clinton cannot recall this statement.

L. The Events of August 17, 1998 – The Grand Jury Testimony

On August 17, the last act of the tragedy took place. After six invitations, President Clinton appeared before a grand jury of his fellow citizens and took an oath to tell the truth. He equivocated and engaged in legalistic fencing, but he also lied. Actually, the entire testimony was calculated to mislead and deceive the grand jury and eventually the American people.

On August 16, 1998, President Clinton's personal attorney, David Kendall provided the following statement regarding his testimony:

There is apparently an enormous amount of groundless speculation about the President's testimony tomorrow. *The truth is the truth. Period. And that's how the President will testify.*

Kendall 8/16/98 Statement.

The untruthful tone, however, was set at the very beginning. Judge Starr testified that in a grand jury a witness can tell the truth, lie, or assert a legal privilege. President Clinton was given a fourth choice. The President was permitted to read a statement:

When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

I regret that what began as a friendship came to include this conduct, and I will take full responsibility for my actions.

While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the office I hold, this is all I will say about the specifics of these particular matters.

I will try to answer, to the best of my ability, other questions including questions about my relationship with Ms. Lewinsky; questions about my understanding of the term “sexual relations,” as I understood it to be defined at my January 17th, 1998 deposition; and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses. That, Mr. Bittman, is my statement.

Clinton 8/17/98 GJT at 8-10.

That statement itself is false in many particulars. President Clinton claims that he engaged in wrongful conduct with Ms. Lewinsky “on certain occasions in early 1996 and once in 1997.” He does not mention 1995. There was a reason. On the three “occasions” in 1995, Ms. Lewinsky was a twenty-one year old intern. As for being alone on “certain occasions,” he was alone with Ms. Lewinsky more than twenty times at least. The President also told the jurors that he “also had *occasional* telephone conversations with Ms. Lewinsky that included sexual banter.” Actually, the two had at least fifty-five phone conversations, many in the middle of the night and in seventeen of these calls, Ms. Lewinsky and President Clinton engaged in phone sex.

Again, President Clinton carefully crafted his statements to give the appearance of being candid, when actually he intended the opposite. In addition, throughout the testimony whenever he was asked a specific question that could not be answered directly without either admitting the truth or giving an easily provable false answer, he said, “I rely on my statement.” Nineteen times he relied on this false and misleading statement; nineteen times, then, he repeated those lies. For example:

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

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

Clinton 8/17/98 GJT at 138.

He also admitted to the grand jury that, after the allegations were publicly reported, that he made “misleading” statements to particular aides whom he knew would likely be called to testify before the Grand Jury:

Q. Do you recall denying any sexual relationship with Monica Lewinsky to the following people: Harry Thomasson, Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal, Mr. Jordan, Ms. Betty Currie? Do you recall denying any sexual relationship with Monica Lewinsky to those individuals?

A. I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe, sir, that - you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying.

Q. If they testified that you denied sexual relationship with Monica Lewinsky, or if they told us that you denied that, do you have any reason to doubt them, in the days after the story broke; do you have any reason to doubt them?

A. No.

Clinton 8/17/98 GJT at 104-05. President Clinton then was specifically asked whether he knew that his aides were likely to be called before the grand jury:

Q. It may have been misleading, sir, and you knew though, after January 21st when the Post article broke and said that Judge Starr was looking into this, you knew that they might be witnesses. You knew that they might be called into a grand jury, didn't you?

A. That's right. I think I was quite careful what I said after that. I may have said something to all these people to that effect, but I'll also - whenever anybody asked me any details, I said, look, I don't want you to be a witness or I turn you into a witness or give you information that would get you in trouble. I just wouldn't talk. I, by and large, didn't talk to people about it.

Q. If all of these people - let's leave Mrs. Currie for a minute. Vernon Jordan, Sid Blumenthal, John Podesta, Harold Ickes, Erskine Bowles, Harry Thomasson, after the story broke, after Judge Starr's involvement was known on January 21st, have said that you denied a sexual relationship with them. Are you denying that?

A. No.

Q. And you've told us that you —

A. I'm just telling you what I meant by it. I told you what I meant by it when they started this deposition.

Q. You've told us now that you were being careful, but that it might have been misleading. Is that correct?

A. It might have been So, what I was trying to do was to give them something they could - that would be true, even if misleading in the context of this deposition, and keep them out of trouble, and let's deal - and deal with what I thought was the almost ludicrous suggestion that I had urged someone to lie or tried to suborn perjury, in other words.

Clinton 8/17/98 GJT at 106-08.

As the President testified before the grand jury, he maintained that he was being truthful with his aides:

Q. You don't remember denying any kind of sex in any way, shape or form, and including oral sex, correct?

A. I remember that I issued a number of denials to people that I thought needed to hear them, but I tried to be careful and to be accurate, and I do not remember what I said to John Podesta.

.....

Q. Did you deny it to them or not, Mr. President?

A. Let me finish. So, what – I did not want to mislead my friends, but I wanted to find language where I could say that. I also, frankly, did not want to turn any of them into witnesses, because I – and, sure enough, they all became witnesses.

Q. Well, you knew they might be –

A. And so –

Q. – witnesses, didn't you?

A. And so I said to them things that were true about this relationship. That I used – in

the language I used, I said, there's nothing going on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course.

But I also didn't want to do anything to complicate this matter further. So, I said things that were true. They may have been misleading, and if they were I have to take responsibility for it, and I'm sorry.

Clinton 8/17/98 GJT at 100, 105-06. He stated that when he spoke to his aides, he was careful with his wording. He stated that he wanted his statement regarding "sexual relations" to be literally true because he was only referring to intercourse.

However, John Podesta said that President Clinton denied sex "in any way whatsoever" "including oral sex." He told Mr. Podesta, Mr. Bowles, Ms. Williams, and Harold Ickes that he did not have a "sexual relationship" with that woman. Seven days after the President's grand jury appearance, the White House issued a document entitled, "Talking Points January 24, 1998." This "Talking Points" document outlines proposed questions that the President may be asked. It also outlines suggested answers to those questions. The "Talking Points" purport to state the President's view of sexual relations and his view of the relationship with Monica Lewinsky.

The "Talking Points" state in relevant part as follows:

Q. What acts does the President believe constitute a sexual relationship?

A. I can't believe we're on national television discussing this. I am not about to engage in an "act-by-act" discussion of what constitutes a sexual relationship.

Q. Well, for example, Ms. Lewinsky is on tape indicating that the President does not believe oral sex is adultery. Would oral sex, to the President, constitute a sexual relationship?

A. Of course it would.

Based upon the foregoing, the President's own talking points refute the President's "literal

truth” argument.

M. Answers to the Committee’s Requests for Admission

In an effort to avoid unnecessary work and to bring this inquiry to an expeditious end, this Committee submitted to the President eighty-one requests to admit or deny specific facts relevant to this investigation. Although, for the most part, the questions could have been answered with a simple “admit” or “deny”, President Clinton chose to follow the pattern of selective memory, reference to other testimony, blatant untruths, artful distortions, outright lies and half truths he had already used. When he did answer, he engaged in legalistic hairsplitting in an attempt to skirt the truth and to deceive this Committee.

Thus, on at least twenty-three questions, President Clinton professed a lack of memory despite the testimony of several witnesses that he has a remarkable memory. In at least fifteen answers, he merely referred to “White House Records.” He also referred to his own prior testimony and that of others. He answered several of the requests by merely restating the same deceptive answers that he gave to the grand jury.

These half-truths, legalistic parsings, and evasive and misleading answers were calculated to obstruct the efforts of this Committee. They have had the effect of seriously hampering this Committee’s ability to ascertain the truth. President Clinton has, therefore, added obstruction of an inquiry by the Legislative Branch to his obstructions of justice before the Judicial Branch.

III. EXPLANATION OF ARTICLES

I. Article I - Perjury in the Civil Case

On August 17, 1998, William Jefferson Clinton swore to tell the truth, the whole truth, and nothing but the truth before a federal grand jury of the United States. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony to the grand jury concerning one or more of the following: (1) the nature and details of his relationship with a subordinate government employee; (2) prior perjurious, false and misleading testimony he gave in a federal civil rights action brought against him; (3) prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and (4) his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

1. The Committee concluded that, on August 17, 1998, the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning the nature and details of his relationship with a subordinate government employee.

On August 17, 1998, the President gave perjurious, false, and misleading testimony regarding his relationship with Monica Lewinsky before a Federal grand jury. Such testimony includes the following:

Q. Mr. President, were you physically intimate with Monica Lewinsky?

A. Mr. Bittman, I think maybe I can save the—you and the grand jurors a lot of time if I read a statement, which, which I think will make it clear what the nature of my relationship with Ms. Lewinsky was and how it related to the testimony I gave, what I was trying to do in that testimony. And I think it will perhaps make it possible for you to ask even more relevant questions from your point of view. And, with your permission, I'd like to read that statement.

Q. Absolutely. Please, Mr. President.

A. When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of

sexual intercourse. They did not constitute sexual relations as I understood that term to be defined at my January 17th, 1998 deposition. But they did involve inappropriate intimate contact.

These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Ms. Lewinsky that included inappropriate sexual banter.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 8-9, H. Doc. 105-311, pp. 460-61.

The President referred or reverted to this perjurious, false, and misleading statement many times throughout his grand jury testimony. For examples, see p. 37, lines 23-25, p. 38, lines 1-6; p. 101, lines 11-21; p. 109, lines 6-25, p. 110, lines 7-13; p. 138, lines 16-23; p. 166, lines 23-25, p. 167, lines 1-12.

This statement is misleading. The fact that it was prepared beforehand reveals an intent to mislead. The purpose of the statement was to avoid answering specific questions related to the President's conduct with Ms. Lewinsky. This is evident from the fact that the President reverted to his statement 19 times in lieu of answering direct questions required by a grand jury witness. He used a prepared statement in order to justify the perjurious answers he gave at his deposition, which were intended to affect the outcome of the *Jones* case. See Article II analysis. The above quoted testimony reveals some direct lies. For example, the sexual contact between the President and Ms. Lewinsky was not limited to 1996 and 1997. It began in 1995, when Monica Lewinsky was a 21 year old intern. The President and Ms. Lewinsky were not alone only on "certain occasions." They were alone at least 20 times, and had 11 sexual encounters. The "occasional" telephone conversations that included "sexual banter" actually included 55 phone conversations, during 17 of which they engaged in phone sex.

These direct lies, however, taken alone, do not constitute the heart of the perjury

committed by the President. Rather, the fact that he provided to the grand jury a half-true, incomplete and misleading statement as a true and complete characterization of his conduct (as required by the oath), and used that statement as a response to direct questions going to the heart of the investigation into whether he committed perjury and obstructed justice related to his deposition, constitutes a premeditated effort to thwart the investigation and to justify prior criminal wrongdoing.

The President also provided the following perjurious, false, and misleading testimony regarding the nature and details of his relationship with a subordinate employee:

Q. Did you understand the words in the first portion of the exhibit, Mr. President, that is, “For the purposes of this deposition, a person engages in ‘sexual relations’ when the person knowingly engages in or causes”?

Did you understand, do you understand the words there in that phrase?

A. Yes. My – I can tell you what my understanding of the definition is, if you want me to –

Q. Sure.

A. – do it. My understanding of this definition is it covers contact by the person being deposed with the enumerated areas, if the contact is done with an intent to arouse or gratify. That’s my understanding of the definition.

Q. What did you believe the definition to include and exclude? What kinds of activities?

A. I thought the definition included any activity by the person being deposed, where the person was the actor and came into contact with those parts of the bodies with the purpose or intent or gratification, and excluded any other activity.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 14-15, H. Doc. 105-311, pp. 466-67.

This statement is perjurious. At the deposition of the President, his attorney Mr. Bennett, in characterizing the affidavit of Monica Lewinsky in which she stated that she did not have

“sexual relations” with the President, stated that “sexual relations” in that affidavit meant “there is no sex of any kind in any manner, shape or form.” The President would have the grand jury, and now the House of Representatives believe that the purposely broad definition of sexual relations, meant to address the affidavit filed, and chosen by the court in the *Jones* case, meant something different than the same words in Ms. Lewinsky’s affidavit and that it took into account contorted and strained interpretations of words and meanings. It is unrealistic to contemplate that the President, at his deposition, honestly and without a desire to mislead, gave the meaning to the definition of “sexual relations” that he testified to before the grand jury.

During his deposition in the *Jones* case, President Clinton, having knowledge of the false affidavit executed by Ms. Lewinsky denying any relationship, asserted the same falsehood contained in that affidavit which he encouraged her to file. He denied having a “sexual affair, a sexual relationship or sexual relations” with Monica Lewinsky. Deposition Testimony of President in the *Jones* case, 1/17/98, pp. 78, 204. Thus, the question of whether there was a sexual relationship between the President and this subordinate employee became part of the OIC investigation into whether the chief law enforcement officer of the country committed perjury and obstructed justice, undermining the rule of law in a civil rights sexual harassment case.

The OIC proceeded to gather a substantial body of evidence proving that the President did indeed subvert the judicial system by lying under oath in his deposition and obstructing justice. This evidence includes Ms. Lewinsky's consistent and detailed testimony given under oath regarding 11 specific sexual encounters with the President, confirmation of the President's semen stain on Monica Lewinsky's dress, and the testimony of Monica Lewinsky's friends, family members and counselors to whom she made near contemporaneous statements about the

relationship. Ms. Lewinsky's memory and accounts were further corroborated by her recollection of times and phone calls which were shown to be correct with entrance logs and phone records. (For a summary of testimony and citations to the record, see the OIC Referral, pp. 134-40).

As indicated, contrary to this compelling corroborated evidence, President Clinton testified before the grand jury that he did not have "sexual relations" with Ms. Lewinsky. The Committee has concluded that the President lied under oath in making this statement. The obligation to tell the truth, the whole truth, and nothing but the truth requires a complete answer and does not allow a deponent to hide behind twisted interpretations that a reasonable person would not draw. Such "technical accuracy," as defined by the President, may pose an even greater affront to the basic concepts of judicial proceedings because it makes it impossible to achieve the truth-seeking purpose of such a proceeding. Legal hairsplitting used to bypass the requirement of telling the complete truth directly challenges the deterrence factor of the nation's perjury laws, denying a citizen her right to a constitutional orderly disposition of her claims in a court of law.

While the President attempted to justify his perjurious deposition testimony regarding his relationship with Ms. Lewinsky by continuing to supply misleading answers concerning the definition of "sexual relations" used in the deposition, he lied before the grand jury about his contact with her even under his misleading interpretation of that definition:

Q. If the person being deposed kissed the breast of another person, would that be in the definition of sexual relations as you understood it in the *Jones* case.

A. Yes, that would constitute contact...

Q. So, touching, in your view then and now – the person being deposed touching or kissing the breast of another person would fall within the definition?

A. That's correct sir.

Q. And you testified that you didn't have sexual relations with Monica Lewinsky in the *Jones* deposition, under that definition, correct?

A. That's correct, sir.

Q. If the person being deposed touched the genitalia of another person, would that be—and with the intent to arouse the sexual desire, arouse or gratify, as defined in definition (1), would that be, under your understanding then and now—

A. Yes, sir.

Q. –Sexual relations?

A. Yes, sir.

Q. Yes it would?

A. Yes, it would. If you had direct contact with any of these places in the body, if you had direct contact with intent to arouse or gratify, that would fall within the definition.

Q. So, you didn't do any of those three things—

A. You –

Q. – With Monica Lewinsky?

A. You are free to infer that my testimony is that I did not have sexual relations, as I understood this term to be defined.

Q. Including touching her breast, kissing her breast, or touching her genitalia?

A. That's correct.

Grand Jury Testimony of President Clinton 8/17/98 p. 94-95, H. Doc. 105-311 p. 546-47.

Another example of such perjurious, false, and misleading grand jury testimony regarding the nature of this relationship can be found on p. 92, lines 13-17. The President thus testified that

even under his strained and unrealistic interpretation of the definition of “sexual relationship”, intended to cover that term as used in Ms. Lewinsky’s false affidavit, the touching of her breasts and genitalia would fall under that definition and thus would constitute sexual relations. While it is curious that the President would assert that oral sex would not constitute sexual relations, but the touching of breasts would constitute such relations, even under his tortured reconstruction of the definition, the President committed perjury. He denied before the grand jury that he engaged in “sexual relations as I understood that term to be defined at my January 17th, 1998 deposition.” As mentioned above, he invoked this statement 19 times. Ms. Lewinsky testified under oath on several occasions that the President and she did engage in conduct that involved the touching of breasts and genitalia and therefore did constitute sexual relations even under the President’s admitted interpretation of the definition.

Ms. Lewinsky had every reason to tell the truth to the grand jury. She was under a threat of prosecution for perjury not only regarding her statements made on these occasions, but on the statements made in her admittedly false affidavit if she did not tell the truth, since truthful testimony was a condition of the immunity agreement she made. As indicated, her testimony is also corroborated.

The vague and evasive responses given by the President were made in violation of the oath he took to tell “the truth, the whole truth and nothing but the truth.” He asserted in his grand jury testimony that because of his interpretation behind the motives for the lawsuit being brought, he was entitled in his deposition to answer in a manner that was less than completely truthful. This argument has no basis in law and is detrimental to the purpose of the oath. The technical and hair-splitting legal arguments advanced by the President that he did not have an obligation to tell

the complete truth unless a question was posed in a way that he had no choice but to give the complete truth, or that he did not “technically” perjure himself in his deposition, defy the common sense and human experience which must be applied by any prospective fact-finder in this case.

The President did not have to answer untruthfully in the grand jury. The Constitution provided him with the opportunity to assert his Fifth Amendment right to refuse to respond based on his opinion that a completely truthful answer would tend to incriminate him for prior acts of perjury and obstruction of justice. He was apprised of this right in the grand jury proceeding:

Q. You have a privilege against self-incrimination. If a truthful answer to any question would tend to incriminate you, you can invoke the privilege and that invocation will not be used against you. Do you understand that?

A. I do.

Q. And if you don't invoke it, however, any answer that you give can and will be used against you. Do you understand that, sir?

A. I do.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 4-5, H. Doc. 105-311, pp. 456-57.

Instead of invoking his right, the President chose to place his own personal and political interests ahead of the interests of justice and the nation and continued to assert that he did not have sexual relations with Ms. Lewinsky. He also, as indicated *infra*, lied about the truthfulness of his prior testimony and his efforts to influence others related to the *Jones* action.

The Committee has concluded that the President's statements to the grand jury denying that he had sexual relations with Ms. Lewinsky were calculated to avoid difficult questions regarding his conduct and to project the appearance that he was being forthright with the grand jury and the American people. In fact, his premeditated and carefully prepared statements were

perjurious, false and misleading in light of corroborated evidence to the contrary.

2. The Committee concluded that the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning prior perjurious, false and misleading testimony he gave in a federal civil rights action brought against him.

On August 17, 1998, the President gave perjurious, false, and misleading testimony regarding prior statements of the same nature he made in his deposition. Such testimony includes the following:

Q. Now, you took the same oath to tell the truth, the whole truth, and nothing but the truth on January 17th, 1998 in a deposition in the Paula Jones litigation; is that correct, sir?

A. I did take an oath then.

Q. Did the oath you took on that occasion mean the same to you then as it does today?

A. I believed then that I had to answer the questions truthfully, that is correct.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 6-7, H. Doc. 105-311, pp. 457-58.

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

A. No, sir, but I think we might as well put this out on the table. You tried to get me to give a broader interpretation to my oath than just my obligation to tell the truth. In other words, you tried to say, even though these people are treating you in an illegal manner in illegally leaking these depositions, you should be a good lawyer for them. And if they don't have enough sense to write – to ask a question, and even if Mr. Bennett invited them to ask follow-up questions, if they didn't do it, you should have done all their work for them.

Now, so I will admit this, sir. My goal in this deposition was to be truthful, but not particularly helpful. I did not wish to do the work of the Jones lawyers. I deplored what they were doing. I deplored the innocent people they were tormenting and traumatizing. I deplored their illegal leaking. I deplored the fact that they knew, once they knew our evidence, that this was a bogus lawsuit, and that because of the funding they had from my political enemies, they were putting ahead. I deplored it.

But I was determined to work through the minefield of this deposition without violating the law, and I believe I did.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 79-80, H. Doc. 105-311, pp. 531-32.

The President did not believe that he had given truthful answers in his deposition testimony. If he had, he would not have related a false account of events to Betty Currie, his secretary, who he knew, according to his own statements in the deposition, might be called as a witness in the *Jones* case. He would not have told false accounts to his aides who, he admitted, he knew would be called to testify before the grand jury. The President understood from previous conversations with Monica Lewinsky that her affidavit, stating that they did not have “sexual relations”, was false. He knew that the definition in the *Jones* case was meant to cover the same activity as that mentioned in the affidavit. In fact, the affidavit was directly mentioned in the President’s deposition. Rather than tell the complete truth, the President lied about his relationship, the cover stories, the affidavit, the subpoena and the search for a job for Ms. Lewinsky at his deposition. He then denied committing perjury at his deposition before the grand jury. The President thus engaged in a series of lies and obstruction, each one calculated to cover the one preceding it.

Throughout his grand jury testimony, the President acknowledged that he was bound to tell the truth during the January 17, 1998, deposition in the Paula Jones case, as well as before the grand jury on August 17, 1998:

Q. Mr. President, you understand that your testimony here today is under oath?

A I do.

Q. And do you understand that because you have sworn to tell the truth, the whole truth, and nothing but the truth, that if you were to lie or intentionally mislead the grand jury,

you could be prosecuted for perjury and/or obstruction of justice?

A. I believe that's correct. . . .

Q. You understand that it requires you to give the whole truth, that is, a complete answer to each question, sir?

A. I will answer each question as accurately and fully as I can.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 457, H. Doc. 105-311.

The President did not answer each question as accurately and fully as he could have. In contrast to his assertions that he testify truthfully when deposed on January 17, 1998, the record reflects that the President did not “work through the minefield of [his deposition in the case of *Jones v. Clinton*] without violating the law. In fact, the Committee has concluded that President Clinton made multiple perjurious, false and misleading statements during his deposition in the case of *Jones v. Clinton*. Thus, his assertion before the grand jury that he did not violate the law in the deposition is itself a perjurious, false, and misleading statement and evidence of his continuing efforts to deny and cover-up his criminal wrongdoing. The details of the President’s perjurious, false, and misleading statements made during his deposition in the case of *Jones v. Clinton* are set forth in Article II, Paragraph 2.

3. The Committee concluded that the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action.

The President made perjurious, false and misleading statements before the grand jury when he testified he did not allow his attorney to refer to an affidavit before the judge in the *Jones* case that he knew to be false:

Q. Mr. President, I want to before I go into a new subject area, briefly go over something

you were talking about with Mr. Bittman.

The statement of your attorney, Mr. Bennett, at the Paul Jones deposition, “counsel is fully aware” - it’s page 54 line 5 – “counsel is fully aware that Ms. Lewinsky has filed, has an affidavit which they are in possession of saying that there is no sex of any kind in any manner, shape or form, with President Clinton?”

That statement is made by your attorney in front of Judge Susan Webber Wright, correct?

A. That’s correct.

Q. That statement is a completely false statement. Whether or not Mr. Bennett knew of your relationship with Ms. Lewinsky, the statement that there was “no sex of any kind in any manner, shape or form, with President Clinton,” was an utterly false statement. Is that correct?

A. It depends on what the meaning of the word “is” is. If the – if he – if “is” means is and never has been, that is not – that is one thing. If it means there is none, that was a completely true statement.

But, as I have testified, and I’d like to testify again, this is – it is somewhat unusual for a client to be asked about his lawyer’s statements, instead of the other way around. I was not paying a great deal of attention to this exchange. I was focusing on my own testimony.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 57-58, H. Doc. 105-3 11, pp. 509-510.

Further perjurious, false and misleading statements from the President’s grand jury testimony regarding this issue can be found on p. 24, lines 6-20; p. 25, lines 1-6; p. 59, lines 16-23; p. 60, lines 4-15, and p. 61, lines 4-15.

On January 15, 1998, Robert Bennett, attorney for President Clinton in the case of *Jones v. Clinton*, obtained a copy of the affidavit Monica Lewinsky filed in an attempt to avoid having to testify in the case of *Jones v. Clinton*. Grand Jury Testimony of Frank Carter, 6/18/98, pp. 11-13, H. Doc. 105-3 16, pp. 420-21. In this affidavit, Monica Lewinsky asserted that she had never had a sexual relationship with President Clinton. At the President's deposition on January

17, 1988, an attorney for Paula Jones began to ask the President questions about his relationship with Ms. Lewinsky. Mr. Bennett objected to the “innuendo” of the questions and he pointed out that Ms. Lewinsky had signed an affidavit denying a “sexual relationship” with the President. Mr. Bennett asserted that this indicated “there is no sex of any kind in any manner, shape or form,” between the President and Ms. Lewinsky, and after a warning from Judge Wright he stated that, “I am not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's affidavit, so I have not told him a single thing he doesn't know.” Mr. Bennett clearly used the affidavit in an attempt to stop the questioning of the President about Ms. Lewinsky. The President did not say anything to correct Mr. Bennett even though he knew the affidavit was false. Judge Wright overruled Mr. Bennett's objection and allowed the questioning to proceed. Deposition of President Clinton in the *Jones* case, 1/17/98, p. 54.

Later in the deposition, Mr. Bennett read the President the portion of Ms. Lewinsky's affidavit in which she denied having a “sexual relationship” with the President and asked the President if Ms. Lewinsky's statement was true and accurate. The President responded: “That is absolutely true.” Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204. The grand jury testimony of Monica Lewinsky, given under oath and following a grant of transnational immunity, confirmed that the contents of her affidavit were not true:

Q. Paragraph 8 . . . [of the affidavit] says, 'I have never had a sexual relationship with the President. Is that true?

A. No.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, H. Doc. 105-311, p. 924.

When President Clinton was asked during his grand jury testimony how he could have

lawfully sat silent at his deposition while his attorney made a false statement (“there is no sex of any kind, in any manner shape or form”) to a United States District Court Judge, the President first said that he was not paying “a great deal of attention” to Mr. Bennett when he said this. The President’s videotaped deposition, however, shows the President paying close attention and squarely looking in Mr. Bennett’s direction while Mr. Bennett was making the statement about “no sex of any kind.” The President then argued that when Mr. Bennett made the assertion that there “is no sex of any kind. . . ,” Mr. Bennett was speaking only in the *present* tense, as if he understood that to be the case at the time the remark was made, and when he was allegedly not paying attention to the remark. The President stated, “It depends on what the meaning of the word ‘is’ is, and that “[i]f it means there is none, that was a completely true statement.” Grand Jury Testimony of President Clinton, 8/17/98, pp. 57-61, H. Doc. 105-3 11, pp. 509-513; see also *id.*, pp. 24-25, H. Doc. 105-3 11, pp. 476-77.

It is clear to the Committee that the President perjured himself when he said that Mr. Bennett’s statement that there was “no sex of any kind” was “completely true” depending on what the word “is” is. The President did not want to admit that Mr. Bennett’s statement was false, because to do so would have been to admit that the term “sexual relations” as used in the Lewinsky affidavit meant “no sex of any kind.” Admitting that would be to admit that he perjured himself previously in his grand jury testimony and in his prior deposition. Thus, the President engaged in an evolving series of lies in sworn testimony in order to cover previous lies he told in sworn testimony and previous obstructive conduct. In all of this, it was the intention of the President to thwart the ability of Paula Jones to bring a case against him and to sidetrack the OIC

investigation into his misconduct.

4. The Committee concluded that the President provided perjurious, false, and misleading testimony to a Federal grand jury concerning his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

a. The President gave perjurious, false and misleading testimony before the grand jury when he denied engaging in a plan to hide evidence that had been subpoenaed in the federal civil rights action against him.

The President made the following perjurious, false, and misleading statements before the grand jury regarding efforts to hide evidence that had been subpoenaed in the case of *Jones v.*

Clinton.

Q. Getting back to your meeting with Ms. Lewinsky on December 28, you are aware that she's been subpoenaed. You are aware, are you not, Mr. President, that the subpoena called for the production of, among other things, all the gifts that you had given Ms. Lewinsky? You were aware of that on December 28, weren't you?

A. I'm not sure. And I understand this is an important question. I did have a conversation with Ms. Lewinsky at some time about gifts, the gifts I had given her. I do not know whether it occurred on the 28th, or whether it occurred earlier. I do not know whether it occurred in person or whether it occurred on the telephone. I have searched my memory for this, because I know it's an important issue.

Perhaps if you – I can tell you what I remember about the conversation and you can see why I'm having trouble placing the date.

Q. Please.

A. The reason I'm not sure it happened on the 28th is that my recollection is that Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me. That's the memory I have. That's why I question whether it happened on the 28th, because she had a subpoena with her, request for production.

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

Grand Jury Testimony of President Clinton, 8/17/98, p. 42-43, H. Doc. 105-3 11, p.494- 495.

Essentially the same perjurious, false, and misleading testimony is repeated by the President later in his grand jury testimony, p. 45, lines 11-23.

The following testimony was also given:

Q After you gave her the gifts on December 28th, did you speak with your secretary, Ms. Currie, and ask her to pick up a box of gifts that were some compilation of gifts that Ms. Lewinsky would have--

A No, sir, I didn't do that.

Q --to give to Ms. Currie?

A I did not do that.

Grand Jury Testimony of President Clinton, 8/17/98, p. 50, H. Doc. 105-311, p. 502.

Similar perjurious, false, and misleading grand jury testimony of President Clinton can be found on p. 113, lines 16-25, p. 114, lines 1-25 of the transcript from that grand jury testimony of 8/17/98.

On December 19, 1997, Monica Lewinsky was served with a subpoena in connection with the case of *Jones v. Clinton*. The subpoena required her to testify at a deposition on January 23, 1998. The subpoena also required her to produce each and every gift given to her by President Clinton. On the morning of December 28, 1998, Ms. Lewinsky met with the President for about 45 minutes in the Oval Office. By this time, President Clinton knew Ms. Lewinsky had been subpoenaed. At this meeting they discussed the fact that the gifts had been subpoenaed, including a hat pin, the first gift Clinton had given Lewinsky. Monica Lewinsky testified that at some point in this meeting she said to the President, "Well, you know, I -maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty. And he sort of said -I think he responded, 'I don't know' or 'Let me think about that. 'And left that topic.'" Grand Jury

Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-311, p. 872; See also 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-3 11, p. 1395.

President Clinton provided the following explanation to the grand jury and this Committee regarding this conversation: "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," but I do not know whether that conversation occurred on December 28, 1997, or earlier. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had...." I simply was not concerned about the fact that I had given her gifts. Indeed, I gave her additional gifts on December 28, 1997. Request for Admission number 24; see also Grand Jury Testimony of President Clinton, 8/17/98, p. 43, H. Doc. 105-3 11, p. 495. The President's statement that he told Ms. Lewinsky that if the attorneys for Paula Jones asked for the gifts, she had to provide them is perjurious, false and misleading. It simply strains logic to believe the President would encourage Monica Lewinsky to turn over the gifts. To do so would have raised questions about their relationship and would have been contrary to all of their other efforts to conceal the relationship, including the filing of an affidavit denying a sexual relationship. The fact that the President gave Ms. Lewinsky additional gifts on December 28, 1998, provides further evidence that the President did not believe Ms. Lewinsky would provide gifts that had been subpoenaed. As Ms. Lewinsky testified, she never questioned, "that we were ever going to do anything but keep this quiet." This meant that they had to take "whatever steps needed to be taken" to keep it quiet. By giving more gifts to Monica Lewinsky after she received a subpoena to appear for a deposition in the case of *Jones v. Clinton*, the President was making another gesture of affection towards Ms. Lewinsky to help ensure that she would not testify truthfully regarding their relationship.

Ms. Lewinsky testified that she was never under the impression from anything the President said that she should turn over to Ms. Jones's attorneys all the gifts that he had given her. Deposition of Monica Lewinsky, 8/26/98, p. 58, H. Doc. 105-3 11, p. 1337. Additionally, she said she can't answer why the President would give her more gifts on the 28th when he knew she was under an obligation to produce gifts in response to a subpoena. She did testify, however, that, "to me it was never a question in my mind and I-from everything he said to me, I never questioned him, that we were never going to do anything but keep this private, so that meant deny it and that meant do-take whatever appropriate steps needed to be taken, you know, for that to happen....So by turning over these gifts, it would at least prompt [the Jones attorneys]to question me about what kind of friendship I had with the President.. ." Grand Jury Testimony of Monica Lewinsky, 816198, pp. 166-67, H. Doc. 105-311, pp. 886-87.

After this meeting on the morning of December 28th, Ms. Currie called Monica Lewinsky and made arrangements to pick up gifts the President had given to Ms. Lewinsky. Monica Lewinsky testified under oath before the grand jury that a few hours after meeting with the President on December 28, 1997, a meeting in which Ms. Lewinsky and President Clinton discussed the fact that gifts given to her by Mr. Clinton had been subpoenaed in the case of *Jones v. Clinton*, Betty Currie called her. The record indicates the following discussion occurred:

Q. What did [Betty Currie] say?

A. She said, "I understand you have something to give me." Or, "The President said you have something to give me." Along those lines. . .

Q. When she said something along the lines of "I understand you have something to give me," or "The President says you have something for me," what did you understand her to mean?

A. The gifts.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 154-55, H. Doc. 105-311 pp. 874.

Later in the day on December 28th, Ms. Currie drove to Ms. Lewinsky's home and Ms. Lewinsky gave her a sealed box that contained several gifts Ms. Lewinsky had received from the President, including the hat pin. Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 156-58, H. Doc. 105-311, pp. 875-78. Ms. Currie testified that she understood the box contained gifts from the President. She took the box home and put it under her bed. Grand Jury Testimony of Betty Currie, 5/6/98, pp. 107-8, H. Doc. 105-3 16, p. 581. In Monica Lewinsky's February 1, 1998 handwritten statement to the OIC, which Ms. Lewinsky has testified is truthful, she stated, "Ms. Currie called Ms. L later that afternoon and said that the Pres. had told her Ms. L wanted her to hold onto something for her. Ms. L boxed up most of the gifts she had received and gave them to Ms. Currie." 2/1/98 Handwritten Proffer of Monica Lewinsky, p. 7, H. Doc. 105-3 11, p. 7 15.

Betty Currie testified that she did not recall the President telling her that Ms. Lewinsky wanted her to retrieve and hold some items; that Ms. Lewinsky called her and asked her to come get the gifts. Grand Jury Testimony of Betty Currie, 5/6/98, pp. 105-6, H. Doc. 105-316, p. 581. When asked if a contrary statement by Ms. Lewinsky—indicating that Ms. Currie had in fact spoken to the President about the gift transfer--would be false, Ms. Currie replied: "She may remember better than I. I don't remember." Grand Jury Testimony of Betty Currie, 5/6/98, p. 126, H. Doc. 105-3 16, p. 584.

Further evidence before the Committee reveals that Betty Currie telephoned Monica Lewinsky regarding the gifts, and not the other way around:

Mr. Schippers: When Ms. Currie, when they wanted to get rid of the gifts, Ms. Currie went and picked them up, put them under her bed to keep them from anybody else. Another mission accomplished?

Mr. Starr: That's right.

Mr. Schippers: By the way, there has been some talk here that Monica said that she recalled that Betty Currie called her and said, either the President wants me to pick something up, or I understand you have something for me to pick up. Later, Ms. Currie backed off that and said, well, I am not sure, maybe Monica called me. In the material that you made available, you and your staff made available to us, there were 302s in which Monica said, I think when Betty called me, she was using her cell phone. Do you recall that, Judge Starr?

Mr. Starr: I do.

Mr. Schippers: And in that same material that is in your office that both parties were able to review and that we did, in fact, review, there are phone records of Ms. Currie; are there not?

Mr. Starr: There are.

Mr. Schippers: And there is a telephone call on her cell phone to Monica Lewinsky's home on the afternoon of December 28, 1997; isn't there?

Mr. Starr: That is correct.

Mr. Schippers: Once again, Monica is right and she has been corroborated, right?

Mr. Starr: That certainly tends to corroborate Ms. Lewinsky's recollection.

Impeachment Hearing on Inquiry Pursuant to H. Res. 581, Thursday, November 19, 1998,
Transcript pp. 407-409.

President Clinton testified before the grand jury, and reiterated to this Committee (Request for Admission number 26) that he did not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts previously given to Ms. Lewinsky and that he never told

Ms. Currie to take possession of gifts he had given Ms. Lewinsky. Grand Jury Testimony of President Clinton, 8/17/98, p. 50, H. Doc. 105-311, p. 502; see also Grand Jury Testimony of President Clinton, 8/17/98, pp. 113-114, H. Doc. 105-311, pp. 565-66. This answer is false and misleading because the evidence reveals that Betty Currie did call Monica Lewinsky about the gifts and there is no reason for her to do so unless instructed by the President. Because she did not personally know of the gift issue, there is no other way Ms. Currie could have known to call Ms. Lewinsky about the gifts unless the President told her to do so. The President had a motive to conceal the gifts because both he and Ms. Lewinsky were concerned that the gifts might raise questions about their relationship. By confirming that the gifts would not be produced, the President ensured that these questions would not arise. The concealment and non-production of the gifts to the attorneys for Paula Jones allowed the President to provide false and misleading statements about the gifts at his deposition in the *Jones* case. Additionally, Ms. Lewinsky's testimony on this subject has been consistent and unequivocal; she provided the same facts in February, July and August. Betty Currie's cell phone records show that she placed a one minute call to Monica Lewinsky on the afternoon of December 28th.

b. The President made false and misleading statements before the grand jury regarding his knowledge that the contents of an affidavit executed by a subordinate federal employee who was a witness in the federal civil rights action brought against him were untrue.

The President provided the following perjurious, false and misleading testimony to the grand jury:

Q. Did you tell her to tell the truth?

A. Well, I think the implication was she would tell the truth. I've already told you that I felt strongly she could execute an affidavit that would be factually truthful, that might get her out of having to testify. Now, it obviously wouldn't if the Jones people knew this, because they knew if they could get this and leak it, it would serve their larger purposes, even if the judge ruled that she couldn't be a witness in that case. The judge later ruled she wouldn't be a witness in that case. The judge later ruled the case had no merit.

So, I knew that. And did I hope she'd be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.

Q. If Monica has stated that her affidavit that she didn't have a sexual relationship with you is, in fact, a lie, I take it you disagree with that.

A. No. I told you before what I thought the issue was there. I think the issue is how do you define sexual relationship. And there is no definition imposed on her at the time she executed the affidavit. Therefore, she was free to give it any reasonable meaning.

Grand Jury Testimony of President Clinton, 8/17/98, p. 119-120, H. Doc. 105-311, p. 571-572.

A similar perjurious, false, and misleading statement can be found at p. 20, lines 20-25, p. 21, lines 1-16 of the President's grand jury testimony

The President also provided the following perjurious, false, and misleading testimony regarding his knowledge that the contents of the affidavit were untrue:

Q. And do you remember that Ms. Lewinsky's affidavit said that she had had no sexual relationship with you. Do you remember that?

A. I do.

Q. And do you remember in the deposition that Mr. Bennett asked you about that. This is at the end of the—towards the end of the deposition. And you indicated, he asked you whether the statement that Ms. Lewinsky made in her affidavit was—

A. Truthful.

Q. — true. And you indicated that it was absolutely correct.

A. I did. And at the time she made the statement, and indeed to the present day because, as far as I know, she was never deposed since the Judge ruled she would not be permitted to testify in a case the Judge ruled had no merit; that is, this case we're talking about.

I believe at the time she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate. And I believe that is the definition that most ordinary Americans would give it.

Grand Jury Testimony of President Clinton, 8/17/98, pp. 20-21, H. Doc. 105-311, pp.472-73.

Monica Lewinsky filed an affidavit in the *Jones* case, in which she denied ever having a sexual relationship with the President. During his deposition in that case, the President affirmed that the statement of Monica Lewinsky in her affidavit denying a sexual relationship was "absolutely true." Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204. Monica Lewinsky has stated that she is "100 percent sure" that the President suggested she might want to sign an affidavit to avoid testifying in the case of *Jones v. Clinton*. 8/19/98 OIC interview of Monica Lewinsky, pp. 4-5, H. Doc. 105-3 11, pp. 1558-9, see also Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 123-24, H. Doc. 105-3 11, pp. 834-44. President Clinton told this Committee he believed he told Ms. Lewinsky "other witnesses had executed affidavits, and there was a chance they would not have to testify." Request for Admission number 18. The President gave the following testimony before the grand jury "And did I hope she'd be able to get out of testifying on an affidavit? Absolutely. Did I want her to execute a false affidavit? No I did not." Grand Jury Testimony of President Clinton, 8/17/98, p. 119, H. Doc. 105-3 11, p. 571.

This testimony is false and misleading because it is not possible that Monica Lewinsky could have filed a full and truthful affidavit, i.e. an affidavit acknowledging a sexual relationship with the President, that would have helped her to avoid a deposition in the *Jones* case. The attorneys for Paula Jones were seeking evidence of sexual relationships the President may have had with other state or federal employees. Such information is often deemed relevant in sexual

harassment lawsuits to help prove the underlying claim of the Plaintiff and Judge Susan Weber Wright ruled that Paula Jones was entitled to this information for purposes of discovery. Consequently, if Monica Lewinsky acknowledged a sexual relationship with the President in her affidavit, then she certainly could not have avoided a deposition. The President had to be aware of this and this renders his grand jury testimony on this subject false and misleading.

c. The President made false and misleading statements before the grand jury when he recited a false account of the facts regarding his interactions with Monica Lewinsky to Betty Currie, a potential witness in the federal civil rights action brought against him.

The President provided the following perjurious, false and misleading testimony concerning the false account he provided to Betty Currie regarding his relationship with Ms.

Lewinsky:

Q. What was your purpose in making these statements to Miss Currie, if they weren't for the purpose to try to suggest to her if ever asked?

A. Now, Mr. Bittman, I told you, the only thing I remember is when all the stuff blew up, I was trying to figure out what the facts were. I was trying to remember.

Grand Jury Testimony of President Clinton, 8/17/98, p. 138-39, H. Doc. 105-3 11, p. 590-91.

For very similar perjurious, false and misleading grand jury testimony of President Clinton, see p. 54, lines 19-25, p. 55, lines 1-25 and p. 56, lines 1-16; p. 130, lines 18-25, p. 131, lines 1-14; p. 141, lines 7-12 and 23-25, p. 142, lines 1-3..

The record reflects that President Clinton attempted to influence the testimony of Betty Currie, his personal secretary, by coaching her to recite inaccurate answers to possible questions that might be asked of her if called to testify in the Paula Jones case. The President did this shortly after he had been deposed in the case.

In his grand jury testimony and responses to the Committee's Requests for Admission, the President was occasionally evasive and vague on this point. He stated that on January 18, 1998, he met with Ms. Currie and ". . . asked her certain questions, in an effort to get as much information as quickly as I could and made certain statements, although I do not remember exactly what I said." Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-3 11, p. 508; Response of President Clinton to Question No. 52 of the Committee's Requests for Admission. The President added that he urged Ms. Currie to "tell the truth" after learning that the Office of Independent Counsel (OIC) might subpoena her to testify. (Id at p. 591).

The President also stated that he could not recall how many times he had talked to Ms. Currie or when, in response to OIC questioning on the subject of a similar meeting that took place on or about January 20 or 21, 1998. He claimed that by asking questions of Ms. Currie he was only attempting to ". . . ascertain what the facts were, trying to ascertain what Betty's perception was." Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-3 11, pp. 592-93; Response of President Clinton to Question No. 53 of the Committee's Requests for Admission.

While testifying before the grand jury, Ms. Currie was more precise in her recollection of the two meetings. An OIC attorney asked her if the President had made a series of leading statements or questions that were similar to the following:

"You were always there when she [Monica Lewinsky] was there, right? We were never really alone."

"You could see hear and hear everything."

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

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

In her testimony Ms. Currie indicated that the President's remarks were "more like statements than questions." Based on his demeanor and the manner in which he asked the questions, she concluded that the President wanted her to agree with him. Ms. Currie thought that the President was attempting to gauge her reaction, and appeared concerned. OIC Referral, H. Doc. 105-310, pp. 191-92; Grand Jury Testimony of Betty Currie, 1/27/98, pp. 71-76, H. Doc. 105-316, pp. 559-60.

Ms. Currie also acknowledged that while she indicated to the President that she agreed with him, in fact she knew that, at times, he was alone with Ms. Lewinsky and that she could not or did not hear or see the two of them while they were alone.

As to their subsequent meeting on January 20 or 21, 1998, Ms. Currie stated that "... it was sort of a recapitulation of what we had talked about on Sunday [January 18, 1998]" Grand Jury Testimony of Betty Currie, 1/27/98, p. 81, H. Doc. 105-316, p. 561.

d. The President made perjurious, false and misleading statements before the grand jury concerning statements he made to aides regarding his relationship with Monica Lewinsky.

The President gave the following perjurious testimony under oath before the grand jury:

Q. Did you deny to them or not, Mr. President?

A. Let me finish. So, what – I did not want to mislead my friends but I want to define language where I can say that. I also, frankly, do not want to turn any of them into witnesses, because I – and, sure enough, they all became witnesses.

Q. Well you knew they might be –

A. And so –

Q. – witnesses, didn't you?

A. And so I said to them things that were true about this relationship. That I used – in

the language I used, I said, there is nothing go on between us. That was true. I said, I have not had sex with her as I defined it. That was true. And did I hope that I would never have to be here on this day giving this testimony? Of course. But I also didn't want to do anything to complicate this matter further. So, I said things that were true. They may have been misleading, and if they were, I have to take responsibility for it, and I'm sorry.

Grand Jury Testimony of President Clinton 8/17/98, p. 105-106, H. Doc. 105-311 p. 557-558.

Another perjurious, false and misleading statement by the President regarding conversations with his aides is recorded on p. 100, lines 20-25 of the grand jury transcript.

The following grand jury testimony of several Presidential aides demonstrates that the President's testimony that he "said things that were true" to his aides is clearly perjurious, false and misleading.

The record reflects that President Clinton met with a total of five aides who would later be called to testify before the grand jury shortly after the President's deposition in the Paula Jones case and following a *Washington Post* story, published on January 21, 1998, which detailed the relationship between the President and Monica Lewinsky. During the meetings the President made untrue statements to his aides:

Sidney Blumenthal:

Testifying before the grand jury on June 4, 1998, Sidney Blumenthal, an Assistant to the President, related the following discussion he had with the President on January 21, 1998:

He said Dick Morris had called him that day and he said Dick had told him that Nixon---he had read the newspaper and he said "You know, Nixon could have survived if he had gone on television and given an address and said everything he had done wrong and got it all out in the beginning."

And I said to the President, "What have you done wrong?" And he said, "Nothing, I haven't done anything wrong." I said, "Well then, that's one of the stupidest things I've ever heard. Why would you do that if you've done nothing wrong?"

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

Grand Jury Testimony of Sidney Blumenthal, 6-4-98, p. 49, H. Doc.105-316, p.185.

John Podesta:

In his grand jury testimony on June 16, 1998, then White House Deputy Chief of Staff John Podesta (now Chief Of Staff) testified to the following regarding a January 21, 1998 meeting with President Clinton:

A. And we went in to see the President.

Q. Who's we?

A. Mr. Bowles, myself and Ms. Matthews.

Q. Okay. Tell us about that.

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

Q. What else did he say?

A. He said that-that he had not had a sexual relationship with her, and that he never asked anybody to lie."

Grand Jury Testimony of John Podesta, 6/16/98, p. 85, H. Doc.105-316, p. 3310.

Erskine Bowles had the following recollection of the same meeting:

A. And this was the day this huge story breaks. And the three of us walk in together-Sylvia Matthews, John Podesta and me-into the oval office, and the President was standing behind his desk.

Q. About what time of day is this?

A. This is approximately 9:00 in the morning or something---you know, in that area. And he looked up at us and he said the same thing he said to the American people. He said, I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."

Grand Jury Testimony of Erskine Bowles, 4/2/98, pp. 83-84, H. Doc. 105-316, p. 239.

The record indicates the President also had a January 23, 1998, conversation with **John**

Podesta, in which you stated that you had never had an affair with Monica Lewinsky?

A. See, we were getting ready to do the State of the Union prep and he was working on the state of the union draft back in his study. I went back there to just to kind of get him going-this is the first thing in the morning-you know, we sort of get engaged. I asked him how he was doing, and he said he was working on this draft, and he said to me that he had never had sex with her, and that-he never asked-you know, he repeated the denial, but he was extremely explicit in saying he never had sex with her.

Q. How do you mean?

A. Just what I said.

Q. Okay. Not explicit, in the sense that he got more specific than sex, than the word "sex."

A. Yes, he was more specific than that.

Q. Okay. Share that with us.

A. Well, I think he said-he said that-there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever-

Q. Okay.

A. --that they had not had oral sex.

Q. No question in your mind he's denying any sex in any way, shape or form, correct?

A. That's correct."

Grand Jury Testimony of John Podesta, 6/16/98, pp. 91-3, H. Doc. 105-316, p. 3311.

In that same January 23rd conversation with John Podesta, the President stated he was not alone with Monica Lewinsky in the Oval Office, and that Betty Currie was either in his presence or outside his office with the door open while he was visiting with Monica Lewinsky:

Q. Did the President ever speak to that issue with you, the issue of if he didn't have an improper relationship with Ms. Lewinsky, what was she doing there so often? Did he ever speak to that?

A. He said to me-I don't think it was in this conversation, I think it was a couple weeks later. He said to me that after she left, that when she had come by, she came to see Betty, and that he-when she was there, either Betty was with them-either that she was with Betty when he saw her or that he saw her in the Oval Office with the door open and Betty was around-and Betty was out at her desk.

Grand Jury Testimony of John Podesta, 6/16/98, p.88, H. Doc. 105-316, p.3310.

Harold Ickes:

On or about January 26, 1998, The President had a conversation with Harold Ickes, in which he made statements to the effect that he did not have an affair with Monica Lewinsky:

Q. What did the President say about Monica Lewinsky?

A. The only discussion I recall having with him, he denied that he had had sexual relations with Ms. Lewinsky and denied that he had-I don't know how to capsule it-obstructed justice, let's use that phrase.

Grand Jury Testimony of Harold Ickes, 6/10/98, p. 21, H. Doc. 105-316, p. 1487; See also Grand Jury Testimony of Harold Ickes from 8/5/98, p. 88, H. Doc.105-316, p.1610 ("He denied to me that he had had a sexual relationship. I don't know the exact phrase, but the word 'sexual' was

there. And he denied any obstruction of justice”)).

5. Explanation of the Rogan Amendment to Article I

The Committee adopted an amendment to Article I of the Resolution offered by Representative Rogan of California. Article I addresses certain statements which the President made during his grand jury testimony on August 17, 1997. More explicitly, the Article charges the President with providing perjurious, false, and misleading testimony governing the following topics:

the nature and details of his relationship with a subordinated Government employee;
prior testimony in a deposition he gave in a Federal civil rights action against brought against him in the case of *Jones v. Clinton*;
prior false and misleading statements he allowed his attorney to make to a Federal judge in that civil rights action; and
his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence in that civil rights action.

The Rogan amendment supplements the language of Article I by specifying that the President willfully provided perjurious, false, and misleading testimony to the grand jury concerning *any one or more* of the four topics enumerated. In other words, contrary to his grand jury oath, the President provided perjurious, false, and misleading testimony about “one or more” of the four topics.

The Rogan language simply tracks identical language invoked in the 1974 Articles of Impeachment against President Nixon. Like the evidence in the Nixon precedent, the evidence in the instant case is sufficient to sustain President Clinton’s culpability under Article I for his

testimony concerning all four topics collectively, or each topic individually.

B. Article II - Perjury in the Civil Case

1. The Committee concluded that, in the civil case, the President provided perjurious, false, and misleading testimony in a Federal civil rights action in response to written questions.

On December 23, 1997, William Jefferson Clinton, in sworn answers to written questions asked as part of a Federal civil rights action brought against him, willfully provided perjurious, false and misleading testimony in response to questions deemed relevant by a Federal judge concerning conduct and proposed conduct with subordinate employees.

The evidence reveals that the President Clinton made perjurious, false, and misleading statements in response to written interrogatories in the civil rights case of *Jones v. Clinton*. The perjurious, false, and misleading statements are set forth below:

1. Interrogatory Number 10: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you had sexual relations when you held any of the following positions:

- a. Attorney General of the State of Arkansas;
- b. Governor of the State of Arkansas;
- c. President of the United States.

On December 11, 1997, the Court issued an order modifying the scope of the interrogatories to incidents from May 8, 1986 to the present involving state or federal employees and compelling the President to answer the interrogatories.

The President's December 23, 1997, supplemental response to Interrogatory Number 10

(as modified by direction of the Court): None

2. Interrogatory Number 11: Please state the name, address, and telephone number of each and every individual (other than Hillary Rodham Clinton) with whom you sought to have sexual relations when you held any of the following positions:

- a. Attorney General of the State of Arkansas;
- b. Governor of the State of Arkansas;
- c. President of the United States.

The same court order modifying the scope of the interrogatories to incidents from May 8, 1986 to the present involving state or federal employees and compelling the President to answer the interrogatories was applicable to this question.

The President's December 23, 1997, supplemental response to Interrogatory Number 10 (as modified by direction of the Court): None

It is clear from the evidence before the Committee that the President did have sexual relations with Monica Lewinsky, a young, subordinate federal employee in the Oval Office complex of the White House while he was President of the United States. It is also evident that he sought to have sexual relations with her. This evidence includes, as cited previously, the sworn testimony of Monica Lewinsky, corroborated by the testimony of others and by phone and entrance records. In addition, DNA evidence before the Committee reveals that the President's semen was found on Ms. Lewinsky's dress.

2. The Committee concluded that, in the civil case, the President provided perjurious, false, and misleading testimony in a Federal civil rights action in his deposition.

On January 17, 1998, William Jefferson Clinton swore under oath to tell the truth, the whole truth, and nothing but the truth in a deposition given as part of a Federal civil rights action brought against him. Contrary to that oath, William Jefferson Clinton willfully provided perjurious, false and misleading testimony in response to questions deemed relevant by a Federal judge concerning the nature and details of his relationship with a subordinate government employee and his corrupt efforts to influence the testimony of that employee.

The record indicates that on January 17, 1998, before beginning to respond to questions during a deposition in a civil rights lawsuit in which he was a named defendant, the President answered in the affirmative to the question, "Do you swear and affirm that your testimony will be the truth, the whole truth and nothing but the truth, so help you God." In the President's Response for Admissions Number 5, the President admits that he took an oath to tell the truth before his deposition in the *Jones v. Clinton* case.

a. The President lied in his deposition about the nature of his conduct with a subordinate federal employee who was a witness in the federal civil rights action brought against him.

In the President's Deposition he admits that Monica Lewinsky is a federal employee.

Q. Now, do you know a woman named Monica Lewinsky?

A. I do

Q. How do you know her?

A. She worked in the White House for a while, first as an intern, and then in, as the, in the legislative affairs office. Deposition of President Clinton, 1/17/97, p. 1.

The President was asked about his conduct with Monica Lewinsky and in his deposition

he denied having sexual relations with Monica Lewinsky. The definition of sexual relations was: "For purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes -(1)contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person; (2) contact between any part of the person's body or an object and the genitals or anus of another person; or (3)contact between the genitals or anus of the person and any part of another person's body. "Contact" means intentional touching, either directly or through clothing."

Q. Did you have an extramarital sexual affair with Monica Lewinsky?

A. No.

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

A. It's certainly not the truth. It would not be the truth.

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

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

Deposition of President Clinton, 1/17/98, p. 78.

According to the sworn testimony of Monica Lewinsky, she and the President had 11 sexual encounters, 8 while she worked at the White House and 2 thereafter. The sexual encounters generally occurred in or near the oval office private study. The evidence indicates that the conduct the President had with Ms. Lewinsky met the definition and that he lied about their conduct. According to Ms. Lewinsky, she performed oral sex on the President; he never performed oral sex on her. OIC Referral, H. Doc 105-310, p. 17.

The record indicates an agreement to deny the conduct and that a relationship existed between the President and Monica Lewinsky:

Q. Had you talked with [the President] earlier [than December 17] about ... false explanations about what you were doing visiting him on several occasions?

A. Several occasions throughout the entire relationship It was the pattern of the relationship to sort of conceal it.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 124, H. Doc. 105-3 11, p. 844.

The Committee has concluded that the President lied under oath about his relationship with Monica Lewinsky in his deposition in accord with an agreement to lie developed earlier.

b. The President lied in his deposition after being asked if anyone had reported to him within the past two weeks that they had had a conversation with Monica Lewinsky concerning the *Jones v. Clinton* lawsuit.

Q. ...within the past two weeks has anyone reported to you that they had had a conversation with Monica Lewinsky concerning this lawsuit?

A. I don't believe so. I'm sorry, I just don't believe so.

Deposition of President Clinton, 1/17/98, pp. 12-13 of public copy.

The record indicates that a telephone conversation took place on January 6, 1998, with Vernon Jordan and President Clinton during which President Clinton discussed Monica Lewinsky's affidavit, yet to be filed, in the case of *Jones v. Clinton*. See Telephone Calls, Table 35, included in Appendix G as referenced in note 928, H. Doc. 105-310, p. 108 (Vernon Jordan telephones the President less than 30 minutes after speaking with Monica Lewinsky over the telephone about her draft affidavit).

The record indicates that the President had knowledge of the fact that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton* on January 7, 1998.

Q. ... [Y]ou conveyed . . . both to Betty Currie and to the President -namely, that you knew Ms. Lewinsky had signed the affidavit [on January 7, 1998]?"

A. "Right."

Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 223, H. Doc. 105-3 16, p. 1828.

The record indicates that on or about January 7, 1998, the President had a discussion with Vernon Jordan in which Mr. Jordan mentioned that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton*.

Q. Okay, do you believe that it would have been during one of these calls [phone conversations between the President and Vernon Jordan on January 7, 1998] that you would have indicated to the President that Ms. Lewinsky had, in fact, signed the affidavit?

A. That, too, is a reasonable assumption.

Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 224, H. Doc. 105-316, p. 1828.

Furthermore, the President acknowledged before the grand jury and to this Committee, that Vernon Jordan discussed Monica Lewinsky's affidavit with him and within two weeks of his deposition. "As I testified before the grand jury, 'I believe that [Mr. Jordan] did notify us' when she signed the affidavit. While I do not remember the timing, as I told the grand jury, I have no reason to doubt Mr. Jordan's statement that he notified me about the affidavit around January 7, 1998." *See* Request for Admission number 29 and Grand Jury testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 525.

c. The President lied in his deposition about his being alone or in certain locations with a subordinate federal employee who was a witness in the action brought against him.

President Clinton gave the following testimony under oath in his deposition in the case of *Jones v. Clinton* regarding the subject:

Q. Is it true that when she worked at the White House she met with you several times?

A. I don't know about several times. There was a period when the Republican Congress shut the government down that the whole White House was being run by interns, and she was assigned to work back in the chief of staffs office, and we were all working there, and so I saw her on two or three occasions then, and then when she worked at the White House, I think there was one or two other times when she brought some documents to me.

Deposition of President Clinton, 1/17/98, pp. 50-51.

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

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

Q. Are there doors at both ends of the hallway?

A. They are, and they're always open.

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

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

Q. Do you remember anything that was said in any of those meetings.

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

Deposition of President Clinton, 1/17/98, p. 58.

The record indicates that a plan existed to cover the fact that they were alone and were having a sexual relationship. Monica Lewinsky provided the following testimony under oath regarding this subject:

Q. I would like to ask you some questions about any steps you took to keep your relationship with the President secret.

A. A lot.

Q. All right. Well, why don't we just ask the question open-endedly and we'll follow up.

A. Okay. I'm sure, as everyone can imagine, that this is a kind of relationship that you keep quiet, and we both wanted to be careful being in the White House. Whenever I would visit him during--when--during my tenure at the White House, we always--unless it was sort of a chance meeting on the weekend and then we ended up back in the office, we would usually plan that I would either bring papers, or one time we had accidentally bumped into each other in the hall and went from that way, so then we planned to do that again because that seemed to work well. But we always--there was always some sort of a cover.

Q. When you say you planned to bring papers, did you ever discuss with the President the fact that you would try to use that as a cover?

A. Yes.

Q. Okay. What did the two of you say in those conversations?

A. I don't remember exactly. I mean, in general, it might have been something like me saying, well, maybe once I got there kind of saying, "Oh, gee here are your letters," wink, wink, wink, and him saying: "Okay that's good," or-

Q. And as part of this concealment, if you will, did you carry around papers when you went to visit the President while you worked at Legislative Affairs?

A. Yes, I did.

Q. Did you ever actually bring him papers to sign as part of business?

A. No.

Q. Did you actually bring him papers at all?

A. Yes.

Q. All right. And tell us a little about that.

A. It varied. Sometimes it was just actual copies of letters. One time I wrote a really stupid poem. Sometimes I put gifts in the folder which I brought.

Q. And even on those occasions, was there a legitimate business purpose to that?

A. No.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 53-55, H. Doc. 105-311, p. 977.

President Clinton was also asked during his deposition on January 17, 1998:

Q. Has it ever happened that a White House record was created that reflected that Betty Currie was meeting with Monica Lewinsky when in fact you were meeting with Monica Lewinsky?

A. Not to my knowledge.

Deposition Testimony of President Clinton in the case of *Jones v. Clinton*, 1/17/98.

The record indicates the President had such discussions with Monica Lewinsky prior to December 17, 1997 that Betty Currie should be the one to clear Ms. Lewinsky in to see him so that Ms. Lewinsky could say that she was visiting with Ms. Currie instead of with him. Monica Lewinsky provided the following testimony under oath regarding this subject:

Q. Did you ever [prior to your conversation with the President on December 17] have discussions with the President about what you would say about your frequent visits with him after you had left legislative affairs?

A. Yes.

Q. Yes. What was that about?

A. I think we--we discussed that--you know, the backwards route of it was that Betty always needed to be the one to clear me in so that, you know, I could always say I was coming to see Betty.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 55, H. Doc. 105-311, p. 977.

Q. Did you come to have a telephone conversation with the President on December 17?

A. Yes. . .

Q. Tell us how the conversation went from there. . .

A. ... At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up, he sort of said, "You know, you can always say you were coming to see Betty or that you were bringing me letters." Which I understood was really a reminder of things that we had discussed before."

Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 123, H. Doc. 105-311, p. 843.

In his grand jury testimony, the President himself admits that he was alone with Ms. Lewinsky: "When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong." Grand Jury Testimony of President Clinton, 8/17/98, pp. 8-9, H. Doc. 105-311, pp. 460-61.

d. The President lied in his deposition about his knowledge of gifts exchanged between himself and a subordinate federal employee who was a witness in the action brought against him

The record indicates that the President did present each of these items as gifts to Monica Lewinsky:

1. A lithograph
2. A hatpin
3. A large "Black Dog" canvas bag
4. A large "Rockettes" blanket
5. A pin of the New York skyline
6. A box of "cherry chocolates"
7. A pair of novelty sunglasses
8. A stuffed animal from the "Black Dog"
9. A marble bear's head
10. A London pin

11. A shamrock pin
12. An Annie Lennox compact disc
13. Davidoff cigars

A chart prepared as part of her testimony before the Grand Jury details Monica Lewinsky's visits to the President and the exchange of gifts during those visits is contained in H. Doc. 105-3 11, pp. 1251-61.

The record indicates that the President gave false and misleading testimony in his deposition when he responded "once or twice" to the question "has Monica Lewinsky ever given you any gifts?"

Q. Has Monica Lewinsky ever given you any gifts?

A. Once or twice. I think she's given me a book or two.

Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 76.

The evidence shows that Ms. Lewinsky gave the President approximately a total of 38 gifts presented on numerous occasions. (See chart in House Document 105-3 11 pp. 125 1-61.)

The record indicates that the President had a discussion with Monica Lewinsky regarding the gifts he had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*.

A. We --we really spent maybe about five --no more than ten minutes talking about the Paula Jones case on [December 28] . . . I brought up the subject of the case because I was concerned about how I had been brought into the case and been put on the witness list. . . And then at some point I said to him, "Well, you know, I --maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty." And he sort of said -I think he responded, "I don't know" or "Let me think about that." And left that topic.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-3 11, p. 872; See also 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395.

Furthermore, the evidence shows that President Clinton and Monica Lewinsky discussed the hat pin gift on December 28, 1997, after Ms. Lewinsky received a subpoena calling for her to produce all gifts she received from Mr. Clinton, including any hat pins. Ms. Lewinsky stated under oath before the grand jury that "I mentioned that I had been concerned about the hat pin being on the subpoena and he said that that had sort of concerned him also and asked me if I had told anyone that he had given me the hat pin and I said no." Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-3 11, p. 1000.

The record indicates that the President stated that he did not recall giving gifts to Ms. Lewinsky even though he had knowledge:

Q. Well, have you ever given any gifts to Monica Lewinsky?

A. I don't recall. Do you know what they were?

Q. A hat pin?

A. I don't, I don't remember. But I certainly, I could have.

Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 75. See also request for admission number 41 for evidence of numerous gifts Mr. Clinton gave to Ms. Lewinsky.

e. The President lied in his deposition about his knowledge about whether he had ever spoken to a subordinate federal employee about the possibility that such subordinate employee might be called as a witness to testify in the federal civil rights action brought against him.

President Clinton was asked about this subject during his deposition on January 17, 1998:

Q. Did you ever talk with Monica Lewinsky about the possibility that she might be asked to testify on this case?

A. Bruce Lindsey, I think Bruce Lindsey told me that she was, I think maybe that's the first person [who] told me she was. I want to be as accurate as I can. . . .

Q. I believe I was starting to ask you a question a moment ago and we got sidetracked. Have you ever talked to Monica Lewinsky about the possibility that she might be asked to testify in this lawsuit?

A. I'm not sure, and let me tell you why I'm not sure. It seems to me the, the, the—I want to be as accurate as I can here. Seems to me the last time she was there to see Betty before Christmas we were joking about how you--all, with the help of the Rutherford Institute, were going to call every woman I'd ever talked to and ask them that, and so I said you would qualify, or something like that. I don't think we ever had more of a conversation than that about it”

Deposition Testimony of President Clinton in the case of *Jones v. Clinton*, 1/17/98 pp.70-71.

The record indicates that the President did indeed tell Monica Lewinsky about the appearance of her name on December 17,1998:

Q. ... Did you come to have a telephone conversation with the President on December 17?

A. Yes. . . .he told me he had some more bad news, that he had seen the witness list for the Paula Jones case and my name was on it. . .He told me that it didn't necessarily mean that I would be subpoenaed, but that that was a possibility, and if I were subpoenaed, that I should contact Betty and let Betty know that I had received the subpoena.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 123, H. Doc. 105-3 11, p. 843.

The record indicates that the President on or about December 17, 1997, made the suggestion to Monica Lewinsky that the submission of an affidavit in the case of *Jones v. Clinton* might prevent her from having to testify:

A. I believe I probably asked him, you know, what should I do in the course of that and he suggested, he said, “Well, maybe you can sign an affidavit.” ...

Q. When he said that you might sign an affidavit, what did you understand it to mean at that time?

A. I thought that signing an affidavit could range from anywhere --the point of it would be to deter or to prevent me from being deposed and so that that could range from anywhere between maybe just somehow mentioning, you know, innocuous things or going as far as maybe having to deny any kind of relationship.”

Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 123-24, H. Doc. 105-311, pp. 843-44.

Furthermore, Monica Lewinsky has stated that she is "100% sure that the President suggested that she might want to sign an affidavit to avoid testifying." 8/19/98 OIC interview of Monica Lewinsky, pp. 4-5, H. Doc. 105-3 11, pp. 1558-9.

f. The President lied in his deposition about his knowledge of the service of a subpoena to a subordinate federal employee to testify as a witness in the federal civil rights action brought against him.

The record indicates that despite evidence revealing the contrary, President Clinton swore in his deposition that Mr. Jordan did not know if Monica Lewinsky had been subpoenaed to testify in that case:

Q. Did she tell you she had been served with a subpoena in this case?

A. No. I don't know if she had been.

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

A. I don't think so.

Deposition Testimony of President Clinton in the case of *Jones v. Clinton*, 1/1 8/98, p. 68.

"I said to the President, 'Monica Lewinsky called me.... She is coming to see me about this subpoena.'" Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 145 (referencing a December 19, 1997, telephone conversation with the President), H. Doc. 105-316, p. 1815.

The record indicates that the President knew, before his deposition, that Monica Lewinsky had been subpoenaed in the case of *Jones v. Clinton*. Monica Lewinsky was served with a subpoena on December 19, 1997, a subpoena that commanded her to appear for a deposition on

January 23, 1998 and to produce certain documents and gifts. Monica Lewinsky talked to Vernon Jordan about it that day and Mr. Jordan spoke to the President shortly thereafter. The President and Ms. Lewinsky met on December 28th and discussed the subpoena.

g. The President lied in his deposition about his knowledge of the final conversation he had with a subordinate employee who was a witness in the federal civil rights action brought against him.

When asked in the *Jones* Deposition about his last meeting with Ms. Lewinsky, the President remembered only that she stopped by "probably sometime before Christmas" and he "stuck his head out [of the office], said hello to her" Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 68.

The President's answer was perjurious, false and misleading. The evidence reveals that the President and Ms. Lewinsky met for over 45 minutes on December 28, 1997. During this meeting, they exchanged gifts and discussed the subpoena that Ms. Lewinsky had received in the *Jones* case. In the answers to the requests for admission, the President admitted that he met with Ms. Lewinsky on December 28, 1997: "When I met with Ms. Lewinsky on December 28, 1997, I knew she was planning to move to New York, and we discussed her move." Response to Request for Admission No. 22. He further contradicts his deposition testimony and admits that he gave her gifts on that crucial day. See Response to Request for Admission No. 24.

h. The President lied in his deposition about his knowledge that the contents of an affidavit executed by a subordinate federal employee who was witness in the federal civil rights action brought against him.

The record indicates that the President, under oath, affirmed that the assertions made in Monica Lewinsky's affidavit were true, even though he knew they were false. During the January

17, 1998 deposition of President Clinton in the case of *Jones v. Clinton*, Robert Bennett, the President's attorney, read parts of the affidavit Monica Lewinsky had executed in the case of *Jones v. Clinton*. At one point Mr. Bennett read part of paragraph eight of Monica Lewinsky's affidavit, in which Monica Lewinsky asserts, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for reflecting a sexual relationship."

After reading from the affidavit out loud, Mr. Bennett asked the President: "Is that a true and accurate statement as far as you know it?" The President answered, "That is absolutely true." Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204.

During the January 17, 1998 deposition of President Clinton in the case of *Jones v. Clinton*, Robert Bennett, President Clinton's attorney, stated "Counsel is fully aware that Ms. Jane Doe #6 has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape of form, with President Clinton. . . ." Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 54.

The Grand Jury Testimony of Monica Lewinsky, given under oath and following a grant of transnational immunity, confirmed that the contents of her affidavit were not true:

Q. Paragraph 8 . . . [of the affidavit] says, I have never had a sexual relationship with the President. Is that true?

A. No.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 204, H. Doc. 105-3 11, p. 924.

C. Article III - Obstruction of Justice

The following explanations for the individual paragraphs of Article III clearly justify the conclusion that President Clinton, using the powers of his high office, engaged personally and through his subordinates and agents, in a course of conduct or plan designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to the duly instituted federal civil rights lawsuit of *Jones v. Clinton* and the duly instituted investigation of Independent Counsel Kenneth Starr.

Although, the actions of President Clinton do not have to rise to the level of violating the the federal statute regarding obstruction of justice in order to justify impeachment, some if not all of his actions clearly do. The general obstruction of justice statute is 18 U.S.C. §1503. It provides in relevant part: "whoever...corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or *endeavors* to influence, obstruct, or impede, the due administration of justice, shall be punished..." In short, §1503 applies to activities which obstruct, or are *intended to obstruct*, the due administration of justice in both civil and criminal proceedings.

To prove in a court of law that obstruction of justice had occurred, three things have to be proved beyond a reasonable doubt:

First, that there was a pending federal judicial proceeding;

Second, that the defendant knew of the proceeding; and

Third, that the defendant acted corruptly with the intent to obstruct or interfere with the proceeding or due administration of justice.

1. The Committee concluded that on or about December 17, 1997, William

Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading.

President Clinton admitted that he spoke to Ms. Lewinsky “before Christmas” and that, while he was not “sure” if she would be called to testify in the Paula Jones civil suit, she might “qualify, or something like that.” Deposition Testimony of President Clinton in the case of *Jones v. Clinton*, 1/17/98, pp. 70-71. While the President has denied asking or encouraging Ms. Lewinsky to lie by filing a false affidavit denying their relationship, he concedes in his response to Question 18 of the Committee’s Requests for Admission that he told her that “... other witnesses had executed affidavits, and there was a chance they would not have to testify.”

Monica Lewinsky was more emphatic on the subject in her grand jury testimony. When she asked the President what she should do if called to testify, he said, “‘Well, maybe you can sign an affidavit.’ ... [T]he point of it would be to deter or to prevent me from being deposed and so that could range anywhere between ... just somehow mentioning ... innocuous things or going as far as maybe having to deny any kind of relationship.” Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 123-24, H. Doc. 105-311, pp. 843-44. She further stated that she was “100% sure that the President suggested that she might want to sign an affidavit to avoid testifying.” 8/19/98 Office of Independent Counsel (OIC) interview of Monica Lewinsky, pp. 4-5 H. Doc. 105-311, pp. 1558-9.

Ms. Lewinsky also notes that the President never explicitly instructed her to lie about the

matter; rather, since the President never told her to file an affidavit detailing the true nature of their sexual relationship -- which would only invite humiliation and prove damaging to the President in the Paula Jones case -- she contextually understood that the President wanted her to lie. See the OIC Referral, H. Doc. 105-310, p. 174.

Furthermore, the attorneys for Paula Jones were seeking evidence of sexual relationships the President may have had with other state or federal employees. Such information is often deemed relevant in sexual harassment lawsuits to help prove the underlying claim of the Plaintiff and Judge Susan Weber Wright ruled that Paula Jones was entitled to this information for purposes of discovery. Consequently, when the President encouraged Monica Lewinsky to file an affidavit, he knew that it would have to be false for Ms. Lewinsky to avoid testifying. If she filed a truthful affidavit, one acknowledging a sexual relationship with the president, she certainly would have been called as a deposition witness and her subsequent truthful testimony would have been damaging to the President both politically and legally.

2. The Committee concluded that on or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding.

Prior to December 17, 1997, the record demonstrates that the President and Monica Lewinsky had discussed the use of fabricated stories to conceal their relationship. The record also reveals that the President revisited this same topic in a telephone conversation with Monica

Lewinsky on December 17, 1997; in fact, she was encouraged to repeat these fabrications if called to testify in the Paula Jones case.

In his grand jury testimony as well as his response to the Committee's Requests for Admission, the President claimed that he had "no specific memory" of a conversation prior to December 17, 1997, in which he suggested that Ms. Lewinsky invoke cover stories to explain why she was alone with the President. He conceded, however, that he "... may have talked about what to do in a non-legal context at some point in the past, ...[but that] ... any such conversation was not in connection with her status as a witness in the *Jones v. Clinton* case." Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 569; Responses of President Clinton to Question Nos. 13-15 in the Committee's Requests for Admissions. President Clinton's testimony here is clearly designed to be convenient; he has "no specific memory" of a conversation with Ms. Lewinsky regarding cover stories, by if the conversation did occur, he is certain it was in a "non-legal context."

Ms. Lewinsky's testimony conflicts with that of the President. In her grand jury testimony, she states that... this is a kind of relationship that you keep quiet, and we both wanted to be careful being in the White House. Whenever I would visit him ... unless it was some sort of chance meeting on the weekend and then we ended up back in the office, we would usually plan that I would either bring papers, or one time we accidentally bumped into each other in the hall and went from that way, so then we planned to do that again because that seemed to work well. But ... there was always some sort of a cover. Grand Jury Testimony of Monica Lewinsky, 8/6/98, H. Doc. 105-311, p. 977.

Ms. Lewinsky admits further that delivering documents to the President was a ruse that

had no legitimate business purpose. *Id.*

In addition, the President and Ms. Lewinsky developed a second cover story by using Betty Currie as a source of clearance to the White House for Ms. Lewinsky; in other words, Ms. Lewinsky could claim she was visiting Ms. Currie, and not the President. *Id.* The President has stated that he had “no knowledge” of any “White House record” constructed for this purpose. Deposition of President Clinton, 1/17/98, p. 54.

Consistent with these events, during a telephone conversation with Monica Lewinsky on December 17, 1997, a conversation in which the President informed Monica Lewinsky that she was on the witness list in the case of *Jones v. Clinton*, the President encouraged Ms. Lewinsky to invoke either of these cover stories if called to testify in the Paula Jones case. Ms. Lewinsky stated in her grand jury testimony that: “[a]t some point in the conversation, and I don’t know if it was before or after the subject of the affidavit came up, he sort of said, ‘You know, you can always say you were coming to see Betty or that you were bringing me letters.’ Which I understood was really a reminder of things we had discussed before.” Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 123, H. Doc. 105-311, p. 843.

3. The Committee concluded that on or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him.

On December 19, 1997, Monica Lewinsky was served with a subpoena in connection with

the case of *Jones v. Clinton*. The subpoena required her to testify at a deposition on January 23, 1998. The subpoena also required her to produce each and every gift given to her by President Clinton. On the morning of December 28, Ms. Lewinsky met with the President for about 45 minutes in the Oval Office. By this time, President Clinton knew Ms. Lewinsky had been subpoenaed. At this meeting they discussed the fact that the gifts had been subpoenaed, including a hat pin, the first gift Clinton had given Lewinsky. Monica Lewinsky testified that at some point in this meeting she said to the President, "Well, you know, I - maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty. And he sort of said - I think he responded, 'I don't know' or 'Let me think about that.' And left that topic." Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-311, p. 872; See also 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395. Ms. Lewinsky also testified that both she and the President had a specific concern about the hat pin being on the list; "I mentioned that I had been concerned about the hat pin being on the subpoena and he said that had sort of concerned him also." Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-311, p. 872; see also 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395.

President Clinton provided the following explanation to the grand jury and this Committee regarding this conversation: "Ms. Lewinsky said something to me like, 'what if they ask me about the gifts you've given me,' but I do not know whether that conversation occurred on December 28, 1997, or earlier. Whenever this conversation occurred, I testified, I told her 'that if they asked her for gifts, she'd have to give them whatever she had....' I simply was not concerned about the fact that I had given her gifts. Indeed, I gave her additional gifts on December 28,

1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her." Request for Admission number 24; see also Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 495-98.

Ms. Lewinsky testified that she was never under the impression from anything the President said that she should turn over to Ms. Jones's attorneys all the gifts that he had given her. Deposition of Monica Lewinsky, 8/26/98, p. 58, H. Doc. 105-311, p. 1337.

Additionally, she said she can't answer why the President would give her more gifts on the 28th when he knew she was under an obligation to produce gifts in response to a subpoena. She did testify, however, that, "to me it was never a question in my mind and I -- from everything he said to me, I never questioned him, that we were never going to do anything but keep this private, so that meant deny it and that meant do-take whatever appropriate steps needed to be taken, you know, for that to happen....So by turning over these gifts, it would at least prompt [the Jones attorneys] to question me about what kind of friendship I had with the President..." Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp.166-67, H. Doc. 105-311, pp. 886-87.

After this meeting on the morning of December 28th, Ms. Currie called Monica Lewinsky and made arrangements to pick up gifts the President had given to Ms. Lewinsky. Monica Lewinsky testified under oath before the grand jury that a few hours after meeting with the President on December 28, 1997, a meeting in which Ms. Lewinsky and President Clinton discussed the fact that gifts given to her by Mr. Clinton had been subpoenaed in the case of *Jones v. Clinton*, Betty Currie called her. The record indicates the following discussion occurred:

Q. What did [Betty Currie] say?

A. She said, "I understand you have something to give me." Or, "The President said you

have something to give me." Along those lines. . . .

Q. When she said something along the lines of "I understand you have something to give me," or "The President says you have something for me," what did you understand her to mean?

A. The gifts.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 154-55, H. Doc. 105-311, pp. 874.

Later in the day on December 28, Ms. Currie drove to Ms. Lewinsky's home and Ms. Lewinsky gave her a sealed box that contained several gifts Ms. Lewinsky had received from the President, including the hat pin. Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 156-58, H. Doc. 105-311, pp. 875-78. Ms. Currie testified that she understood the box contained gifts from the President. She took the box home and put it under her bed. Grand Jury Testimony of Betty Currie, 5/6/98, pp. 107-8, H. Doc. 105-316, p. 581. In Monica Lewinsky's February 1, 1998 handwritten statement to the OIC, which Ms. Lewinsky has testified is truthful, she stated, "Ms. Currie called Ms. L later that afternoon and said that the Pres. had told her Ms. L wanted her to hold onto something for her. Ms. L boxed up most of the gifts she had received and gave them to Ms. Currie." 2/1/98 Handwritten Proffer of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 715.

Betty Currie testified that she did not recall the President telling her that Ms. Lewinsky wanted her to retrieve and hold some items; that Ms. Lewinsky called her and asked her to come get the gifts. Grand Jury Testimony of Betty Currie, 5/6/98, pp. 105-6, H. Doc. 105-316, p. 581. When asked if a contrary statement by Ms. Lewinsky--indicating that Ms. Currie had in fact spoken to the President about the gift transfer--would be false, Ms. Currie replied: "She may remember better than I. I don't remember." Grand Jury Testimony of Betty Currie, 5/6/98, p.

126, H. Doc. 105-316, p. 584.

Further evidence before the Committee reveals that Betty Currie telephoned Monica Lewinsky regarding the gifts, and not the other way around:

Mr. Schippers: When Ms. Currie, when they wanted to get rid of the gifts, Ms. Currie went and picked them up, put them under her bed to keep them from anybody else. Another mission accomplished?

Mr. Starr: That's right.

Mr. Schippers: By the way, there has been some talk here that Monica said that she recalled that Betty Currie called her and said, either the President wants me to pick something up, or I understand you have something for me to pick up. Later, Ms. Currie backed off that and said, well, I am not sure, maybe Monica called me. In the material that you made available, you and your staff made available to us, there were 302s in which Monica said, I think when Betty called me, she was using her cell phone. Do you recall that, Judge Starr?

Mr. Starr: I do.

Mr. Schippers: And in that same material that is in your office that both parties were able to review and that we did, in fact, review, there are phone records of Ms. Currie; are there not?

Mr. Starr: There are.

Mr. Schippers: And there is a telephone call on her cell phone to Monica Lewinsky's home on the afternoon of December 28, 1997; isn't there?

Mr. Starr: That is correct.

Mr. Schippers: Once again, Monica is right and she has been corroborated, right?

Mr. Starr: That certainly tends to corroborate Ms. Lewinsky's recollection.

Impeachment Hearing on Inquiry Pursuant to H. Res. 581, Thursday, November 19, 1998,
Transcript pp. 407-409.

President Clinton testified before the grand jury, and reiterated to this Committee

(Request for Admission Number 26) that he did not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts previously given to Ms. Lewinsky and that he never told Ms. Currie to take possession of gifts he had given Ms. Lewinsky. Grand Jury Testimony of President Clinton, 8/17/98, p. 50, H. Doc. 105-311, p. 502; see also *Id.* at 113-114, H. Doc. 105-311 at 565-66. The Committee believes this answer is false because the evidence reveals that Betty Currie *did* call Monica Lewinsky about the gifts and there is no reason for her to do so unless instructed by the President. Because she did not personally know of the gift issue, there is no other way Ms. Currie could have known to call Ms. Lewinsky about the gifts unless the President told her to do so. The President had a motive to conceal the gifts because both he and Ms. Lewinsky were concerned that the gifts might raise questions about their relationship. By confirming that the gifts would not be produced, the President ensured that these questions would not arise. The concealment and non-production of the gifts to the attorneys for Paula Jones, allowed the President to provide false and misleading statements about the gifts at his deposition in the case of *Jones v. Clinton*. Additionally, Ms. Lewinsky's testimony on this subject has been consistent and unequivocal; she recited the same facts in February, July and August.

4. The Committee concluded that beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly

prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him.

Although Monica Lewinsky discussed jobs in New York with the President in October, interviewed with Bill Richardson in October and met with Vernon Jordan regarding her move to New York on November 5, 1997, the effort to obtain a job for Monica Lewinsky in New York intensified after the President learned, on December 6, 1997, that Monica Lewinsky was listed on the witness list for the case of *Jones v. Clinton*.

On December 7, 1997, President Clinton met with Vernon Jordan at the White House. Ms. Lewinsky met with Mr. Jordan on December 11 to discuss specific job contacts in New York. Jordan then made calls to certain New York companies on Ms. Lewinsky's behalf. Jordan telephoned President Clinton to keep him informed of the efforts to get Ms. Lewinsky a job. Grand Jury Testimony of Vernon Jordan, 3/3/98, pp. 64-66, H. Doc. 105-316, pp. 1710-11.

On December 11, Judge Wright ordered President Clinton to answer interrogatories, including whether he has engaged in sexual relations with any government employees. On December 16, the President's attorneys received a request for production of documents that mentioned Monica Lewinsky by name. On December 18 and 23, Monica Lewinsky interviewed with New York based companies that had been contacted by Vernon Jordan. On December 19, Monica Lewinsky was served with a deposition subpoena in the case of *Jones v. Clinton*. On December 22, Vernon Jordan took Monica Lewinsky to see her new attorney, Frank Carter, who had been recommended by Vernon Jordan. During the car ride to Mr. Carter's office, Monica Lewinsky and Vernon Jordan discussed the subpoena, the case of *Jones v. Clinton*, and her job search. Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 138-42, H. Doc. 105-311, pp.

997-98; see also Grand Jury Testimony of Vernon Jordan, 3/3/98, p.183-85, H. Doc. 105-316, p. 1730.

On December 28, 1997, the President had a discussion with Monica Lewinsky at the White House in which they discussed Monica Lewinsky's involvement in the case of *Jones v. Clinton* and her plan to move to New York. Ms. Lewinsky recalled that President Clinton suggested to her that she move to New York soon because by moving to New York, the lawyers representing Paula Jones in the case of *Jones v. Clinton* may not contact her. The following statement was recorded by an OIC investigator after interviewing Monica Lewinsky:

"On December 28, 1997, Lewinsky visited the President at the White House. . . the President said that if Lewinsky was in New York the Jones lawyers might not call; that the sooner Lewinsky moved the better; and that maybe the lawyers would ignore her." 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395.

The President stated to the Committee he did not suggest that Monica Lewinsky could avoid testifying in the *Jones v. Clinton* case by moving to New York. See Request for Admission number 23.

On January 5, Monica Lewinsky had a telephone conversation with the President in which they discussed the signing of an affidavit in the case of *Jones v. Clinton*. Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 191-98, H. Doc 105-311, pp. 1010-12. On January 7, 1998, Monica Lewinsky signed an affidavit to be filed in the case of *Jones v. Clinton* in which she denied having a sexual relationship with President Clinton. On or about January 7, 1998, the President had a discussion with Vernon Jordan in which Mr. Jordan mentioned that he was assisting Monica Lewinsky in finding a job in New York. Mr. Jordan made the following

statement before the grand jury: "I'm sure I said, 'I'm still working on her job [in New York]'.
To which Jordan quotes the President as responding, "Good." Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 225-26, H. Doc. 105-316, p. 1828-29. President Clinton acknowledges that he was aware that Mr. Jordan was assisting Ms. Lewinsky in her job search in connection with her move to New York. See Request for Admission number 31.

On January 8, 1998, Monica Lewinsky interviewed in New York with MacAndrews and Forbes, a company recommended by Vernon Jordan. Ms. Lewinsky informed Mr. Jordan that the interview did not go well, so he called the Chairman of the Board and Chief Executive Officer at MacAndrews and Forbes. Ms. Lewinsky was given a second interview with MacAndrews and Forbes on the morning of January 9, 1998, and she was given an informal job offer that she informally accepted on the afternoon of January 9th. Ms. Lewinsky conveyed the news of the job offer to Vernon Jordan. Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 206-210, H. Doc. pp. 1014-15; Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 229-31, H. Doc. 105-316, p. 1829. On or about January 9, 1998, the President received a message from Vernon Jordan indicating that Monica Lewinsky had received a job offer in New York. Sometime shortly thereafter, Vernon Jordan had a conversation with the President, during which Vernon Jordan testified that he told the President, "Monica Lewinsky's going to work for Revlon and his response was thank you very much." Grand Jury Testimony of Vernon Jordan, 5/28/98, p. 59, H. Doc. 105-316, p. 1903. The President acknowledges that he was informed that Monica Lewinsky had received a job offer in New York, but cannot recall who told him or when he first learned of the job offer. See Request for Admission number 37.

On January 13, 1998, Monica Lewinsky received a formalized job offer from Revlon (a

MacAndrews and Forbes company) and was asked to provide references. The evidence shows that President Clinton, after learning of Monica Lewinsky's New York job offer, asked Erskine Bowles if he would ask John Hilley to give Ms. Lewinsky a job recommendation. Mr. Bowles testified that the President told him that "[Monica Lewinsky] had found a job in the private sector, and that she had listed John Hilley as a reference, and could we see if he could recommend her, if asked." Grand Jury Testimony of Erskine Bowles, 4/2/98, p. 78, H. Doc. 105-316, p. 238.

It is logical to infer from this chain of events that the efforts of the President and others at the President's direction to obtain a job in New York for Monica Lewinsky were motivated to influence the testimony of a potential witness in the case of *Jones v. Clinton*, if not to prevent her testimony outright. The job search for Monica Lewinsky was intensified in late 1997, when it became likely that Monica Lewinsky would be asked to provide testimony in the case of *Jones v. Clinton* and her truthful testimony would be harmful to the President.

5. The Committee concluded that on January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge.

On January 15, 1998, Robert Bennett, attorney for President Clinton in the case of *Jones*

v. Clinton, obtained a copy of the affidavit Monica Lewinsky filed in an attempt to avoid having to testify in the case of *Jones v. Clinton*. Grand Jury Testimony of Frank Carter, 6/18/98, pp.112-13, H. Doc. 105-316, pp. 420-21. In this affidavit, Monica Lewinsky asserted that she had never had a sexual relationship with President Clinton. At the President's deposition on January 17, 1988, an attorney for Paula Jones began to ask the President questions about his relationship with Ms. Lewinsky. Mr. Bennett objected to the "innuendo" of the questions and he pointed out that she had signed an affidavit denying a sexual relationship with the President. Mr. Bennett asserted that this indicated "there is no sex of any kind in any manner, shape or form," and after a warning from Judge Wright he stated that, "I am not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's affidavit, so I have not told him a single thing he doesn't know." Mr. Bennett clearly used the affidavit in an attempt to stop the questioning of the President about Ms. Lewinsky. The President did not say anything to correct Mr. Bennett even though he knew the affidavit was false. Judge Wright overruled Mr. Bennett's objection and allowed the questioning to proceed. Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 54. Later in the deposition, Mr. Bennett read the President the portion of Ms. Lewinsky's affidavit in which she denied having a "sexual relationship" with the President and asked the President if Ms. Lewinsky's statement was true and accurate. The President responded: "That is absolutely true." Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204. The Grand Jury Testimony of Monica Lewinsky, given under oath and following a grant of transnational immunity, confirmed that the contents of her affidavit were not true:

Q. Paragraph 8 . . . [of the affidavit] says, 'I have never had a sexual relationship with the

President.' Is that true?

A. No.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, H. Doc. 105-311, p. 924.

When President Clinton was asked during his grand jury testimony how he could have lawfully sat silent at his deposition while his attorney made a false statement ("there is no sex of any kind, in any manner shape or form") to a United States District Court Judge, the President first said that he was not paying "a great deal of attention" to Mr. Bennett when he said this. The President also stated that "I didn't pay any attention to this colloquy that went on." The videotaped deposition shows the President looking in Mr. Bennett's direction while Mr. Bennett was making the statement about no sex of any kind. The President then argued that when Mr. Bennett made the assertion that there "is no sex of any kind..." Mr. Bennett was speaking only in the present tense. The President stated, "It depends on what the meaning of the word 'is' is," and that "if it means there is none, that was a completely true statement." Grand Jury Testimony of President Clinton, 8/17/98, pp. 57-61, H. Doc. 105-311, pp. 509-513; see also *id.*, pp. 24-25, H. Doc. 105-311, pp. 476-77. President Clinton's suggestion that he might have engaged in such a parsing of the words at his deposition is at odds with his assertion that the whole argument just passed him by.

6. The Committee concluded that on or about January 18 and January 20-21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

On or about January 18 and January 20-21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against

him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness.

The record reflects that President Clinton attempted to influence the testimony of Betty Currie, his personal secretary, by coaching her to recite inaccurate answers to possible questions that might be asked of her if called to testify in the case of *Jones v. Clinton*. The President did this shortly after he had been deposed in the case. In his deposition, when asked about whether it would be extraordinary for Betty Currie to be in the White House between midnight and six a.m., the President answered in part, “those are questions you’d have to ask her.” Deposition of President Clinton in the case of *Jones v. Clinton*, page 21 of the publically released document. Furthermore, he invokes Betty Currie’s name numerous times throughout the deposition, oftentimes asserting that Monica was around to see Betty and that Betty talked about Vernon Jordan helping Ms. Lewinsky and Betty talked with Ms. Lewinsky about her move to New York. After mentioning Betty Currie so often in answers to questions during his deposition, it was very logical for the President to assume that the Jones Lawyers may call her as a witness. That is why the President called her about two hours after the completion of his deposition and asked her to come in to the office the next day, which was a Sunday. See Request for Admission number 47.

In his grand jury testimony and responses to the Committee’s Requests for Admission, the President was occasionally evasive and vague on this point. He stated that on January 18, 1998, he met with Ms. Currie and “... asked her certain questions, in an effort to get as much information as quickly as I could and made certain statements, although I do not remember exactly what I said.” Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 508; Response of President Clinton to Question No. 52 of the Committee’s Requests for

Admission. The President added that he urged Ms. Currie to “tell the truth” after learning that the Office of Independent Counsel (OIC) might subpoena her to testify. *Id.* at p. 591.

The President also stated that he could not recall how many times he had talked to Ms. Currie or when, in response to OIC questioning on the subject of a similar meeting that took place on or about January 20 or 21, 1998. He claimed that by asking questions of Ms. Currie he was only attempting to “... ascertain what the facts were, trying to ascertain what Betty’s perception was.” Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-311, pp. 592-93; Response of President Clinton to Question No. 53 of the Committee’s Requests for Admission.

While testifying before the grand jury, Ms. Currie was more precise in her recollection of the two meetings. An OIC attorney asked her if the President had made a series of leading statements or questions that were similar to the following:

1. You were always there when she [Monica Lewinsky] was there, right? We were never really alone.
2. You could see hear and hear everything.
3. Monica came on to me, and I never touched her, right?
4. She wanted to have sex with me and I couldn’t do that.

Question No. 53, Committee’s Requests for Admission; OIC Referral, H. Doc. 105-310, p. 191.

In her testimony Ms. Currie indicated that the President’s remarks were “more like statements than questions.” Based on his demeanor and the manner in which he asked the questions, she concluded that the President wanted her to agree with him. Ms. Currie thought that the President was attempting to gauge her reaction, and appeared concerned. OIC Referral, H. Doc. 105-310, pp. 191-92; Grand Jury Testimony of Betty Currie, 1/27/98, pp. 71-76, H. Doc.

105-316, pp. 559-60.

Ms. Currie also acknowledged that while she indicated to the President that she agreed with him, in fact she knew that, at times, he was alone with Ms. Lewinsky and that she could not or did not hear or see the two of them while they were alone. Id.

As to their subsequent meeting on January 20 or 21, 1998, Ms. Currie stated that "... it was sort of a recapitulation of what we had talked about on Sunday [January 18, 1998]" Grand Jury Testimony of Betty Currie, 1/27/98, p. 81, H. Doc. 105-316, p. 561.

The President's response that he was trying to ascertain what the facts were or trying to ascertain what Betty's perception was is simply not credible in light of the fact that 3 of the 4 statements he made to Ms. Currie were clearly false. This is further evidence that he was trying to influence the testimony of a potential witness. Why would the President be trying to get information from her about false statements or refresh his collection concerning falsehoods?

7. The Committee concluded that on or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information.

The record reflects that on the dates in question President Clinton met with a total of five aides who would later be called to testify before the grand jury. The meetings took place shortly after the President's deposition in the Paula Jones case and following a *Washington Post* story, published on January 21, 1998, which detailed the relationship between the President and Monica Lewinsky. During the meetings the President made false and misleading statements to his aides which he knew would be repeated once they were called to testify.

The President submitted the same response to each of seven questions (Nos. 62-68) relating to this topic as set forth in the Committee's Requests for Admission. The President answered by stating that "... I did not want my family friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, *Washington Post* article, I misled people about this relationship. I have repeatedly apologized for doing so." Response of President Clinton to Question Nos. 62-68 of the Committee's Requests for Admission.

The President's public "apology" occurred on August 17, 1998, during a nationally-televised broadcast in which he confessed having made "misleading" statements about the nature of his relationship with Monica Lewinsky. It should be noted, however, that the "apology" was delivered after August 3, 1998, the date on which a White House physician drew a blood sample from the President for DNA testing by the Federal Bureau of Investigation (FBI). The President therefore knew that, potentially, the sample might be matched with semen that may have been preserved on an article of clothing or some other item belonging to Ms. Lewinsky. This, in fact, occurred on August 17, 1998, when the FBI released its DNA report that linked the President (based on his blood sample) to a semen stain on one of Ms. Lewinsky's dresses. OIC Referral, H.

Doc. 105-310, p. 136, n. 42 and p. 138, pp. 51 and 52.

According to the aides who met with the President on the days in question, he insisted unequivocally that he had not indulged in a sexual relationship with Ms. Lewinsky or otherwise done anything inappropriate. On January 21, 1998, in a conversation with Sydney Blumenthal, one of his Assistants, the President said that he rebuffed Monica Lewinsky after she “... came at me and made a sexual demand on me.” The President also told Mr. Blumenthal, “I haven’t done anything wrong.” Grand Jury Testimony of Sydney Blumenthal, 6/4/98, p. 49, H. Doc. 105-316, p. 185.

Also on January 21, 1998, the President met with Erskine Bowles, his Chief of Staff, and two of Mr. Bowles’ Deputies, Sylvia Matthews and John Podesta. The President began the meeting by telling Mr. Bowles that the *Washington Post* story was not true. (Grand Jury Testimony of John Podesta, 6/16/98, p. 85, H. Doc. 105-316, p. 3310). He said that he had not had a sexual relationship with her, and had not asked anyone to lie. *Id.*; Grand Jury Testimony of Erskine Bowles, 4/2/98, pp. 83-4, H. Doc. 105-316, p. 239.

Two days later (January 23, 1998), as he was preparing for his State of the Union address, the President engaged Mr. Podesta in another conversation in which he “... was extremely explicit in saying he never had sex with her.” When the OIC attorney asked for greater specificity, Mr. Podesta stated that the President said he had not had oral sex with Ms. Lewinsky, and in fact was “... denying any sex in any way, shape or form” Grand Jury Testimony of John Podesta, 6/16/98, pp. 91-3, H. Doc. 105-316, p. 3311. The President also explained that Ms. Lewinsky’s frequent visits to the White House were nothing more than efforts to visit Betty Currie. Ms.

Currie was either with the President and Ms. Lewinsky during these “visits,” or she was seated at her desk outside the Oval Office with the door open. *Id.*, p. 3310.

Finally, on January 26, 1998, the President met with Harold Ickes, another Deputy Chief of Staff to Mr. Bowles. At the time, the President said that he had not had a sexual relationship with Ms. Lewinsky, had not obstructed justice in the matter, and had not instructed anyone to lie or obstruct justice. Grand Jury Testimony of Harold Ickes, 6/10/98, pp. 21, 73, H. Doc. 105-316, pp. 1487, 1539.

By his own admission more than seven months later, the President said that he had told a number of his aides that he did not “... have an affair with [Ms. Lewinsky] or ... have sex with her.” He also admitted that he knew that these aides might be called before the grand jury as witnesses. Grand Jury Testimony of President Clinton, 8/17/98, pp. 105-07, H. Doc. 105-311, p. 647.

D. Article IV - Abuse of Power

1. The President abused his power by refusing and failing to respond to certain written requests for admission and willfully made perjurious, false, and misleading sworn statements in response to certain written requests for admission propounded to him by the Committee.

Using the powers and influence of the office of President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in disregard of his constitutional duty to take care that the laws be faithfully executed, has engaged in conduct that resulted in misuse and abuse of his high office, impaired the due and proper administration of justice and the conduct of lawful inquiries,

and contravened the authority of the legislative branch and the truth seeking purpose of a coordinate investigative proceeding, in that, as President, William Jefferson Clinton refused and failed to respond to certain written requests for admission and willfully made perjurious, false and misleading sworn statements in response to certain written requests for admissions propounded to him as part of the impeachment inquiry authorized by the House of Representatives of the Congress of the United States. William Jefferson Clinton, in refusing and failing to respond and in making perjurious, false and misleading statements, assumed to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives and exhibited contempt for the inquiry.

On November 5, 1998, the Committee presented President Clinton with 81 requests for admission. The requests were made in order to allow the President to candidly dispute or affirm key sworn evidence before the Committee by admitting or denying certain facts. The President responded to the requests on November 27, 1998. After a thorough review of the President's answers, the Committee concluded that several of the President's answers to the 81 questions asked of him by the Committee are clearly perjurious, false, and misleading. In responding in such a manner, the President exhibited contempt for the constitutional prerogative of Congress to conduct an impeachment inquiry. The impeachment duty is a solemn one vested exclusively in the House of Representatives as a check and balance on the President and the Judiciary. The Committee reached the unfortunate conclusion that the President, by giving perjurious, false, and misleading answers under oath to the Committee's requests for admission, chose to take steps to thwart this serious constitutional process.

A further intention of the Committee in propounding these questions to the President was

to expedite the impeachment inquiry and offer the President an opportunity to provide exculpatory evidence to the Committee. Unfortunately, the President chose to perpetuate the lying he began at his deposition last January and the lying and legal hairsplitting he engaged in during his grand jury testimony in August. His answers are a continuation of a pattern of deceit and obstruction of duly authorized investigations.

Article IV states the matter quite succinctly, “William Jefferson Clinton, in refusing and failing to respond and in making perjurious, false and misleading statements, assumed to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives and exhibited contempt for the inquiry.”

Several instances of perjurious, false, and misleading statements that President Clinton provided in his answers to the 81 requests for admission propounded by this Committee are set forth below:

a. Request for Admission, Number 19

Q. Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that she could say to anyone inquiring about her relationship with you that her visits to the Oval Office were for the purpose of visiting with Betty Currie or to deliver papers to you?

A. I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I “may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation.” App. At 569. That continues to be my recollection today—that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.

By December 17, 1997, the President knew Ms. Lewinsky was on the witness list in the case of *Jones v. Clinton*. The President reiterated to this Committee his grand jury testimony that

he “may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation.” Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 569. The President goes on to tell the Committee that “that continues to be my recollection today—that is, any such conversation was not in connection with her status as a witness...”

Monica Lewinsky testified before the grand jury that the President did suggest, during a phone conversation resulting from a call from the President in the middle of the night on December 17, using these cover stories if she was called as a witness. Grand Jury testimony of Monica Lewinsky, 8/6/98, p. 123, H. Doc. 105-311, p. 843. This was a reiteration of stories they had concocted and ruses they had implemented long before December 17, 1997, as part of their plan to try to keep their relationship secret. Ms. Lewinsky’s recollection has been clear and consistent regarding this phone conversation, as it has been on many other subjects. Furthermore, it is odd that the President has "no specific memory" of a conversation with Ms. Lewinsky regarding cover stories, but if the conversation did occur, he is certain it was in a "non-legal context."

b. Request for Admission, Number 20

Q. Do you admit or deny that you gave false and misleading testimony under oath when you stated during your deposition in the case of *Jones v. Clinton* on January 17, 1998, that you did not know if Monica Lewinsky had been subpoenaed to testify in that case?

A. It’s evident from my testimony on pages 69 to 70 of the deposition that I did know on January 17, 1998, that Ms. Lewinsky had been subpoenaed in the Jones v. Clinton case. Ms. Jones’ lawyer’s question, “did you talk to Mr. Lindsey about what action, if any, should be taken as a result of her being served with a subpoena?”, and my response, “No,” id. at 70, reflected my understanding that Ms. Lewinsky had been subpoenaed. That testimony was not false and misleading.

The President argued that it is evident from his testimony in that deposition that he did know that Ms. Lewinsky had been subpoenaed and his answers exhibit this knowledge. He makes this assertion despite the fact that during his deposition in the case of *Jones v. Clinton*, he responded "No. I don't know if she had been." when asked the question, "Did she tell you she had been served with a subpoena in this case?" Deposition Testimony of President Clinton, 1/17/98 in the case of *Jones v. Clinton*. His subsequent attempts to deny this denial are unreasonable and are still inconsistent with the fact that he actually had discussed the subpoena with Monica Lewinsky on December 28, 1997.

c. Request for Admission, Number 24

Q. Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding gifts you had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*?

A. As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. At 495, but I do not know whether that conversation occurred on December 28, 1997, or earlier. Ibid. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had. . . ." App. At 495. I simply was not concerned about the fact that I had given her gifts. See App. At 495-98. Indeed, I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her. App. At 496.

In his response to Request for Admission number 24, the President reiterated his grand jury testimony that when he talked to Ms. Lewinsky about subpoenaed gifts he told her "that if they asked her for gifts, she'd have to give them whatever she had." The President's statement that he told Ms. Lewinsky that if the attorneys for Paula Jones asked for the gifts she had to provide them is false and misleading. It simply strains logic to believe the President would encourage Monica Lewinsky to turn over the gifts. To do so would have raised questions about

their relationship and would have been contrary to all of their other efforts to conceal the relationship, including a discussion about filing an affidavit denying a sexual relationship.

d. Request for Admission, Number 26

Q. Do you admit or deny that on or about December 28, 1997, you discussed with Betty Currie gifts previously given by you to Monica Lewinsky?

A. I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms. Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. At 531.

In his response to Request for Admission number 26, the President denies any conversation with Betty Currie regarding gifts. President Clinton testified before the grand jury, and reiterates to this Committee that he did not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts previously given to Ms. Lewinsky and that he never told Ms. Currie to take possession of gifts he had given Ms. Lewinsky. Grand Jury Testimony of President Clinton, 8/17/98, p. 50, H. Doc. 105-311, pp. 565-66. This answer is false and misleading because the evidence reveals that Betty Currie did call Monica Lewinsky about the gifts and there was no reason for her to do so unless she was told to do so by the President. Because she did not personally know of the gifts, there is no other way Ms. Currie could have known to call Ms. Lewinsky about the gifts unless the President told her to do so. The President had a motive to conceal the gifts because both he and Ms. Lewinsky were concerned that the gifts might raise questions about their relationship. By confirming that the gifts would not be produced, the President ensured that these questions would not arise. The concealment and non-production of the gifts to the attorneys for Paula Jones allowed the President to provide false and misleading statements about the gifts at his deposition in the case of *Jones v. Clinton*. Ms.

Lewinsky's testimony on this subject has been consistent and unequivocal, she provided the same facts in February, July and August, 1998. Additionally, the cellular phone records of Betty Currie indicate that Betty Currie called Monica Lewinsky on the afternoon of December 28, 1997.

e. Request for Admission, Number 27

Q. Do you admit or deny that on or about December 28, 1998 [sic], you requested, instructed, suggested to or otherwise discussed with Betty Currie that she take possession of gifts previously given to Monica Lewinsky by you?

A. I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms. Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. At 531.

Based on the facts set forth in the Committee's explanation of Request for Admission number 26, the President's response to Request for Admission number 27 is also perjurious, false and misleading.

f. Request for Admission, Number 34

Q. Do you admit or deny that you had knowledge that any facts or assertions contained in the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton* were not true?

A. I was asked at my deposition in January about two paragraphs of Ms. Lewinsky's affidavit. With respect to Paragraph 6, I explained the extent to which I was able to attest to its accuracy. Dep. at 202-03.

With respect to Paragraph 8, I stated in my deposition that it was true. Dep. at 204. In my August 17th grand jury testimony, I sought to explain the basis for that deposition answer: "I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate." App. At 473.

In the affidavit in question, Monica Lewinsky asserted that she had never had a sexual relationship with President Clinton. The President quotes from his grand jury testimony, "I

believe at the time she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then it is accurate." Grand Jury Testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 473. He made this statement despite the fact that at the President's deposition on January 17, 1988, his attorney asserted that the affidavit indicated "there is no sex of any kind in any manner, shape or form." Later in the deposition, Mr. Bennett read the President the portion of Ms. Lewinsky affidavit in which she denied having a "sexual relationship" with the President and asked the President if Ms. Lewinsky's statement was true and accurate. The President responded: "This is absolutely true." Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204. The President could not reasonably have believed this affidavit was true in light of the fact that he had engaged in an extensive sexual relationship with Monica Lewinsky. His subsequent explanation defining the term "sexual relationship" as having to include sexual intercourse is contrived and it is not credible that that is what he believed at the time of his deposition. Monica Lewinsky testified before the grand jury under oath and following a grant of transactional immunity that the contents of her affidavit were not true:

Q. Paragraph 8 . . . [of the affidavit] says, "I have never had a sexual relationship with the President." Is that true?

A. No.

Grand Jury Testimony of Monica Lewinsky, 8/6/98, H. Doc. 105-311, p. 924.

g. Request for Admission, Number 42

Q. Do you admit or deny that when asked on January 17, 1998, in your deposition in the case of *Jones v. Clinton* if you had ever given gifts to Monica Lewinsky, you stated that you did not recall, even though you actually had knowledge of giving her gifts in addition to gifts from the "Black Dog?"

A. In my grand jury testimony, I was asked about this same statement. I explained that

my full response was, "I don't recall. Do you know what they were?" By that answer, I did not mean to suggest that I did not recall giving gifts; rather, I meant that I did not recall what the gifts were, and I asked for reminders. See App. At 502-03.

The President's response to Request for Admission number 42 is false and misleading because in his answer, the president tries to explain away his deposition answer in a manner that is simply not believable. The President responded "I don't recall. Do you know what they were?" to the question "Well have you ever given any gifts to Monica Lewinsky?" He tells the Committee this was not false or misleading because he did not mean to suggest that he did not recall giving her gifts, rather, he meant that he did not recall what the gifts were and was asking for reminders. The President had a conversation on December 28, 1997, three weeks before his deposition, in which he discussed subpoenaed gifts with her, including a specific gift, a hat pin. His response of "I don't recall" was perjurious, false, and misleading, as was his explanation to this Committee. Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 75.

h. Request for Admission, Number 43

Q. Do you admit or deny that you gave false and misleading testimony under oath in your deposition in the case of *Jones v. Clinton* when you responded "once or twice" to the question "has Monica Lewinsky ever given you any gifts?"

A. My testimony was not false and misleading. As I have testified previously, I give and receive numerous gifts. Before my January 17, 1998, deposition, I had not focused on the precise number of gifts Ms. Lewinsky had given me. App. At 495-98. My deposition testimony made clear that Ms. Lewinsky had given me gifts; at the deposition, I recalled "a book or two" and a tie. Dep. At 77. At the time, those were the gifts I recalled. In response to OIC inquiries, after I had had a chance to search my memory and refresh my recollection, I was able to be more responsive. However, as my counsel have informed the OIC, in light of the very large number of gifts I receive, there might still be gifts from Ms. Lewinsky that I have not identified.

The President's Request for Admission number 43 is also false and misleading because in it he continues to insist that he was being truthful when he responded "once or twice" at the

deposition when he was asked if Monica Lewinsky had ever given him any gifts. In fact, the evidence shows that Ms. Lewinsky gave the President approximately 38 gifts presented on numerous occasions. See chart H. Doc. 105-311, pp. 1251-61; Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 76.

i. Request for Admission, Number 52

Q. Do you admit or deny that on January 18, 1998, at or about 5:00 P.M., you had a meeting with Betty Currie at which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

“You were always there when she was there, right? We were never really alone.”

“You could see and hear everything.”

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

“She wanted to have sex with me and I couldn’t do that.”

A. When I met with Ms. Currie, I believe that I asked her certain questions, in an effort to get as much information as quickly as I could and made certain statements, although I do not remember exactly what I said. See App. At 508.

Some time later, I learned that the Office of Independent Counsel was involved and that Ms. Currie was going to have to testify before the grand jury. After learning this, I stated in my grand jury testimony, I told Ms. Currie, “Just relax, go in there and tell the truth.” App. At 591.

j. Request for Admission, Number 53

Q. Do you admit or deny that you had a conversation with Betty Currie within several days of January 18, 1998, in which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?

“You were always there when she was there, right? We were never really alone.”

You could see and hear everything.”

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

“She wanted to have sex with me and I couldn’t do that.”

A. I previously told the grand jury that, “I don’t know that I” had another conversation with Ms. Currie within several days of January 18, 1998, in which I made statements similar to those quoted above. “I remember having this [conversation] one time.” App. At 592. I further explained. “I do not remember how many times I talked to Betty Currie or when. I don’t. I can’t possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty’s perception was. I remember that I was highly agitated, understandably, I think.” App at 593.

I understand that Ms. Currie has said a second conversation occurred the next day that I was in the White House (when she was), Supp. At 535-36, which would have been Tuesday, January 20, before I knew about the grand jury investigation.

The President provided this committee with false and misleading answers to Request for Admissions number 52 and 53. He denies "coaching" Betty Currie after his deposition in the case of *Jones v. Clinton*; instead, he responded "I believe I asked her certain questions, in an effort to get as much information as quickly as I could." In number 53, the President quoted his grand jury testimony, "I do not remember how many times I talked to Betty Currie or when. I don’t, I can’t possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty’s perception was." Grand Jury testimony of President Clinton, 8/17/98, H. Doc. 105-311, p. 593.

These answers are not credible because the statements he made to Ms. Currie were clearly false. Why would he be trying to get information from her about false statements or refresh his recollection concerning falsehoods? When President Clinton was asked in his deposition whether it would be extraordinary for Betty Currie to be in the White House between midnight and six a.m., the President answered in part, “those are questions you’d have to ask her.” Furthermore, he invoked Betty Currie’s name numerous times throughout the deposition, oftentimes asserting

that Ms. Lewinsky was around the oval office to see Ms. Currie and that Ms. Currie talked about Vernon Jordan helping Ms. Lewinsky and Betty talked with Ms. Lewinsky about her move to New York. After mentioning Betty Currie so often during his deposition, it was very logical for the President to assume that the lawyers for Paula Jones may call her as a witness. That explains why the President called her about two hours after the completion of his deposition and asked her to come into the office the next day, which was a Sunday. In her testimony, Ms. Currie indicated that the President's remarks were "more like statements than questions." Based on his demeanor and the manner in which he asked the questions, she concluded that the President wanted her to agree with him. Ms. Currie thought that the President was attempting to gauge her reaction, and appeared concerned. Grand Jury Testimony of Betty Currie, 1/17/98, pp. 71-76, H. Doc. 105-316, pp. 559-60.

The evidence clearly reveals the President was not trying to refresh his recollection during a conversation with Betty Currie on January 18, 1998, rather it reveals that President Clinton was attempting to influence the testimony of Betty Currie, by coaching her to recite inaccurate answers to possible questions that might be asked of her if called to testify in the case of *Jones v. Clinton*.

2. Explanation of the Gekas Amendment to Article IV

Representative Gekas of Pennsylvania offered an amendment to strike paragraphs one, two, and three of Article IV. The amendment was adopted by a vote of 29-5, with three Members voting present. The stricken paragraphs asserted that President Clinton abused the office of the President by lying to the American people, aides and cabinet officials and by frivolously asserting executive privilege in order to impede a federal investigation. The remaining paragraph of Article IV charges

that the President abused the office of the President by making perjurious, false and misleading statements in his response to written requests for admission submitted to him by this Committees as part of its impeachment inquiry. The Committee's general conclusion regarding Mr. Gekas's amendment was summed up by Mr. Goodlatte:

I think that no one should take from the decision to delete these three sections of the article that we don't severely abhor the actions of the President in regard to these three sections. I believe that the allegations contained in them are all true. I believe the President on the United States did lie to the American people. I do believe the President lied to his cabinet and others, and I think that he hoped that in so doing that they would carry forth his lies and I think that is wrong as well. And I do believe that the President has improperly exercised executive privilege. But, I also don't believe that any of these three items are impeachable offenses. And as a result, I'll support this amendment.

Article IV originally read as follows:

Using the powers and influence of the office of President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in disregard of his constitutional duty to take care that the laws be faithfully executed, has repeatedly engaged in conduct that resulted in misuse and abuse of his high office, impaired the due and proper administration of justice and the conduct of lawful inquiries, and contravened the laws governing the integrity of the judicial and legislative branches and the truth-seeking purpose of coordinate investigative proceedings.

This misuse and abuse of office has included one or more of the following:

(1) As President, using the attributes of office, William Jefferson Clinton willfully made false and misleading public statements for the purpose of deceiving the people of the United States in order to continue concealing his misconduct and to escape accountability for such misconduct.

(2) As President, using the attributes of office, William Jefferson Clinton willfully made false and misleading public statements to members of his cabinet, and White House aides, so that these Federal employees would repeat such false and misleading statements publicly, thereby utilizing public resources for the purpose of deceiving the people of the United States, in order to continue concealing his misconduct and to escape accountability for such misconduct. The false and misleading statements made by William Jefferson Clinton to members of his cabinet and White House aides were repeated by those members and aides, causing the people of the United States to receive false and misleading information from high government officials.

(3) As President, using the Office of the White House Counsel, William Jefferson Clinton frivolously and corruptly asserted executive privilege, which is intended to protect from disclosure communications regarding the constitutional functions of the Executive, and which may be exercised only by the President, with respect to communications other than those regarding the constitutional functions of the Executive, for the purpose of delaying and obstructing a Federal criminal investigation and the proceedings of a Federal grand jury.

(4) As President William Jefferson Clinton refused and failed to respond to certain written requests for admission and willfully made perjurious, false and misleading sworn statements in response to certain written requests for admissions propounded to him as part of the impeachment inquiry authorized by the House of Representatives of the Congress of the United States. William Jefferson Clinton, in refusing and failing to respond and in making perjurious, false and misleading statements, assumed to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives and exhibited contempt for the inquiry.

In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law, to the manifest injury of the people of the United States.

Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

Paragraph (1)

In consideration of the drafting of Article IV, several members had expressed grave concern regarding the President's lies to the American people with respect to the Paula Jones lawsuit, Monica Lewinsky and his potential criminal culpability. President Clinton made six public statements denying allegations that he had an improper sexual relationship with Monica Lewinsky or obstructed justice in the federal civil rights case of *Jones v. Clinton*. The Committee concluded that the public trust, which is held by the President of the United States, was deliberately abused by President Clinton when he made these false statements. The intent of President Clinton making false statements to the American public was to utilize the power of the office of the President and convince the public that these allegations were false. The political powers that accompany the office of the President do not include misleading the American public in an attempt to avoid or thwart federal investigation.

President Clinton addressed the nation on August 17, 1998 and continued to mislead the American public. Although President Clinton took this opportunity to disclose his inappropriate sexual relationship, he stated that he had testified truthfully before the grand jury and maintained that his statements in his civil deposition were still "legally accurate." This statement was made from the map room of the White House and aired across the country on almost every radio or television

station. The statement was not related to any official business of the White House, it was made in the wake of a federal investigation, and it was designed to mislead. This statement was unlike any other statement President Clinton has ever made and only analogous to a handful of other Presidential statements throughout our history. However, the Committee believes this statement was designed to mislead the American public.

President Clinton has publicly apologized to the American public for his inappropriate relationship but he has continually denied any criminal allegations. The President holds the highest office in the country and the trust of the people. The Committee believes his failure to address these criminal allegations while he has apologized for his personal acts is a deliberate attempt by President Clinton to cloud the issues before the American public. In 1974, the current distinguished Ranking Member, Representative John Conyers, noted that the American public cannot judge a chief executive if he does not or will not speak to the American people truthfully.

The chronology of the President's lies to the American public began almost immediately after the *Washington Post* published an article regarding the Lewinsky-Clinton affair on Wednesday, January 21, 1998. The White House learned about the story on the night of January 20th. The President spoke with Bob Bennett between 12:08 a.m. and 12:39 a.m. on the 21st. Mr. Bennett was quoted in the *Washington Post* article of the 21st as saying, "The President adamantly denies he ever had a relationship with Ms. Lewinsky and she has confirmed the truth of that." The White House issued a statement later that same the day in response to the *Washington Post* story. The statement, personally approved by the President, announced that the President was "outraged by these allegations" and proclaimed that he "has never had an improper relationship with this woman."

President Clinton then began to personally and repeatedly deny his relationship with Ms.

Lewinsky to the American people:

1. January 21, 1998, Interview with Mara Liasson, Robert Siegel and Linda Wertheimer, NPR:

All Things Considered.

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?

The President. No, sir. There's not. It's just not true.

Siegel. Is there any truth to the allegation of an affair between you and the young woman?

The President. No. That's not true either, and I have told that - - people that I would cooperate in the investigation and I expect to cooperate with it. I don't know 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.

Liasson. Mr. President, where do you think this comes from? Did you have any kind of relationship with her that could have been misconstrued?

The President. 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.

2. January 21, 1998, Interview with Jim Lehrer of the PBS News Hour.

Mr. Lehrer. "No improper relationship" - - define what you mean by that.

The President. 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.

3. January 21, 1998, Telephone Interview with Morton Kondracke and Ed Henry of Roll Call.

Mr. Kondracke. 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's 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 - -

Mr. Kondracke. Was it in any way sexual?

The President. The relationship was not sexual. And I know what you mean, and the answer is no.

4. January 22, 1998, Remarks Prior to Discussions with Chairman Yasser Arafat of the Palestinian Authority and an Exchange With Reporters:

Q Forgive us for raising this while you're dealing with important issues in the Middle East, 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 you may have left?

The President. 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 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 why I've - - I've talked with our people. I want to do that. I'd like for you to have more rather than less, sooner rather than later. So we'll work through it as quickly as we can and get all those questions out there to you.

5. January 26, 1998, Remarks on the After-School Child Care Initiative, Public Papers of the President, President Clinton discussed the allegations surrounding his relationship with Miss Lewinsky, in the conclusion of his statement on the After-School Child Care Initiative:

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, 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.

6. February 5, 1998, Remarks Prior to Discussions with Prime Minister Blair and an Exchange with

Reporters, Public Papers of the Presidents.

Q Mr. President, would you like to use this occasion to tell the American people what kind of relationship, if any, you had with Monica Lewinsky?

The President. 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.

President Clinton misled the American public when he addressed the nation on August 17, 1998:

This afternoon in this room from this chair, I testified before the Office of Independent Counsel and the grand jury. . . . I answered their questions truthfully, including questions about my private life, questions no American citizen would ever want to answer.

President Clinton falsely reassured the American people that "... I must take complete responsibility for all my actions, both public and private. And that is why I am speaking to you tonight."

President Clinton misled the American public about his civil deposition:

"As you know, in a deposition in January, I was asked questions about my relationship with Monica Lewinsky. While my answers were legally accurate, I did not volunteer information."

President Clinton admitted he misled people:

"I know my public comments and my silence about this matter gave a false impression. I misled people, including even my wife. I deeply regret that."

After perjuring himself before the grand jury, President Clinton told the American people there was no public responsibility:

Now, this matter is between me, the two people I love most -- my

wife and our daughter -- and our God. I must put it right, and I am prepared to do whatever it takes to do so. . . . Nothing is more important to me personally. But it is private, and I intend to reclaim my family life for my family. It's nobody's business but ours.

Committee members found these blatant attempts by the President to deceive the American people to be particularly offensive and violative of the public trust. However, it was the measured judgment of most Committee members that these statements did not rise to the level of an impeachable offense, although the Committee does believe that Presidential lies to the American public could constitute an impeachable offense in other circumstances.

During debate on the Gekas amendment, Mr. McCollum noted that paragraph one was about "... lying to the public. Now, I don't think we should go forward and impeach the President for his speech before the American public telling us lies. But I want you to know that in the Watergate hearings the conclusion was just to do exactly that."

The Committee decided not to follow the Watergate precedent regarding lying to the American public in an attempt to cover-up presidential criminal wrongdoing. Rather, the Committee passed three articles against President Clinton charging him with making similar lies under oath in a deposition, before a grand jury and in answers to requests for admission propounded to him by this Committee.

Mr. Hutchinson aptly summed up the views of many Committee members regarding the deletion of paragraph 1 of Article IV:

I would have had trouble supporting Article IV without this amendment that would delete paragraphs one, two, and three. But I say that not to diminish the significance or the substantially of the evidence in regard to these three areas. One of them is the President lied to the American public. I think that is extraordinarily serious any time that happened. Obviously there's no question that it did happen. It is wrong. But I do not believe that should be included in this article of impeachment on abuse of

office.

Paragraph (2)

Article II, which passed the Committee by a vote of 21-16, includes paragraph seven which asserts that the President tried to obstruct justice and conceal evidence in an ongoing federal grand jury investigation by making false and misleading statements to his aides which the President knew may be repeated if and when the aides testified before the grand jury. Several Members believed the President also abused the power of the office of the Presidency by lying to aides and cabinet members whom he knew would repeat the lies in public statements. The lies to aides that, in the view of the Committee, constituted an attempt to prevent, impede or obstruct the administration of justice are detailed in the explanation section for Article III. Some of the lies that were perpetuated by press aides and cabinet officials are detailed below.

On January 23, 1998, after a meeting with his Cabinet, some Cabinet members answered questions to the press about the allegations.

Secretary of State Madeline Albright:

“The president started out by saying that we--the allegations are untrue, that we should stay focused on our jobs, and that he will be fine. . . . I believe the allegations are completely untrue.”

Commerce Secretary William Daley:

“I’ll second that. Definitely.”

Health and Human Services Secretary Donna Shalala:

“Third it.”

Michael McCurry, White House Spokesperson, on January 27, 1998, during a news briefing the Associated Press reported that Mr. McCurry said:

“I think every American that heard him knows exactly what he meant.”

Anne Lewis, White House Communications Director, on January 26, 1998, interview with Nightline:

“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.”

On January 27, 1998, the Associated Press quoted Ms. Lewis:

“Sex is sex, even in Washington. I’ve been assured.”

President Clinton made a deliberate decision to fight criminal allegations surrounding his relationship with Monica Lewinsky. Grand Jury testimony reveals that President Clinton told Richard Morris that he would have to win rather than admit to committing perjury or obstruction of justice. The Committee concluded that President Clinton consciously misled several aides and cabinet members knowing that they would repeat his false statements to the American public. These officials are all federally paid civil servants who have used their positions in the White House as a pulpit to repeat President Clinton’s false statements to the American public. The Committee believe that use of these advisors in an attempt to mislead the American public and beat his criminal allegations was an abuse of the office of the President and his position as head of the executive branch of government.

The President’s continued deceptions caused millions of tax dollars to be spent by not only the Office of Independent Counsel in its duly authorized investigation, but also by White House lawyers, communications employees and other government employees who were utilized to help perpetuate the President’s lies and defend him from his criminal conduct.

After the grand jury began investigating the allegation of perjury and obstruction of justice, President Clinton had the chance to set the record straight before the grand jury itself, but he declined

six invitations in January, February and March of 1998 from the OIC to appear before the grand jury and give his testimony. Although he had no obligation to appear voluntarily before the grand jury, he still continued to perpetuate his lies and abuse the public trust as well as utilizing the power of his office to attack the allegations of criminal conduct. When Mr. Clinton finally testified before the grand jury, he lied several times and then went on national television after his testimony and lied to the American people again.

Many Committee members were also appalled by the President's efforts to spread his lies publicly through his aides and cabinet members. These individuals work for and represent the taxpayers and should not be made unwitting participants in a Presidential cover-up. The majority Committee members believed this was an abuse of the office of the President and the resources that are available to its occupant. Furthermore, Mr. Hutchinson pointed out that lying to aides is "extraordinarily relevant and significant in terms of proving intent and a pattern of conduct on behalf of the President supporting obstruction of justice and other false statements that are recited in other articles." However, the Committee concluded that lies to the aides standing alone did not constitute an impeachable offense in this case.

Paragraph (3)

The aspect of executive privilege that was at issue in paragraph three of Article IV dealt with the presidential communications privilege. This privilege derives from the separation of powers principle embodied in the Constitution. It protects the confidentiality of communications between a President and his senior advisers about official government matters. It also protects conversations between one or more senior advisers when the President is not present, if the conversation is about advice to be given to the President on official government matters. The privilege belongs to the

President alone and the President must personally direct that it be asserted.

Such conversations are presumptively privileged. However, the privilege can be overcome if a prosecutor conducting a criminal investigation can demonstrate with specificity why it is likely that the presumptively privileged materials contain important evidence and why this evidence is not practically available from other sources.

Several members of the Committee asserted that President Clinton's Assertions of Privilege were an abuse of power because even under the broadest interpretation of the presidential communications privilege, it is intended only to protect communications about official government matters. Moreover, it is a privilege for the use of the President alone. It is not intended to allow the President to cover up embarrassing personal matters. The Members charged that is exactly what President Clinton used it for here -- indeed, the President repeatedly argued that he should not be impeached precisely because these matters are purely private in nature.

In addition, they argued that President tried to extend the privilege far beyond any previously known boundaries by claiming it for conversations that White House aides had with grand jury witnesses and their attorneys, the President's private attorneys, Vernon Jordan, and low-level White House employees who do not advise the President. The Members supporting impeachment for abuse of power relating to executive privilege argued that there is no legal basis for including any of these conversations within the privilege. According to this view, if these boundaries of the privilege were accepted, the President could easily cover up almost any wrongdoing. Furthermore, these frivolous assertions of privilege also cost huge amounts of the OIC's time and resources to litigate, many of which the President ultimately abandoned.

Most members of the majority associated themselves with the comments of Mr. McCollum

that:

with regard to executive privilege, I don't think there's any question the President has abused executive privilege here because it can only be used to protect official functions. And in case after case, from Bruce Lindsay all the way through the witnesses who were called before the grand jury who were White House aides were not asserting executive privilege to protect the government official business they were asserting it in order to protect and keep private matters that concern the personal conduct of the President in the matters we've been discussing here.

However, the prevailing conclusion of the Committee was summed up by Mr. Gekas:

I don't believe that the evidence that has been presented to us nor the contents of the referral give us the ability to second guess the rationale behind the President or what was in his mind in asserting that executive privilege. We may have a good idea. And those of us who have become suspicious about some of the actions of the President would have a right to enhance those suspicions. Nevertheless, we ought to give, in my judgment and in the judgment of many, the benefit of the doubt in the assertion of executive privilege.

Although most Members were not prepared to include abuse of executive privilege in an impeachment article against President Clinton, many Members also agreed with Representative Goodlatte's statement that "this Committee should be outspoken in its condemnation of the misuse of executive privilege because in some instances that executive privilege power has been exercised wrongly with the Congress in other regards. And it is important that we do not allow a continued abuse of the executive privilege power."

The following is a list of assertions of Executive Privilege by President Clinton that many Members of the Committee found to be frivolous.

In the course of the Lewinsky investigation, President Clinton abused his power through repeated frivolous assertions of executive privilege by at least five of his aides.

1. Bruce Lindsey

Mr. Lindsey is Assistant to the President and Deputy Counsel and one of President Clinton's

closest confidantes. None of the conversations for which Mr. Lindsey claimed executive privilege involved official governmental matters and the privilege was overcome by the need for the information in the criminal investigation.

In addition, Mr. Lindsey claimed executive privilege for a typed statement about privilege that he brought in and read to the grand jury even after he had read it. He claimed executive privilege for his conversations with the President's private lawyers and Vernon Jordan. He claimed executive privilege for conversations he had with attorneys for witnesses who appeared in the grand jury. He claimed executive privilege for a conversation with Stephen Goodin, who is the President's personal aide and who has no responsibility for advising the President.

It should be noted that at some points before the grand jury, Mr. Lindsey took the position that he was not actually asserting the privilege, but that he was merely noting that the answer might be privileged. He further asserted that he would have to get instructions from the President as to whether to assert the privilege. Whatever the technicalities, he refused to answer the questions. *See, e.g., Lindsey 2/18/98 GJT at 77-79: Supplemental Materials (H. Doc. 105-316) at 2360.*

The President contested the OIC's motion to compel the testimony of Mr. Lindsey. After losing in the District Court, the President abandoned the claim of executive privilege. *In Re Grand Jury Proceedings*, 5 F.Supp.2d 21 (D.D.C. 1998). However, he continued to pursue a claim of governmental attorney-client privilege with Mr. Lindsey. In addition, despite the earlier abandonment of the claim, Mr. Lindsey again asserted privilege when he appeared in the grand jury on August 28.

See the list, *infra*, for exact questions to which Mr. Lindsey asserted executive privilege.

2. Lanny Breuer

Mr. Breuer is a special counsel to the President working in the White House Counsel's Office. None of the conversations for which Mr. Breuer claimed executive privilege involved official governmental matters and the privilege was overcome by the need for the information in the criminal investigation.

In addition, Mr. Breuer asserted executive privilege for his conversations with the President's private lawyers and his conversations with a low level White House employee about his efforts to get her an attorney. Neither the private lawyers nor the low level employee fell within the privilege.

Interestingly, the President did not claim executive privilege for Mr. Blumenthal's conversations with the President's private lawyers. Blumenthal 2/26/98 GJT at 27-34; Supplemental Materials (H. Doc. 105-316) at 164-65. In addition, Mr. Breuer asserted executive privilege for conversations with Mr. Blumenthal when Mr. Blumenthal had already testified to the substance of those conversations. *Compare* Breuer 8/4/98 GJT at 19, 22-23, 28; Supplemental Materials (H. Doc. 105-316) at 269-71 *with* Blumenthal 6/25/98 GJT at 30-31, 50; Supplemental Materials (H. Doc. 105-316) at 196, 201.

According to the referral from the Office of the Independent Counsel, on August 11, 1998, the District Court denied Mr. Breuer's claim of executive privilege. On August 21, 1998, the White House appealed to the D.C. Circuit. The White House ultimately abandoned its appeal of this case. It is unknown whether Mr. Breuer has returned to the grand jury. *See* Referral (H. Doc. 105-310) at 208.

See the list, *infra*, for exact questions to which Mr. Breuer asserted executive privilege.

3. Cheryl Mills

Ms. Mills is Deputy Assistant to the President and Deputy Counsel. None of the conversations for which Ms. Mills claimed executive privilege involved official governmental matters and the privilege was overcome by the need for the information in the criminal investigation.

In addition, Ms. Mills claimed executive privilege for her conversations with the President's private lawyers. She claimed executive privilege for conversations she had with witnesses who appeared in the grand jury and their attorneys. She claimed executive privilege for a conversation with Betty Currie, who is the President's personal secretary and who has no responsibility for advising the President.

As far as is publicly known, the OIC never sought to litigate Ms. Mills's claims of executive privilege.

See the list, infra, for exact questions to which Ms. Mills asserted executive privilege.

4. Sidney Blumenthal

Mr. Blumenthal is an Assistant to the President who works on a variety of matters. None of the conversations for which Mr. Blumenthal claimed executive privilege involved official governmental matters and the privilege was overcome by the need for the information in the criminal investigation.

The President contested the OIC's motion to compel the testimony of Mr. Blumenthal. After losing in the District Court, the President abandoned the claim, and Mr. Blumenthal answered the questions in the grand jury. *In Re Grand Jury Proceedings*, 5 F.Supp.2d 21 (D.D.C. 1998).

See the list, infra, for exact questions to which Mr. Blumenthal asserted executive privilege.

5. Nancy Hrenreich

Ms. Hernreich is Deputy Assistant to the President and Director of Oval Office Operations. Ms. Hernreich described her job as executing the President's daily schedule and managing his immediate secretarial staff. *Hernreich 2/25/98 GJT* at 4-7; Supplemental Materials (H. Doc. 105-316) at 1318-19. None of the conversations for which Ms. Hernreich claimed executive privilege involved official governmental matters and the privilege was overcome by the need for the information in the criminal investigation.

In addition, Ms. Hernreich is a clerical and administrative employee. She does not fall within the category of advisers covered by the privilege – those “who have broad and significant responsibility for investigating and formulating the advice to be given the President on a particular matter.” *In Re Sealed Case*, 121 F.3d 729, 752 (D.C. Cir. 1997). In this connection, the President did not assert executive privilege with respect to Betty Currie, who holds a similar job. The President contested the OIC's motion to compel Ms. Hernreich's testimony, but without explanation abandoned the claim immediately before the hearing. *See Referral* (H. Doc. 105-310) at 207.

See the list, *infra*, for exact questions to which Ms. Hernreich asserted executive privilege.

Lying about Assertions of Executive Privilege

Several members of the Committee concluded that the President has lied at least twice about his claims of executive privilege. On March 24, while traveling in Africa, the President publicly stated that he did not know about the assertions of executive privilege and said that the press should ask someone who knows. A week earlier in a sealed filing, White House Counsel Chuck Ruff had filed a declaration in which he told the Court that he had discussed the matter with the President and that the President had directed him to assert the privilege. *See Referral* (H. Doc. 105-310) at 207-08.

After Judge Johnson ruled against the President on May 27 on executive privilege with respect

to Ms. Hernreich, Mr. Blumenthal, and Mr. Lindsey, he abandoned those claims of executive privilege. The OIC thought that the President would no longer claim the privilege in the grand jury.

However, Mr. Breuer appeared in the grand jury on August 4 and again made broad claims of executive privilege. On August 11, Judge Johnson again ruled against the President. The same day, Ms. Mills appeared in the grand jury and made broad claims of executive privilege. On August 17, the President told the grand jury that he strongly felt that the original executive privilege decision should not be appealed. On August 21, he filed an appeal in the Breuer case. On August 28, Mr. Lindsey appeared before the grand jury and again asserted executive privilege even though the President had previously abandoned the claim. *See* Referral (H. Doc. 105-310) at 208-09. The White House later withdrew its appeal of the Breuer executive privilege case.

QUESTIONS ON WHICH BRUCE LINDSEY ASSERTED EXECUTIVE PRIVILEGE

1. Q. Have you received information from him [i.e. Ms. Currie's attorney], sir?

A. No, sir. Not directly.

Q. Directly or indirectly?

A. I don't believe that I can respond to that one. I think that would cover areas that are potentially privileged. Lindsey 2/18/98 GJT at 45; Supplemental Materials (H. Doc. 105-316) at 2355.

2. Mr. Lindsey claimed executive privilege for a typed statement about privileges that he brought in and read to the grand jury. Lindsey 2/18/98 GJT at 57-58; Supplemental Materials (H. Doc. 105-316) at 2357.

3. "Tell the grand jury about all conversations you had about Monica Lewinsky at any time, including, say, since the first of 1998." Lindsey 2/18/98 GJT at 73-74; Supplemental Materials (H. Doc. 105-316) at 2359-60.

4. "As counsel for the presidency or the President, are you aware of any statements to you where

the President has indicated that he wanted to limit disclosure of information in this matter, that being the Monica Lewinsky matter?” Lindsey 2/18/98 GJT at 76; Supplemental Materials (H. Doc. 105-316) at 2360.

5. “Knowing that we may ask you those question, did you go to the President and ask the President whether or not he would waive attorney-client privilege or waive executive privilege?” Lindsey 2/18/98 GJT at 78; Supplemental Materials (H. Doc. 105-316) at 2360.

6. “Well, can we assume that if you had had that conversation and he [i.e. the President] had directed you to answer the questions and to waive the privilege, you’d be doing so today?” Lindsey 2/18/98 GJT at 84; Supplemental Materials (H. Doc. 105-316) at 2361.

7. “Can you tell us about those [i.e. conversations with the President about the Jones case]?” Lindsey 2/18/98 GJT at 84-85; Supplemental Materials (H. Doc. 105-316) at 2361.

8. “Will you tell the grand jurors what those facts [i.e. facts learned from the President about the Paula Jones matter] were?” Lindsey 2/18/98 GJT at 89-90; Supplemental Materials (H. Doc. 105-316) at 2362.

9. “Tell us what you discussed [with the President about Monica Lewinsky and the Paula Jones matter].” Lindsey 2/18/98 GJT at 90; Supplemental Materials (H. Doc. 105-316) at 2362.

10. “Did you tell the President that Monica Lewinsky was identified as a witness in the Paula Jones case?” Lindsey 2/18/98 GJT at 91; Supplemental Materials (H. Doc. 105-316) at 2362.

11. “Q. When did you first know that Monica Lewinsky was a witness in the Paula Jones case?”

A. Can I ask my lawyer whether I can respond to that question?

Q. Yes. Well, why don’t you write that down? Why don’t you write that down with your questions? From whom did you learn that Monica Lewinsky was identified as a witness? Actually – well –

A. Let me answer it. Without – well, I don’t want to waive any privileges here. I certainly don’t want to walk down that road. Monica Lewinsky’s name appeared on a witness list provided by the plaintiffs.

Q. From whom did you receive the witness list?

A. Again, you know, I – I’m – we’re walking down that road. You know, I don’t know if I can respond to that.

Q. When did you receive the witness list?

A. I think I can – well, let me see if I can answer when.” Lindsey 2/18/98 GJT at 96-97; Supplemental Materials (H. Doc. 105-316) at 2363.

12. “Has there been a concerted effort known to you, either conducted out of your office or in some other office in the White House, that is designed to criticize the Independent Counsel investigation and this grand jury’s work?” Lindsey 2/18/98 GJT at 103; Supplemental Materials at (H. Doc. 105-316) 2364.

13. “What was discussed [between Mr. Lindsey and Vernon Jordan about the Paula Jones case on January 18]?” Lindsey 2/18/98 GJT at 108, 112; Supplemental Materials (H. Doc. 105-316) at 2365, 2366.

14. “What did you discuss [between Mr. Lindsey, Ms. Mills, and Vernon Jordan about the Paula Jones case on January 19]?” Lindsey 2/18/98 GJT at 113; Supplemental Materials (H. Doc. 105-316) at 2366.

15. After this exchange, Mr. Lindsey was asked a number of questions about when he would assert executive privilege that repeated the questions set out above and his assertions of the privilege. Lindsey 2/18/98 GJT at 115-22; Supplemental Materials (H. Doc. 105-316) at 2366-68.

16. “What was discussed at the meeting – the subject – I mean, the substance of the meeting [among Mr. Lindsey, Ms. Mills, Mr. Ruff, the President, and the First Lady on February 17]. I am now asking you.” Lindsey 2/19/98 GJT at 7; Supplemental Materials (H. Doc. 105-316) at 2389.

17. “What was the substance of what occurred at the meeting [among Mr. Lindsey, Ms. Mills, Mr. Ruff, Mr. Breuer, Mr. Eggleston, and the President on February 18]?” Lindsey 2/19/98 GJT at 8; Supplemental Materials (H. Doc. 105-316) at 2389.

18. “What did you talk about at this meeting [among Mr. Lindsey, the President’s private lawyers, and the President] on the [January] 17th – before the [President’s] deposition?” Lindsey 2/19/98 GJT at 11; Supplemental Materials (H. Doc. 105-316) at 2389.

19. “What was discussed with regard to Monica Lewinsky [among Mr. Lindsey, the President’s private lawyers, and the President during the breaks in the President’s deposition]?” Lindsey 2/19/98 GJT at 13; Supplemental Materials (H. Doc. 105-316) at 2390.

20. “Again what was discussed at that meeting [among Mr. Lindsey, Mr. Bowles, and the President shortly after the President’s deposition]?” Lindsey 2/19/98 GJT at 14; Supplemental Materials (H. Doc. 105-316) at 2390.

21. “At any of these meetings the occurred that day -- that is, the day of the [January] 17th -- did Betty Currie’s name come up?” Lindsey 2/19/98 GJT at 14; Supplemental Materials (H. Doc. 105-316) at 2390.

22. “What was said during that conversation [i.e. Mr. Lindsey’s phone conversation with the President in the early morning hours of January 21, the day the Lewinsky story was first published in the *Washington Post*]?” Lindsey 2/19/98 GJT at 42; Supplemental Materials (H. Doc. 105-316) at 2394.
23. “What did he [Mr. McCurry] say occurred [in a meeting among White House staff in the morning of January 21, the day the Lewinsky story was first published in the *Washington Post*]?” Lindsey 2/19/98 GJT at 44; Supplemental Materials (H. Doc. 105-316) at 2395.
24. “And you will not tell us about the substance of what occurred with your conversation with Mr. McCurry [about a meeting among White House staff in the morning of January 21, the day the Lewinsky story was first published in the *Washington Post*]?” Lindsey 2/19/98 GJT at 45; Supplemental Materials (H. Doc. 105-316) at 2395.
25. “Tell us everything that occurred in the 10 minutes that you talked about the Monica Lewinsky matter [in a meeting among White House Counsel’s Office staff, White House press staff, and the President on January 21, the day the Lewinsky story was first published in the *Washington Post*]?” Lindsey 2/19/98 GJT at 48; Supplemental Materials (H. Doc. 105-316) at 2395.
26. “What did you talk to him [the President’s personal aide, Stephen Goodin] about [shortly after the Lewinsky story broke]?” Lindsey 2/19/98 GJT at 49; Supplemental Materials (H. Doc. 105-316) at 2396.
27. “What did you [Mr. Lindsey] say, and what did he [Mr. McGrath, an attorney for a witness] say [in a telephone conversation that occurred in early February]?” Lindsey 2/19/98 GJT at 51; Supplemental Materials (H. Doc. 105-316) at 2396.
28. “What did you [Mr. Lindsey and Mr. Podesta’s lawyer] talk about [in a conversation that occurred in early February]?” Lindsey 2/19/98 GJT at 53; Supplemental Materials (H. Doc. 105-316) at 2396.
29. “You know they [i.e. other attorneys in the White House Counsel’s Office] have [spoken to Betty Currie’s attorney]? How do you know that?” Lindsey 2/19/98 GJT at 54; Supplemental Materials (H. Doc. 105-316) at 2396.
30. “Q. Are you prepared to answer any questions about conversations you are aware of about Monica Lewinsky that occurred among White House staff?
- A. I believe the answer is that I’m not because of the reasons I stated: the presidential communication, the deliberative process, and/or the attorney-client privilege.” Lindsey 2/19/98 GJT at 59; Supplemental Materials (H. Doc. 105-316) at 2397.
31. “Are you prepared to tell us about your discussion with Lanny Breuer about that [i.e. Mr.

Breuer's conversation with the attorney for witness, Michael McGrath]?" Lindsey 2/19/98 GJT at 60; Supplemental Materials (H. Doc. 105-316) at 2397.

32. Towards the end of Mr. Lindsey's appearance before the grand jury on February 19, he gave a lengthy explanation of his view of the various privileges that he claimed. Lindsey 2/19/98 GJT at 64-79; Supplemental Materials (H. Doc. 105-316) at 2399-401.

33. "And you decline to answer either one -- the substance of either one [of Mr. Lindsey's meetings with Mickey Kantor, one of the President's private attorneys, after January 20th]?" Lindsey 2/19/98 GJT at 81; Supplemental Materials (H. Doc. 105-316) at 2401.

34. "Are you prepared to discuss the substance of what you heard [from other members of the White House Counsel's Office about the testimony of White House steward Bayani Nelvis]?" Lindsey 2/19/98 GJT at 82; Supplemental Materials (H. Doc. 105-316) at 2401.

35. "Q. Mr. Lindsey, my understanding from discussions with your attorney is, at least as of now, you are going to claim all the privileges you've mentioned with respect to which individuals [i.e. grand jury witnesses], if any, you received information [i.e. how they testified] about; is that correct?

A. That is correct, yes, sir." Lindsey 2/19/98 GJT at 83-84; Supplemental Materials (H. Doc. 105-316) at 2401.

36. "Okay. Who was that [who asked him why Mr. Lindsey why he did not return Linda Tripp's page in the summer of 1997 regarding Kathleen Willey]?" Lindsey 3/12/98 GJT at 16-17; Supplemental Materials (H. Doc. 105-316) at 2406-07.

37. "Did the President seem concerned about the number of deposition questions he was asked pertaining to Monica Lewinsky when you spoke to him after the deposition?" Lindsey 3/12/98 GJT at 18; Supplemental Materials (H. Doc. 105-316) at 2407.

38. "Was the President concerned about the number of deposition questions asked about Monica Lewinsky?" Lindsey 3/12/98 GJT at 20; Supplemental Materials (H. Doc. 105-316) at 2407.

39. "My question would be after that weekend [i.e. the weekend immediately after the Lewinsky story broke], aside from anything that might have been reported in the press, did you hear directly or indirectly that she [i.e. Betty Currie] might have been talking to representatives from our office?" Lindsey 3/12/98 GJT at 27-28; Supplemental Materials (H. Doc. 105-316) at 2409.

40. "Did Vernon Jordan ever tell you that President Clinton should settle the Paula Jones matter?" Lindsey 3/12/98 GJT at 31-32; Supplemental Materials (H. Doc. 105-316) at 2410.

41. "I had asked you how much of your discussion with Vernon Jordan was related to settlement and you are invoking the privilege on that?" Lindsey 3/12/98 GJT at 36; Supplemental Materials (H.

Doc. 105-316) at 2411.

42. “Did you discuss with him [Vernon Jordan] or did he discuss with you how much money would be needed to settle the case and who would raise it?” Lindsey 3/12/98 GJT at 37; Supplemental Materials (H. Doc. 105-316) at 2412.

43. “Can you tell us what that conversation [among Mr. Lindsey, Ms. Mills, and Mr. Jordan on January 19] was about?” Lindsey 3/12/98 GJT at 39; Supplemental Materials (H. Doc. 105-316) at 2412.

44. “Okay. And what was the reason that he [Mr. Jordan] was there [at the January 19 meeting among Mr. Lindsey, Ms. Mills, and Mr. Jordan]?” Lindsey 3/12/98 GJT at 40; Supplemental Materials (H. Doc. 105-316) at 2412.

45. “Q. Are you claiming a privilege as to any Monica Lewinsky/Paula Jones discussions you may have had with the First Lady?

A. I consider at a minimum the First Lady to be an advisor to the President, yes.” Lindsey 3/12/98 GJT at 47; Supplemental Materials (H. Doc. 105-316) at 2414.

46. “Did the President know whether Betty Currie had called Vernon Jordan in order to help Monica Lewinsky get a job in New York?” Lindsey 3/12/98 GJT at 53; Supplemental Materials (H. Doc. 105-316) at 2416.

47. “When, if ever, did you know it [i.e. that Ms. Lewinsky had been in the White House on December 6th], if you know it?” Lindsey 3/12/98 GJT at 64; Supplemental Materials (H. Doc. 105-316) at 2418.

48. “What did he [i.e. the President] say [about his relationship with Ms. Lewinsky at a meeting among Mr. Lindsey, Ms. Mills, and the President shortly after the Lewinsky story broke]?” Lindsey 8/28/98 GJT at 22; Supplemental Materials (H. Doc. 105-316) at 2428.

49. “Okay. The Grand Jury also asked the question: In your discussions with the President about the relationship that he had with Ms. Lewinsky, did you ever explicitly ask him, you know, ‘What exactly did you do with her?’ Not, ‘What didn’t you do?’ -- ‘What did you do?’” Lindsey 8/28/98 GJT at 84-87; Supplemental Materials (H. Doc. 105-316) at 2444.

50. “And this is a telephone log from the White House log indicating the President spoke to you – called you the morning of January 21, 1998, and spoke to you from the hours of 12:41 to 1:10 a.m. What did you talk about?” Lindsey 8/28/98 GJT at 88; Supplemental Materials (H. Doc. 105-316) at 2445.

51. “This Grand Jury exhibit, BRL-1, also indicates that you called the President back after your

conversation with him [Mr. Podesta] -- twice. At 1:36 a.m., you talked to him for two minutes; then you called him back again at 1:39 a.m. and talked to him for no more than two minutes. What did you talk about with the President then?" Lindsey 8/28/98 GJT at 90; Supplemental Materials (H. Doc. 105-316) at 2445.

52. "And then, the President called you at 7:14 a.m. that Wednesday, January 21, and you talked from 7:14 a.m. to 7:22 a.m. What did you talk about then?" Lindsey 8/28/98 GJT at 90; Supplemental Materials (H. Doc. 105-316) at 2445.

QUESTIONS ON WHICH LANNY BREUER ASSERTED EXECUTIVE PRIVILEGE

1. "All right. Do you recall – and again, I'll go back to the time period we identified when the Washington Post article appeared, January 1, 1998, do you recall Mr. Blumenthal on or about that date revealing to you a conversation he had had with the President regarding Monica Lewinsky?" Breuer 8/4/98 GJT at 19; Supplemental Materials (H. Doc. 105-316) at 269.

Although Mr. Breuer refused to answer this question, Mr. Blumenthal had already testified to the substance of the conversation. Blumenthal 6/25/98 GJT at 30-31, 50; Supplemental Materials (H. Doc. 105-316) at 196, 201.

2. "Do you recall what that [i.e. what else was discussed with Mr. Blumenthal during this conversation] was?" Breuer 8/4/98 GJT at 22-23; Supplemental Materials (H. Doc. 105-316) at 270.

Although Mr. Breuer refused to answer this question, Mr. Blumenthal had already testified to the substance of the conversation. Blumenthal 6/25/98 GJT at 30-31, 50; Supplemental Materials (H. Doc. 105-316) at 196, 201.

3. "Mr. Breuer, let me pick back up on our discussion of the conversation that you had with Mr. Blumenthal. Did he tell you when he had had the conversation with the President that he related to you?" Breuer 8/4/98 GJT at 28; Supplemental Materials (H. Doc. 105-316) at 271. (Although Mr. Breuer refused to answer this question, Mr. Blumenthal had already testified to the substance of the conversation. Blumenthal 6/25/98 GJT at 30-31, 50; Supplemental Materials (H. Doc. 105-316) at 196, 201.)

4. "Q. The President's private lawyers, where do they fit in?"

A. I will not – conversations that I had with the President's personal lawyers, I will claim privilege over.

Q. Both privileges [i.e. executive privilege and attorney-client privilege]?

A. Both privileges. Breuer 8/4/98 GJT at 45; Supplemental Materials (H. Doc. 105-316) at 276.

5. “Q. Okay. Do you know how Ms. White [an attorney] came to represent Ms. Raines [a White House employee]?”

A. I do know the answer to that.

Q. Can you tell us how that came about?

A. Well, I don’t believe I can because I think to do that would force me to reveal a conversation that I’ve had with Ms. Raines. Since Ms. Raines is a White House employee and I would have had a conversation with her in my capacity as special counsel, I think my discussion with Ms. Raines would be protected, given that she was seeking advice, it would be protected by both the attorney-client privilege and executive privilege. Breuer 8/4/98 GJT at 59; Supplemental Materials (H. Doc. 105-316) at 279.

6. “Q. Okay. I guess I’m asking you if you gave Ms. Raines Wendy White’s [name] –

A. Right. And I guess I can’t answer that, given that I’m trying to preserve the substance of the conversation, so I think you might make a natural conclusion of that, but I really, truly believe that I’m going to try as best I can to preserve the communications I have with White House employees and over the substance of them assert attorney-client privilege and executive privilege. I don’t think I can answer that specific question. Breuer 8/4/98 GJT at 65; Supplemental Materials (H. Doc. 105-316) at 281.

7. Mr. Breuer asserted executive privilege with respect to five meetings he had with the President relating to the Lewinsky matter. Breuer 8/4/98 GJT at 70-78; Supplemental Materials (H. Doc. 105-316) at 282-84.

8. Mr. Breuer asserted executive privilege with respect to the White House Counsel’s Office’s preparations for impeachment proceedings. Breuer 8/4/98 GJT at 78; Supplemental Materials (H. Doc. 105-316) at 284.

9. “Have you ever discussed with Mr. Kendall the relationship between the President and Monica Lewinsky?” Breuer 8/4/98 GJT at 79; Supplemental Materials (H. Doc. 105-316) at 284.

10. “Have you ever discussed with Ms. Seligman, who is another of the President’s private lawyers, the relationship between the President and Monica Lewinsky?” Breuer 8/4/98 GJT at 80; Supplemental Materials (H. Doc. 105-316) at 284.

11. “Have you ever discussed, again, with Mr. Kantor the relationship between the resident and Monica Lewinsky?” Breuer 8/4/98 GJT at 84; Supplemental Materials (H. Doc. 105-316) at 285.

12. “Have you ever discussed with Mr. Ruff the nature of the relationship between the President and Monica Lewinsky?” Breuer 8/4/98 GJT at 84; Supplemental Materials (H. Doc. 105-316) at 285.

13. “Have you ever discussed with Cheryl Mills the nature of the relationship between the President and Monica Lewinsky?” Breuer 8/4/98 GJT at 84; Supplemental Materials (H. Doc. 105-316) at 285.
14. “Have you had such discussions with Bruce Lindsey?” Breuer 8/4/98 GJT at 85; Supplemental Materials (H. Doc. 105-316) at 286.
15. “And has he [i.e. Bob Bennett] described to you the nature of the relationship between the President and Monica Lewinsky?” Breuer 8/4/98 GJT at 95; Supplemental Materials (H. Doc. 105-316) at 288.
16. Mr. Breuer also asserted executive privilege with respect to whether he had discussed gifts, the President’s conversation with Ms. Currie, Ms. Lewinsky’s affidavit, and the President’s knowledge of Ms. Lewinsky’s job search with the persons mentioned in 9-15, above. Breuer 8/4/98 GJT at 95-103; Supplemental Materials (H. Doc. 105-316) at 288-90.

QUESTIONS ON WHICH CHERYL MILLS ASSERTED
EXECUTIVE PRIVILEGE

1. “Okay. And with respect to the conversation [between Ms. Mills and Mr. Lindsey on the day of the President’s deposition] that you don’t want to reveal the substance of the conversation, what privileges are you asserting with respect to that?” Mills 8/11/98 GJT at 53; Supplemental Materials (H. Doc. 105-316) at 2890.
2. “Okay. Tell me about that [i.e. the President’s direction to Ms. Mills to assert executive privilege] with respect to the privileges being asserted in this matter.” Mills 8/11/98 GJT at 53; Supplemental Materials (H. Doc. 105-316) at 2890.
3. “Okay. And how do you know that [i.e. that the President directed Ms. Mills to assert executive privilege]?” Mills 8/11/98 GJT at 54; Supplemental Materials (H. Doc. 105-316) at 2890.
4. “All right. With respect to this conversation [with Mr. Lindsey on the day of the President’s deposition] about which you’ve asserted the privilege, what caused – you don’t recall who called whom that day, but what caused the contact between either of you with respect to this conversation?” Mills 8/11/98 GJT at 54; Supplemental Materials (H. Doc. 105-316) at 2890.
5. “Okay. Are you aware of whether or not something happened on Mr. Lindsey’s end to cause the conversation to take place? Without respect to what that was.” Mills 8/11/98 GJT at 55; Supplemental Materials (H. Doc. 105-316) at 2890.
6. “All right. And what was discussed at that meeting [among the President and various White House attorneys and staff on January 31 or February 1] with respect to the President’s relationship with Monica Lewinsky?” Mills 8/11/98 GJT at 66; Supplemental Materials (H. Doc. 105-316) at 2893.

7. After asserting privilege on the previous question, Ms. Mills made a general claim of executive privilege with respect to her conversations with the President about Monica Lewinsky. Mills 8/11/98 GJT at 66-68; Supplemental Materials (H. Doc. 105-316) at 2893.
8. "I think I asked you about the contacts you had with the President's outside lawyers with respect to the Paula Jones litigation." Mills 8/11/98 GJT at 71; Supplemental Materials (H. Doc. 105-316) at 2894.
9. "Okay. And with respect to the questions we would ask you as to your conversations with such persons [i.e. grand jury witnesses], would you assert a privilege and decline to provide the information of those conversations?" Mills 8/11/98 GJT at 72-73; Supplemental Materials (H. Doc. 105-316) at 2894-95.
10. "All right. With respect to counsel for such [grand jury] witnesses, are you asserting privilege with respect to that or not?" Mills 8/11/98 GJT at 73; Supplemental Materials (H. Doc. 105-316) at 2895.
11. "Okay. And I want to ask you about your discussion with her concerning her [i.e. Betty Currie's] need for a lawyer. Is that a matter over which you are asserting privilege?" Mills 8/11/98 GJT at 77; Supplemental Materials (H. Doc. 105-316) at 2896

QUESTIONS ON WHICH SIDNEY BLUMENTHAL ASSERTED
EXECUTIVE PRIVILEGE

1. "What occurs at these 8:30 and 6:45 p.m., these daily meetings [relating to the Lewinsky matter]?" Blumenthal 2/26/98 GJT at 12-13; Supplemental Materials (H. Doc. 105-316) at 161-62.
After abandoning this claim, Mr. Blumenthal testified that in these meetings senior White House advisers discussed the policy, political, legal, and media impact of various scandals on the Administration and gave various examples of the kinds of matters discussed. Blumenthal 6/4/98 GJT at 25-40; Supplemental Materials (H. Doc. 105-316) at 179-82.
2. "What information have you received from the President [about Monica Lewinsky]?" Blumenthal 2/26/98 GJT at 15; Supplemental Materials (H. Doc. 105-316) at 162.
After abandoning this claim, Mr. Blumenthal testified that the President told him that Ms. Lewinsky had made a sexual advance on him and that he had rebuffed it. The President further told him that Ms. Lewinsky had threatened to tell other people that they had had an affair if he did not have sex with her. The President also told him that he was never alone with Ms. Lewinsky. Blumenthal 6/4/98 GJT at 49-50; Supplemental Materials (H. Doc. 105-316) at 185.
3. "Okay. Can you tell us what information you received from Mrs. Clinton [about Monica Lewinsky]?" Blumenthal 2/26/98 GJT at 15; Supplemental Materials (H. Doc. 105-316) at 162.

After abandoning this claim, Mr. Blumenthal testified that the First Lady told him that the Lewinsky matter was a political attack and that the President had simply been ministering to a troubled young person. Blumenthal 6/4/98 GJT at 46-53; Supplemental Materials (H. Doc. 105-316) at 184-86.

4. “Okay. Did your attorneys, that is either the White House or your private attorneys, indicate to you which privilege – well, let me ask you the question first. What was discussed? What was the substance of what was discussed [between Mr. Blumenthal and the President about Monica Lewinsky]?” Blumenthal 2/26/98 GJT at 19; Supplemental Materials (H. Doc. 105-316) at 163.

After abandoning this claim, Mr. Blumenthal testified that the President told him that Ms. Lewinsky had made a sexual advance on him and that he had rebuffed it. The President further told him that Ms. Lewinsky had threatened to tell other people that they had had an affair if he did not have sex with her. The President also told him that he was never alone with Ms. Lewinsky. Blumenthal 6/4/98 GJT at 49-50; Supplemental Materials (H. Doc. 105-316) at 185. Blumenthal 6/25/98 GJT at 4-37 ; Supplemental Materials (H. Doc. 105-316) at 189-98.

5. “What was the substance of the meeting with the First Lady [about Monica Lewinsky]?” Blumenthal 2/26/98 GJT at 25; Supplemental Materials (H. Doc. 105-316) at 164.

After abandoning this claim, Mr. Blumenthal testified that the First Lady told him that the Lewinsky matter was a political attack and that the President had simply been ministering to a troubled young person. Blumenthal 6/4/98 GJT at 46-53; Supplemental Materials (H. Doc. 105-316) at 184-86.

6. “Tell us about the ones [i.e. telephone conversations with the First Lady about Monica Lewinsky] that you do specifically recall?” Blumenthal 2/26/98 GJT at 26; Supplemental Materials (H. Doc. 105-316) at 164.

After abandoning this claim, Mr. Blumenthal testified that he and the First Lady talked about matters in the media about the investigation and not any material facts about Ms. Lewinsky. Blumenthal 6/25/98 GJT at 58-59; Supplemental Materials (H. Doc. 105-316) at 203. He later said they involved leaks, tactics, and congressional reactions. Blumenthal 6/25/98 GJT at 62; Supplemental Materials (H. Doc. 105-316) at 204.

QUESTIONS ON WHICH NANCY HERNREICH ASSERTED EXECUTIVE PRIVILEGE

1. “Okay. As best you recollect, could you tell us what the conversation was about. Who said what?” Hernreich 2/25/98 GJT at 37; Supplemental Materials (H. Doc. 105-316) at 1324. (The question refers to Ms. Hernreich’s conversation with the President about Ms. Lewinsky.)

After abandoning the claim of privilege, Ms. Hernreich testified that the President told her that

he did not do “this” (i.e. have a relationship with Ms. Lewinsky) and that the President had at some point mentioned that Ms. Lewinsky was a friend of Walter Kaye. Hernreich 3/26/98 GJT at 12-13; Supplemental Materials (H. Doc. 105-316) at 1341-42. Hernreich 6/16/98 GJT at 90-91; Supplemental Materials (H. Doc. 105-316) at 1406-07.

2. Ms. Hernreich testified that she had been instructed by White House attorneys to invoke executive privilege with respect to any questions about conversations she may have had with senior White House staff about Ms. Lewinsky. Hernreich 2/25/98 GJT at 44-45; Supplemental Materials (H. Doc. 105-316) at 1325.

After abandoning this claim, Ms. Hernreich testified that she may have had discussions with White House attorneys Cheryl Mills or Lanny Breuer about Ms. Lewinsky, but she did not recall the details. Hernreich 6/16/98 GJT at 53-54; Supplemental Materials (H. Doc. 105-316) at 1400. Ms. Hernreich also testified that she did not have any conversations with senior staff about Ms. Lewinsky’s efforts to return to a White House job. Hernreich 6/16/98 GJT at 63-64; Supplemental Materials (H. Doc. 105-316) at 1402.

3. Ms. Hernreich testified that she had been instructed by White House attorneys to invoke executive privilege with respect to any questions about conversations she may have had with the President about Kathleen Willey. Hernreich 2/25/98 GJT at 45-46; Supplemental Materials (H. Doc. 105-316) at 1325.

After abandoning this claim, Ms. Hernreich testified that she had conversations with the President about the suicide of Ms. Willey’s husband and efforts to get Ms. Willey a job in the White House. Hernreich 3/31/98 GJT at 104-08; Supplemental Materials (H. Doc. 105-316) at 1384-85. She further testified that later she had a conversation with the President in which she informed him of a call from Ms. Willey in which Ms. Willey informed Ms. Hernreich that a reporter was asking questions about the Willey incident. Ms. Hernreich thought that the President might have told her to relay this information to Mr. Lindsey. Hernreich 6/16/98 GJT at 59-60; Supplemental Materials (H. Doc. 105-316) at 1401.

4. “Then my question to you is now: Tell the grand jurors the content of those conversations, as you remember them. And do you want to tell us that, or do you invoke privilege?” Hernreich 2/25/98 GJT at 54; Supplemental Materials (H. Doc. 105-316) at 1326. (The question refers to Ms. Hernreich’s conversation with Bruce Lindsey about Ms. Lewinsky.)

After abandoning this claim, Ms. Hernreich testified that she did not recall any discussions she had with Mr. Lindsey about Ms. Lewinsky and Ms. Tripp. Hernreich 6/16/98 GJT at 51; Supplemental Materials (H. Doc. 105-316) at 1400. She later testified that she might have had ten to twenty conversations with Mr. Lindsey about Ms. Lewinsky, but that only one or two of them would have involved more than general mention of the story in the press. Hernreich 6/16/98 GJT at 99-102; Supplemental Materials (H. Doc. 105-316) at 1408.

5. Q. Okay. I'm not going to go to the content, but let me explain the reason I'm asking it, because I thought as we understood it, that the demarcation for Monica Lewinsky was after the story broke – which would have been on or about January 21st or 23rd, somewhere in that area.

So given that as what you've previously indicated as sort of your framework for invoking executive privilege, the conversations with Bruce Lindsey – I'm not going to ask you the content, but did the conversation with Bruce Lindsey concern Monica Lewinsky?

A. I would like to claim executive privilege on my conversations with Bruce Lindsey.

Q. Even to as to identify the nature of the topic?

A. Yes. Hernreich 2/25/98 GJT at 61; Supplemental Materials (H. Doc. 105-316) at 1328.

After abandoning this claim, Ms. Hernreich testified that she did not recall any discussions she had with Mr. Lindsey about Ms. Lewinsky. Hernreich 6/16/98 GJT at 51; Supplemental Materials (H. Doc. 105-316) at 1400. She later testified that she might have had ten to twenty conversations with Mr. Lindsey about Ms. Lewinsky, but that only one or two of them would have involved more than general mention of the story in the press. Hernreich 6/16/98 GJT at 99-102; Supplemental Materials (H. Doc. 105-316) at 1408.

6. Ms. Hernreich testified that these conversations did not involve any national security, state secret, or official governmental matters. Hernreich 2/25/98 GJT at 65-66; Supplemental Materials (H. Doc. 105-316) at 1328.

IV. THE CONSTITUTIONAL PROCESS OF IMPEACHMENT

A. General Arguments About Impeachment

1. Constitutional Provisions

The following provisions in the Constitution relate to impeachment:

“The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.” U.S. Const. art. I, sec. 2.

“The Senate shall have the sole power to try all Impeachments.” U.S. Const. art. I, sec. 3, cl. 6.

“Judgment in Cases of Impeachment shall not extend further than to removal from Office, and

disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgement and Punishment, according to Law.” U.S. Const. art. I, sec. 3, cl. 7.

“The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” U.S. Const. II, sec. 4.

2. Impeachment is not Removal from Office

Some have suggested that impeachment is equivalent to removal from office. This suggestion is patently false. Article II of the Constitution specifies that the President “shall be removed from Office on Impeachment for, *and* Conviction of” certain offenses. U.S. Const. art. II, sec. 4 (emphasis added). The language is clear on its face.

Elsewhere the Constitution sets forth the procedure that is to be used to address the derelictions of the President, and that procedure demonstrates that impeachment is the charging phase, and trial by the Senate is the conviction and removal phase. Article I gives the House of Representatives “the sole Power of Impeachment,” U.S. Const. art. I, sec. 2, and gives the Senate “the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation.” U.S. Const. art. I, sec. 3. The Constitution gives each House of Congress a specific duty: the House serves as accuser, the Senate as judge.

Representative Barbara Jordan, a Democrat from Texas who served on the Judiciary Committee during the impeachment inquiry of President Richard Nixon, described this delegation of duties as follows:

It is wrong, I suggest, it is a misreading of the Constitution for any member here to assert that

for a member to vote for an article of impeachment means that that member must be convinced that the president should be removed from office. The Constitution doesn't say that. The powers relating to impeachment are an essential check in the hands of this body, the legislature, against and upon the encroachment of the executive. In establishing the division between the two branches of the legislature, the House and the Senate, assigning to the one the right to accuse and to the other the right to judge, the framers of the Constitution were very astute. They did not make the accusers and the judges the same person.

Debate on Articles of Impeachment, p. 111 (1974).

At the Markup of the Articles of Impeachment, Chairman Hyde echoed these thoughts:

The framers' decision to confine legislative sanctioning of executive officials to removal upon impeachment was carefully considered. By forcing the House and Senate to act as a tribunal and a trial jury rather than merely as a legislative body, they infused the process with notions of due process. The requirement of removal upon conviction accentuates the magnitude of the procedure, encouraging serious deliberation among Members of Congress.

Markup Session, Articles of Impeachment of William Jefferson Clinton, December 12, 1998, at 172.

It is abundantly clear that removal cannot occur until the Senate's trial has concluded in conviction.

3. Impeachment Does Not Overturn an Election

One rhetorical device that has recently been employed by some who oppose the impeachment of President Clinton is that impeachment of the President will "overturn the election." The suggestion is that the congressional majority is using impeachment for political reasons – to undo a presidential election in which their party did not succeed.

The success of this rhetorical strategy rests wholly on the expectation that those to be persuaded by it will not read the Constitution. The Twenty-Fifth Amendment to the Constitution, which was ratified on February 10, 1967, states: "In case of the removal of the President from office or of his death or resignation, the Vice President shall become President." Since the vice presidential and presidential candidates run for office on the same ticket, impeachment of the President could not possibly result in a change of political party control in the Executive. Any assertion to the contrary

is patently false.

4. A Senate Trial of an Impeachment is a Constitutional Process

Another debating tactic recently employed by those who oppose impeachment is to portray the trial in the Senate as an unbearable exercise for the country. This tactic is undoubtedly designed to alarm the public, and to aggravate the discomfort already inherent in the notion of impeaching a president. Representative Charles T. Canady addressed this argument on December 12, 1998 during the debate on the motion to adopt a joint resolution of censure:

Now, we have a responsibility to follow the Constitution. Now, we have heard many suggestions about what will happen if this President is impeached. We have heard horror story after horror story. But do we have such fear of following the path marked out for us by the Constitution that we would take it upon ourselves to go down a different path, a path of our own choosing? Will we let our faith in the constitution be put aside and overwhelmed by the fears that have been feverishly propagated by the President's defenders?

Now, there is no question that this is a momentous issue. There is no question that impeaching a President of the United States is a momentous act. But this is not a legislative coup d'etat. This is a constitutional process. . . . There is a great deal of evidence before us, but in its essentials, this is a rather simple case. It can be resolved by the Senate expeditiously. We should reject the scare tactics, we should reject the effort to have us turn away from our constitutional duty, we should vote down this motion and move forward with doing our duty in the House of Representatives.

Markup Session, Articles of Impeachment of William Jefferson Clinton, December 12, 1998, at 210-11.

It is clear that a Senate trial following impeachment would not be an extraordinary event, but it would be a methodical procedure of regular constitutional order. Those finding fault with the idea of a trial are really faulting the Constitution, and not those who believe President Clinton has committed offenses deserving impeachment and removal.

B. Articles of Impeachment Against President Clinton

1. Article I - Grand Jury Perjury

a. Facts

Article I charges President Clinton with “willfully provid[ing] perjurious, false and misleading testimony to a federal grand jury on August 17, 1998. A review of the judicial impeachments of the 1980s makes it clear that when a president knowingly makes false statements under oath, especially when the statements meet the standards of perjury, he has committed impeachable offenses. This is true whether or not the statements are in regard to matters related to his official duties.

The first article of impeachment against President Clinton, in charging that he made perjurious, false and misleading statements to a federal grand jury, can be challenged on two other bases. The first, that the President’s statements were literally true, has already been dismissed. The second is that the statements were not material to the matters being considered by the grand jury convened by the Office of Independent Counsel. As one of the matters the grand jury was considering was the OIC’s investigation of “whether Monica Lewinsky or others had violated federal law in connection with the *Jones v. Clinton* case”, materiality would be determined by whether the President’s affair with Ms. Lewinsky was material to that case. *Referral from Independent Counsel Kenneth W. Starr in Conformity with the Requirements of Title 28, United States Code, Section 595(c)*, H.R. Doc. 105-310, 105th Cong., 2^d Sess. at 8 (1998).

Unfortunately for the President’s argument, on May 26, the United States Court of Appeals for District of Columbia Circuit ruled that President Clinton’s affair with Monica Lewinsky was material to the *Jones v. Clinton* lawsuit. The court stated that:

[Monica] Lewinsky tells us . . . the government could not establish perjury because her denial of having had a “sexual relationship” with President Clinton was not “material” to the Arkansas proceeding [the *Jones* case] within the meaning of 18 U.S.C. § 1623(a); and her

affidavit containing this denial could not have constituted a “corrupt[] . . . endeavor[] to influence” the Arkansas district court

A statement is “material” if it “has a natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a [particular] determination. . . . The “central object” of any materiality inquiry is “whether the misrepresentation or concealment was predictably capable of affecting, i.e., had a natural tendency to affect, the official decision.” . . . Lewinsky used the statement in her affidavit . . . to support her motion to quash the subpoena issued in the discovery phase of the [*Jones*] litigation. District courts faced with such motions must decide whether the testimony or material sought is reasonably calculated to lead to admissible evidence and, if so, whether the need for the testimony, its probative value, the nature and importance of the litigation, and similar factors outweigh any burden enforcement of the subpoena might impose There can be little doubt that Lewinsky’s statements in her affidavit were . . . “predictably capable of affecting” the decision. She executed and filed her affidavit for this very purpose.

In re Sealed Case, No. 98-3052, slip op. at 4-6 (D.C. Cir. May 26, 1998)(citations omitted).

It is true that the above opinion was in regard to whether Ms. Lewinsky could quash a subpoena to produce items and testify in the case of *Jones v. Clinton* regarding her alleged affair with President Clinton. However, the reasons for which the court upheld the subpoena as material to the *Jones* case are directly applicable to whether Ms. Lewinsky’s affidavit was material to the *Jones* case. In both cases, the essential question was whether Lewinsky’s alleged affair with President Clinton was material to the *Jones* case.

Why would Ms. Lewinsky’s affair with President Clinton be material to the *Jones* case? Because in “he-said, she-said” sexual harassment cases such as Paula Jones’s, patterns of conduct are important evidence in establishing that harassment had in fact occurred. President Clinton’s conduct in relation to other subordinate employees – such as Ms. Lewinsky – could help establish the veracity of Ms. Jones’s claims.

b. Lessons from the Judicial Impeachments of the 1980s

The impeachments of three sitting federal judges in the 1980's provide compelling reasons to

believe that President Clinton committed impeachable offenses when he made perjurious, false and misleading statements to the grand jury.

i. Federal Judges vs. Presidents

The argument is frequently made that offenses leading to impeachment when committed by federal judges do not necessarily rise to this level when committed by a president -- the argument's basis is said to be that the Constitution provides that Article III judges "shall hold their Offices during good Behavior," U.S. Const. art. III, sec. 1., and thus that judges are impeachable for "misbehavior" while other federal officials are only impeachable for treason, bribery, and other high crimes and misdemeanors.

The staff of the House Judiciary Committee in the 1970s and the National Commission on Judicial Discipline and Removal in the 1990s have both rejected this argument. In 1974, the staff of the Judiciary Committee's Impeachment Inquiry issued a report which asked whether the good behavior clause "limit[s] the relevance of the . . . impeachments of judges with respect to presidential impeachment standards as has been argued by some[.]" Staff of House Comm. on the Judiciary, 93rd Cong., 2^d Sess., *Constitutional Grounds for Presidential Impeachment* (Comm. Print 1974) at 17. The staff concluded that: "It does not. . . . [T]he only impeachment provision . . . included in the Constitution . . . applies to all civil officers, including judges, and defines impeachment offenses as 'Treason, Bribery, and other high Crimes and Misdemeanors.'" *Id.*

The conclusion of the staff report is bolstered by the findings of the National Commission on Judicial Discipline and Removal, chaired by Robert Kastenmeier, former Chairman of the Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice and one of the House managers during the Senate trial of U.S. District Court Judge Harry Claiborne. The

Commission concluded that “the most plausible reading of the phrase ‘during good Behavior’ is that it means tenure for life, subject to the impeachment power. . . . The ratification debates about the federal judiciary seem to have proceeded on the assumption that good-behavior tenure meant removal only through impeachment and conviction.” National Commission on Judicial Discipline and Removal, *Report of the National Commission on Judicial Discipline and Removal* 17-18 (1993)(footnote omitted).

The record of the 1986 impeachment of Judge Claiborne also argues against different standards for impeachable offenses when committed by federal judges as when committed by presidents. Judge Claiborne filed a motion asking the Senate to dismiss the articles of impeachment against him for failure to state impeachable offenses. One of the motion’s arguments was that “[t]he standard for impeachment of a judge is different than that for other officers” and that the Constitution limited “removal of the judiciary to acts involving misconduct related to discharge of office.” *Memorandum in Support of Motion to Dismiss the Articles of Impeachment on the Grounds They Do Not State Impeachable Offenses* 4 (hereinafter cited as “*Claiborne Motion*”), reprinted in *Hearings Before the Senate Impeachment Trial Committee, 99th Cong., 2^d Sess.* 245 (1986)(hereinafter cited as “*Senate Claiborne Hearings*”).

Judge Claiborne’s attorney stated to the Senate trial committee that:

[B]ecause of the separation of powers contemplated by the framers . . . the standard for impeachment of a Federal judge is distinct from the standard of impeachment for the President, Vice President, or other civil officers of the United States because as we know, under article II, section 4, the President, Vice President, and civil officers may be removed on impeachment for conviction of treason, bribery, or other high crimes and misdemeanors.

It is our contention that the Federal judiciary, in order to remain an independent branch, has a different standard, a separate and distinct standard, as far as the ability or the disability to be impeached, and that is that the impeachment process would take place if in fact the judge,

who is the sole . . . lifetime appointment of all the officers which are referred to in the Constitution, is not on good behavior, a separate and distinct standard than that which is applicable to the elected officials and the officials who are appointed for a specific term.

Senate Claiborne Hearings at 76-77 (statement of Oscar Goodman).

Judge Claiborne's attorney was arguing that federal judges are not "civil officers" and thus that the impeachment standard in article II, section 4, does not apply; instead, "misbehavior" would be the grounds for impeaching a federal judge. *Id.* at 78-79. *See also Claiborne Motion* at 3-4. He admitted his theory would fall if the Senate concluded that a federal judge was a civil officer. *Senate Claiborne Hearings* at 79.

Representative Kastenmeier responded that "reliance on the term 'good behavior' as stating a sanction for judges is totally misplaced and virtually all commentators agree that that is directed to affirming the life tenure of judges during good behavior. It is not to set them down, differently, as judicial officers from civil officers." *Id.* at 81-82. He further stated that "[n]or . . . is there any support for the notion that . . . Federal judges are not civil officers of the United States, subject to the impeachment clause of article II of the Constitution." *Id.* at 81.

Kastenmeier's argument was repeated by the House of Representatives. U.S. House of Representatives, *Opposition to Motion to Dismiss Articles of Impeachment for Failure to State Impeachable Offenses* (hereinafter cited as "*Opposition to Claiborne Motion*"), reprinted in *Senate Claiborne Hearings* at 441. The House stated that:

If lack of good behavior were the sole standard for impeaching federal judges, then a different standard would apply to civil officers other than judges. Nowhere in the proceedings of the Constitutional Convention was such a distinction made. On the contrary, the proceedings of the Convention show an intention to limit the grounds of impeachment for all civil officers, including federal judges, to those contained in Article II.

On August 20, 1787, a committee was directed to report on "a mode of trying the supreme

Judges in cases of impeachment.” The committee reported back on August 22 that “the Judges should be triable by the Senate.” . . . Several days later, a judicial removal provision was added to the impeachment clause. On September 8, 1787, the judicial removal clause was deleted and the impeachment clause was expanded to include the Vice President and all civil officers. . . . In so doing, the Constitutional Convention rejected a dual test of “misbehavior” for judges and “high crimes and misdemeanors” for all other federal officials.

In Federalist No. 79, Alexander Hamilton confirmed this reading of the Convention’s actions with respect to the impeachment standard:

The precautions for [judges’] responsibility, are comprised in the article respecting impeachments. . . . This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and is the only one which we find in our Constitution with respect to our own judges.

Opposition to Claiborne Motion at 6-7 (citations omitted).

The Senate never voted on Claiborne’s motion. However, the Senate was clearly not swayed by the arguments contained therein because the body later voted to convict Judge Claiborne. 132 Con. Rec. S15,760-62 (daily ed. Oct. 9, 1986). The Senate thus rejected the claim that the standard of impeachable offenses was different for judges than for presidents. It can thus be reliably stated that both federal judges and U.S. presidents are impeachable for the same misdeeds: “Treason, Bribery, and other high Crimes and Misdemeanors”.

One additional argument can be made in an effort to differentiate the standards of impeachment for judges and presidents. While both judges and presidents are impeachable for committing “Treason, Bribery, and other high Crimes and Misdemeanors”, it might be argued that certain high crimes such as perjury are more detrimental when committed by judges and therefore only impeachable when committed by judges. Thus, one article of impeachment against Judge Claiborne charged that he was "required to discharge and perform all the duties incumbent on him and to uphold and obey the Constitution and laws of the United States" and was "required to uphold

the integrity of the judiciary and to perform the duties of his office impartially" and that by willfully and knowingly falsifying his income on his tax returns, he had "betrayed the trust of the people of the United States and reduced confidence in the integrity and impartiality of the judiciary, thereby bringing disrepute on the Federal courts and the administration of justice by the courts." *Id.* Judges must lead by example in convincing witnesses before their courts to testify truthfully, and they must be viewed as impartial when deciding issues in cases – thus it is devastating when they are viewed as being less than truthful.

This argument fails because it is just as devastating to our system of government when presidents commit perjury. As the Judiciary Committee stated in justifying an article of impeachment against President Nixon, the President not only has "the obligation that every citizen has to live under the law," but in addition has the duty "not merely to live by the law but to see that law faithfully applied." *Impeachment of Richard M. Nixon, President of the United States*, H.R. Rep. No. 93-1305, 93rd Cong., 2^d Sess. at 180 (1974) (hereinafter cited as "*Impeachment of Richard M. Nixon*"). The Constitution provides that he "shall take Care that the Laws be faithfully executed." U.S. Const. art. II, sec. 3. As Justice Felix Frankfurter has stated, this is "the embracing function of the President." *Impeachment of Richard M. Nixon* at 180, quoting *Youngstown Sheet and Tube Co. v. Sawyer*, 343 U.S. 579, 610 (1952) (Frankfurter, J., concurring). When a president, as chief law enforcement officer of the United States, commits perjury, he violates this constitutional oath unique to his office and casts doubt on the notion that we are a nation ruled by laws and not men.

ii. Perjurious, False and Misleading Statements Made Under Oath or Subject to Penalty for Perjury

a. Judge Harry E. Claiborne

When Judge Harry E. Claiborne was impeached, he was serving a sentence in federal prison for filing false federal income tax returns for 1979 and 1980. Judge Claiborne had signed written declarations that the returns were made under penalty of perjury. A jury had found beyond a reasonable doubt that Judge Claiborne had failed to report substantial income in violation of federal law.

The Senate convicted Judge Claiborne of three articles of impeachment. 132 Cong. Rec. S15,760-62 (daily ed. Oct. 9, 1986). The first article had charged that, while serving as a federal judge, Judge Claiborne willfully and knowingly filed under penalty of perjury an income tax return for 1979, which he did not believe to be true and correct as to every material matter in that it substantially understated his income. *Id.* The second article had charged that he had done the same with his income tax return for 1980. *Id.* The third article was mentioned in the previous section.

The first two articles of impeachment charged Judge Claiborne not only with making false statements, but with making perjurious statements. This can be inferred from the fact that the first two articles stated two crucial requirements of perjury, that a falsehood be made knowingly, and that it be “material.” A person is guilty of perjury if in a proceeding before or ancillary to any court or grand jury of the United States, he knowingly makes any false material declaration under oath. 18 U.S.C. § 1623(a). A general perjury provision is found at 18 U.S.C. § 1621. Section 1621 requires that the defendant “willfully” make a false statement. Under this section, the prosecution must present at least two independent witnesses or one witness with corroborating evidence. *See Hammer v. United States*, 271 U.S. 620, 626 (1926). The prosecution does not have to meet this “two witness rule” under § 1623. To be material, a statement must have “a natural tendency to influence, or [be] capable of influencing, the decision of the decisionmaking body to which it was addressed.” *Kungys*

v. *United States*, 485 U.S. 759, 770 (1988)(quotation marks omitted)(While *Kungys* dealt with materiality under the Immigration and Nationality Act, the Court stated that “[t]he federal courts have long displayed a quite uniform understanding of the ‘materiality’ concept as embodied in such statutes.” *Id.* See *United States v. Dickerson*, 114 F.3d 464, 466 (4th Cir. 1997), for a section 1623 case involving testimony before a grand jury with a similar definition of materiality.). Of course, the statement must influence the body on the subject before it. See *United States v. Cosby*, 601 F.2d 754, 756 n.2 (5th Cir. 1979). Materiality is determined at the time of the testimony, and “subsequent events do not eliminate that materiality.” See *United States v. Manfredonia*, 414 F.2d 760, 765 (2^d Cir. 1969)(footnote omitted).

b. Judge Walter Nixon

U.S. District Court Judge Walter L. Nixon, Jr., was impeached in 1989. At the time of his impeachment, he was serving a sentence in federal prison for committing perjury before a federal grand jury. A federal jury had convicted Judge Nixon of two counts of perjury while acquitting him of the underlying illegal gratuity count. He committed the perjury in an attempt to conceal his involvement with an aborted state prosecution for drug smuggling against the son of a man who had benefitted Judge Nixon financially with a “sweetheart” oil and gas investment. The Senate convicted Judge Nixon of two articles of impeachment, which were both based on Nixon’s perjurious testimony. *Proceedings of the United States Senate in the Impeachment Trial of Walter L. Nixon, Jr., a Judge of the United States District Court for the Southern District of Mississippi*, S. Doc. No. 101-22, 101st Cong., 1st Sess. 432-35 (1989). The first article upon which he was convicted found that in testimony before the federal grand jury investigating Judge Nixon’s business relationship with an individual and a state prosecutor's handling of a drug smuggling prosecution of that individual's son,

Judge Nixon knowingly made a material false or misleading statement in violation of his oath to tell the truth to the effect that he never discussed the prosecution with the state prosecutor. *Id.* at 432-35. The second article upon which he was convicted found that that in testimony before the same grand jury, Judge Nixon knowingly made a material false or misleading statement in violation of his oath to tell the truth to the effect that he never talked to anyone that in any way influenced anyone with respect to the drug smuggling case. *Id.*

As in the case of Judge Claiborne, the articles of impeachment against Judge Nixon charged him not only with making false statements, but with making perjurious statements. This can be inferred from the fact that the two articles stated two crucial requirements of perjury, that a falsehood be made knowingly, and that it be “material.” Of course, the federal jury had found that he had met these two requirements by convicting him of perjury.

c. Judge Alcee Hastings

U.S. District Court Judge Alcee L. Hastings was impeached in 1989. In 1983, a federal jury acquitted Judge Hastings of charges that he and a friend had conspired to solicit a \$150,000 bribe from defendants in a racketeering and embezzlement case heard by Judge Hastings in exchange for lenient sentencing. However, in a separate trial, a jury had convicted his alleged co-conspirator on these charges and it was alleged that Judge Hastings won acquittal by lying on the witness stand.

Judge Hastings was found guilty by the Senate on seven of twelve articles of impeachment involving false testimony and on an article stating that he was a participant in the bribery conspiracy. 135 Cong. Rec. 25,330-35 (1989). The seven “false testimony” articles alleged that Judge Hastings knowingly made false statements under oath intending to mislead the trier of fact regarding whether he had (1) entered into an agreement to seek the \$150,000 bribe from the defendants, (2) agreed to

modify the sentences of the defendants in return for the bribe, (3) agreed in connection with the bribe to return property to the defendants that he had previously ordered forfeited, (4) appeared at a hotel to demonstrate his participation in the bribery scheme, (5) instructed his law clerk to prepare an order returning property to the defendants in the racketeering and embezzlement case in furtherance of the bribery scheme, (6) conducted a telephone conversation with his co-conspirator in furtherance of the bribery scheme, and (7) certain letters were fabricated in an effort to hide the bribery scheme. 134 Cong. Rec. 20,206-07 (1988).

Since the articles of impeachment did not charge that Judge Hastings's false statements met a materiality standard, it can be inferred that Congress did not endeavor to impeach him for perjury, but only for making false statements. However, it seems obvious that the false statements made by Judge Hastings would have been found by a court to be material.

d. Conclusion

The recent judicial impeachments make clear that perjury is an impeachable offense. This is not surprising given that courts have long emphasized the destructiveness of perjury to the judicial system. The Supreme Court has stated that “[p]erjured testimony is an obvious and flagrant affront to the basic concepts of judicial proceedings[,]” *United States v. Mandujano*, 425 U.S. 564, 576 (1976), that “[f]alse testimony in a formal proceeding is intolerable,” and that “[p]erjury should be severely sanctioned in appropriate cases.” *ABF Freight System v. NLRB*, 510 U.S. 317, 323 (1994).

iii. Conduct not Related to Official Duties

The record of Judge Claiborne's impeachment proceedings make it clear that an individual can be impeached for conduct not related to his or her official duties. Hamilton Fish, ranking member of the Judiciary Committee and one of the House managers in the Senate trial, stated that

“[i]mpeachable conduct does not have to occur in the course of the performance of an officer’s official duties. Evidence of misconduct, misbehavior, high crimes, and misdemeanors can be justified upon one’s private dealings as well as one’s exercise of public office. That, of course, is the situation in this case.” 132 Cong. Rec. H4713 (daily ed. July 22, 1986).

Representative Fish’s views were reinforced by now chairman of the Judiciary Committee and then House manager Henry Hyde, who stated that “the decision to impeach and convict . . . stands as an admonition to others in public life. It is an opportunity for Congress to restate and reemphasize the standards of both personal and professional conduct expected of those holding high Federal office.” 132 Cong. Rec. H4716 (daily ed. July 22, 1986). House manager Romano Mazzoli stated that impeachment reached “corruption, maladministration, gross neglect of duties and other public and private improprieties committed by judges and high Government officials which rendered them unfit to continue in office.” 132 Cong. Rec. H4717 (daily ed. July 22, 1986).

Additional evidence that personal misconduct can lead to impeachment is provided by the fact that Judge Claiborne’s motion that the Senate dismiss the articles of impeachment for failure to state impeachable offenses was unsuccessful. One of the arguments his attorney made for the motion was that “there is no allegation . . . that the behavior of Judge Claiborne in any way was related to misbehavior in his official function as a judge; it was private misbehavior.” *Senate Claiborne Hearings* at 77 (statement of Judge Claiborne’s counsel, Oscar Goodman). *See also Claiborne Motion* at 3.

Representative Kastenmeier responded by stating that “it would be absurd to conclude that a judge who had committed murder, mayhem, rape, or perhaps espionage in his private life, could not be removed from office by the U.S. Senate.” *Senate Claiborne Hearings* at 81. Kastenmeier’s

response was repeated by the House of Representatives in its pleading opposing Claiborne's motion to dismiss. *Opposition to Claiborne Motion* at 2.

The House went on to state that:

[Claiborne's] narrow view of impeachable offenses expressly was offered and rejected by the Framers of the Constitution.

. . . . As originally drafted, the impeachment clause provided that the President should be "removable on impeachment and conviction of malpractice or neglect of duty." . . . The provision was subsequently revised to make the President impeachable for "treason, bribery or corruption." . . . Colonel Mason moved to add the phrase "or maladministration" after "bribery." . . . In response, James Madison objected that "maladministration" was too narrow a standard. Mason soon withdrew his amendment and substituted the phrase "or other high crimes and misdemeanors." This formulation was accepted, along with an amendment to extend the impeachment sanction to the Vice President and all other civil officers. . . . The Framers thus rejected . . . the concepts of professional "malpractice" or "maladministration" as the sole basis for the impeachment of federal officials.

The contrary position urged by Judge Claiborne is incompatible with common sense and the orderly conduct of government. Little can be added to the succinct argument of Representative Clayton in 1913 on this identical point, during the impeachment proceedings involving Judge Charles Swayne:

. . . . [The contention is that] however serious the crime, the misdemeanor, or misbehavior of the judge may be, if it can be said to be extrajudicial, he can not be impeached. To illustrate this contention, the judge may have committed murder or burglary and be confined under a sentence in a penitentiary for any period of time, however long, but because he has not committed the murder or burglary in his capacity as judge he can not be impeached. That contention, carried out logically, might lead to the very defeat of the performance of the function confided to the judicial branch of the government.

. . . . As also noted in one commentary:

An act or a course of misbehavior which renders scandalous the personal life of a public officer, shakes the confidence of the people in his administration of the public affairs, and thus impairs his official usefulness, although it may not directly affect his official integrity or otherwise incapacitate him properly to perform his ascribed functions.

. . . .

Thus, Judge Claiborne's argument is both inaccurate and illogical in its extraordinary premise

that a federal judge may intentionally commit a felonious act outside his judicial functions and automatically find protection from the impeachment sanction.

Opposition to Claiborne Motion at 3-5 (citations omitted)(emphasis in original).

Senator Charles Mathias, Jr., chairman of the impeachment trial committee, referred Judge Claiborne's motion to the full Senate, it having jurisdiction over the articles of impeachment. *Senate Claiborne Hearings* at 113. He did state, however, that:

[I]t is my opinion . . . that the impeachment power is not as narrow as Judge Claiborne suggests. There is neither historical nor logical reason to believe that the Framers of the Constitution sought to prohibit the House from impeaching . . . an officer of the United States who had committed treason or bribery or any other high crime or misdemeanor which is a serious offense against the government of the United States and which indicates that the official is unfit to exercise public responsibilities, but which is an offense which is technically unrelated to the officer's particular job responsibilities.

Id. at 113-14.

The Senate never voted on Judge Claiborne's motion. However, the Senate was clearly not swayed by the arguments contained therein because the body later voted to convict Judge Claiborne. 132 Con. Rec. S15,760-62 (daily ed. Oct. 9, 1986). The Senate thus agreed with the House that private improprieties could be, and were in this instance, impeachable offenses.

The Claiborne case makes clear that perjury, even if it relates to a matter wholly separated from a federal officer's official duties -- as to a judge's tax returns -- is an impeachable offense. Judge Nixon's false statements were also in regards to a matter distinct from his official duties. Of course, the false statements made by Judge Hastings were intimately related to his official duties, as they were in regard to one of his cases.

2. Article II - Perjury in the Civil Case

Article II charges President Clinton with willfully providing perjurious, false and misleading

testimony in sworn answers to written questions asked as part of a federal civil rights action brought against him by Paula Jones, and in a deposition given as part of that action. These actions are impeachable offenses no less than is President Clinton's perjurious, false and misleading testimony to a federal grand jury.

First, as previously stated, a person is guilty of perjury if in a proceeding before or ancillary to any court or grand jury of the United States, he knowingly makes any false material declaration under oath. A federal civil deposition is such an ancillary proceeding. *See, e.g., United States v. Wilkinson*, 137 F.3d 214, 225 (4th Cir. 1998), *cert. denied* 119 S.Ct. 172 (1998); *United States v. McAfee*, 8 F.3d 1010, 1014 (5th Cir. 1993). Thus, the actions of President Clinton alleged in this article can constitute perjury under federal law.

Second, perjury in civil proceedings is just as pernicious as perjury in criminal proceedings. The Eleventh Circuit has stated that "[w]e categorically reject any suggestion, implicit or otherwise, that perjury is somehow less serious when made in a civil proceeding. Perjury, regardless of the setting, is a serious offense that results in incalculable harm to the functioning and integrity of the legal system as well as to private individuals." *United States v. Holland*, 22 F.3d 1040, 1047 (11th Cir. 1994), *cert. denied* 513 U.S. 1109 (1995).

Third, certain federal circuits apply a loose definition of materiality to statements made in civil depositions because they are investigatory in nature. For instance, the Second Circuit in stated that "we see no persuasive reason not to apply the broad standard for materiality of whether a truthful answer might reasonably be calculated to lead to the discovery of evidence admissible at the trial of the underlying suit." *United States v. Kross*, 14 F.3d 751, 754 (2^d Cir. 1994)(a section 1623 case). *See contra United States v. Adams*, 870 F.2d 1140, 1147 (6th Cir. 1989)(a section 1623 case)(The

test is “whether a truthful statement might have assisted or influenced the tribunal in its inquiry.”). The Fifth Circuit stated that “[o]rdinarily, there would appear to be no sufficient reason why a deponent should not be held to his oath with respect to matters properly the subject of and material to the deposition, even if the information elicited might ultimately turn out not to be admissible at the subsequent trial. *United States v. Holley*, 942 F.2d 916, 924 (5th Cir. 1991), *aff’d after retrial*, 986 F.2d 100 (1993)(a § 1623 case). In assessing the materiality of statements made in a discovery deposition, some account must be taken of the more liberal rules of discovery.”

3. Article III - Obstruction of Justice

Article III charges that President Clinton has “prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him”

a. Lessons from the Impeachment of President Nixon

This article finds clear precedent in the first article of impeachment the Judiciary Committee approved against President Richard Nixon. That article charged President Nixon with interfering with the investigation of events relating to the June 17, 1972, unlawful entry at the Washington, D.C. headquarters of the Democratic National Committee for the purpose of securing political intelligence.

Using the powers of his office, the president “engaged personally and through his subordinates and agents, in a course of conduct or plan designed to delay, impede, and obstruct the investigation of such unlawful entry; to cover up, conceal and protect those responsible; and to conceal the

existence and scope of other unlawful covert activities." The article charged that implementation of the course of conduct included (1) making or causing to be made false or misleading statements to investigative officers and employees of the United States, (2) withholding relevant and material evidence or information from such persons, (3) approving, condoning, acquiescing in, and counseling witnesses with respect to the giving of false or misleading statements to such persons as well as in judicial and congressional proceedings, (4) interfering or endeavoring to interfere with the conduct of investigations by the Department of Justice, the Federal Bureau of Investigation, the Office of Watergate Special Prosecution Force and congressional committees, (5) approving, condoning, and acquiescing in surreptitious payments for the purpose of obtaining the silence of or influencing the testimony of witnesses, potential witnesses or participants in the unlawful entry or other illegal activities, (6) endeavoring to misuse the Central Intelligence Agency, (7) disseminating information received from the Department of Justice to subjects of investigations, (8) making false or misleading public statements for the purpose of deceiving the people of the United States into believing that a thorough investigation of "Watergate" had taken place, and (9) endeavoring to cause prospective defendants and persons convicted to expect favored treatment or rewards in return for silence or false testimony. *Impeachment of Richard M. Nixon* at 2-3.

Article III against President Clinton states that "[t]he means used to implement this course of conduct or scheme included one or more of" seven acts. The first alleged act by President Clinton, "corruptly encourag[ing] a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading", and the second alleged act, "corruptly encourag[ing] a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony[.]" are clearly analogous to the third

alleged act of President Nixon. The fourth alleged act by President Clinton was his that he “intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness”

This is clearly analogous to the fifth alleged act of President Nixon.

b. Federal Obstruction of Justice Statutes

There are two federal obstruction of justice statutes. The first, § 1503 of title 18 of the United States Code, states, in relevant part, that “[w]hoever . . . corruptly, or by threats or force . . . influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished” 18 U.S.C. sec. 1503(a)(1996). The proscribed actions must relate to a pending judicial process. *See, e.g., United States v. Walasek*, 527 F.2d 676, 678 (3rd Cir. 1975). The pending judicial process can be a civil action. *See, e.g., Falk v. United States*, 370 F.2d 472, 476 (9th Cir. 1967), *cert. denied* 387 U.S. 926 (1967).

The Fifth Circuit has stated that:

Whatever can be accomplished through intimidating or influencing a witness, juror, or court official is labeled by section 1503 as an obstruction of justice, for the reason that each of these actors has certain duties imposed by law, and the interference with his performance of these duties necessarily disrupts the processes of the criminal justice system.

United States v. Howard, 569 F.2d 1331, 1333-34 (5th Cir. 1978)(footnote omitted), *cert. denied* 439 U.S. 834 (1978). Even soliciting a merely prospective witness may provide the basis for a conviction. *See United States v. Friedland*, 660 F.2d 919, 931 (3rd Cir. 1981), *cert. denied* 456 U.S. 989 (1982); *Falk v. United States*, 370 F.2d at 476.

The second statute, § 1512 of title 18 of the United States Code, states, in relevant part, that:

Whoever . . . corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to . . . influence, delay, or prevent the

testimony of any person in an official proceeding . . . [or] cause or induce any person to . . . withhold testimony, or withhold a record, document, or other object from an official proceeding . . . shall be [punished].

18 U.S.C. §§ 1512(b)(1)-(2)(1996). Either of the two statutes can be used in the case of witness tampering. *See, e.g., United States v. Maloney*, 71 F.3d 645, 659 (7th Cir. 1995), *cert. denied* 117 S.Ct. 295 (1996); *United States v. Tackett*, 113 F.3d 603, 611 (6th Cir. 1997), *cert. denied* 118 S.Ct. 879 (1998).

The first alleged act by President Clinton, “corruptly encourag[ing] a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading”, and the second alleged act, “corruptly encourag[ing] a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony[.]” clearly violate both statutes. The third alleged act, “corruptly engag[ing] in, encourag[ing] or [supporting] a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him[.]” clearly violates the second statute. The fourth alleged act, that President Clinton “intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness[.]” clearly violates both statutes. The sixth alleged act, “relat[ing] a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness[.]” and the seventh alleged act, “ma[king] false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses[.]” clearly violate both statutes. “The most obvious example of a § 1512 violation may be the situation where a defendant tells a potential witness a false story as if the story were true, intending that the witness believe the

story and testify to it before the grand jury.” *United States v. Rodolitz*, 786 F.2d 77, 82 (2^d Cir. 1986), *cert. denied* 479 U.S. 826 (1986).

4. Article IV - Abuse of Power

Article IV charges President Clinton with “refus[ing] and fail[ing] to respond to certain written requests for admission and willfully ma[king] perjurious, false and misleading sworn statements in response to certain written requests for admission” In doing such, the President “assumed to himself functions and judgments necessary to the exercise of the sole power of impeachment invested by the Constitution in the House of Representatives” -- the Constitution provides that “the House of Representatives . . . shall have the sole Power of Impeachment” -- and thus warrants impeachment. U.S. Const. art. I, sec. 2, cl. 5. Chairman Hyde made the written request for 81 admissions by letter dated November 5, 1998. The gravity of the request was made clear by the facts that the answers were to be under oath, Letter from Henry J. Hyde to U.S. President William J. Clinton (Nov. 5, 1998) and that if a response was not provided by President Clinton, the Judiciary Committee would have subpoenaed it. Chairman Hyde sent a letter to the President stating that “[i]f the Committee is not provided complete and specific answers to [the 81 questions] by Monday, November 30, I have no course but to urge the full Committee to subpoena those answers.” Letter from Henry J. Hyde to U.S. President William J. Clinton 2 (Nov. 25, 1998).

Far from representing novel grounds for impeachment, Article IV finds clear precedent in the third article of impeachment that the Judiciary Committee approved in the case of President Richard Nixon. That article found that President Nixon had committed impeachable offenses by failing to “produce papers and things as directed by duly authorized subpoenas issued by the Committee on the Judiciary” and “willfully disobey[ing] such subpoenas.” The items subpoenaed were needed to

“resolve . . . fundamental, factual questions relating to Presidential direction, knowledge or approval of actions demonstrated by other evidence to be substantial grounds for impeachment of the President.” The Article found that the President:

In refusing to produce these papers and things . . . substitut[ed] his judgment as to what materials were necessary for the inquiry, interposed the powers of the presidency against the lawful subpoenas of the House of Representatives, thereby assuming to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives[, and thus warrants impeachment].

Impeachment of Richard M. Nixon at 188.

The Committee found that by not providing the subpoenaed information, President Nixon “interfer[ed] with the discharge of the Committee’s responsibility to investigate fully and completely whether sufficient grounds exist[ed] to impeach him.” *Id.* at 189. In addition, his “defiance of the Committee forced it to deliberate and make judgments on a record that . . . was ‘incomplete’.” *Id.* at 190. The President “is obligated to supply . . . relevant evidence necessary for Congress to exercise its constitutional responsibility in an impeachment proceeding.” *Id.* at 213. Finally, as Chairman Rodino stated in a letter to President Nixon:

Under the Constitution it is not within the power of the President to conduct an inquiry into his own impeachment, to determine which evidence, and what version or portion of that evidence, is relevant and necessary to such an inquiry. These are matters which, under the Constitution, the House has the sole power to determine.

Id. at 194, quoting letter from Chairman Rodino to President Richard M. Nixon (May 30, 1974).

By refusing and failing to respond to some of the Judiciary Committee’s requests for admissions, and by answering others in a perjurious, false and misleading fashion, President Clinton committed acts and omissions of the same nature as those committed by President Nixon. The 81 requests for admissions went to facts at the heart of the conduct which form the basis of the

Committee's impeachment investigation. That full and truthful responses were crucial to the investigation was made clear by the fact that responses were made under oath and, had they not been forthcoming, would have been compelled by subpoena. The information requested was clearly as important to the Committee's investigation in 1998 as were the items sought to be subpoenaed by the Committee in 1974.

Where President Clinton failed to respond, he, just as President Nixon, took it upon himself, as Chairman Rodino had stated, to "determine which evidence, and what version or portion of that evidence, is relevant and necessary to such an inquiry." President Clinton assumed to himself functions and judgments necessary to the exercise of the sole power of impeachment vested by the Constitution in the House of Representatives and thereby committed impeachable offenses.

President Clinton did no less when he provided the Committee with perjurious, false and misleading responses to other requests for admissions. It is ludicrous to suppose that it is impeachable to fail to provide certain requested information, yet at the same time not impeachable to provide false information. For it is probable that President Clinton caused more harm to the Committee's investigation by providing false responses than he would have by providing no responses at all. Just as with President Nixon, he showed contempt for the legislative branch and impeded Congress's exercise of its Constitutional responsibility, thus justifying impeachment.

V. Committee Consideration of Impeachment Proceedings

On January 16, 1998, in response to Attorney General Janet Reno's request, the Special Division of the United States Court of Appeals for the District of Columbia Circuit, expanded the jurisdiction of Independent Counsel Kenneth W. Starr. The Special Division's order provides in pertinent part:

The Independent Counsel shall have jurisdiction and authority to investigate to the maximum extent authorized by the Independent Counsel Reauthorization Act of 1994 whether Monica Lewinsky or others suborned perjury, obstructed justice, intimidated witnesses, or otherwise violated federal law other than a Class B or C misdemeanor or infraction in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case *Jones v. Clinton*.

In re: Madison Guaranty Savings and Loan Association, Order of the United States Court of Appeals for the District of Columbia Circuit, Division for the Purpose of Appointing Independent Counsels, January 16, 1998 (reprinted in H. R. Doc. 105-311, Part I, at 6-7).

On September 9, 1998, Independent Counsel Starr notified Speaker Gingrich and Minority Leader Gephardt that his office “delivered to the Sergeant at Arms, the Honorable Wilson Livingood, 36 sealed boxes containing two complete copies of a Referral to the House of Representatives.” *Letter from Independent Counsel Kenneth W. Starr to The Honorable Newt Gingrich and the Honorable Richard A. Gephardt*, September 9, 1998. The Referral included a narrative, appendices, and supporting documents and evidence (including grand jury transcripts) which supported the Office of Independent Counsel’s findings regarding the Lewinsky matter.

Independent Counsel Starr forwarded this information pursuant to the Independent Counsel Reauthorization Act, 28 U.S.C. § 591 *et. seq.*, which provides:

Information relating to impeachment.--An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for an impeachment. Nothing in this chapter or section 49 of this title [concerning the assignment of judges to the Special Division that appoints an independent counsel] shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

28 U.S.C. § 595(c) (1994). After the Sergeant at Arms received the materials, they were stored in a secure facility in the Ford Building. The room, which is equipped with security technology, is guarded by the U.S. Capitol police around the clock.

Soon after the delivery of the materials from Independent Counsel Starr, a bipartisan meeting of the House leadership was held in the Speaker's office to decide the manner in which the material would be handled. The meeting included Speaker Gingrich, Majority Leader Armev, Minority Leader Gephardt, Rules Committee Chairman Solomon, Rules Committee Democratic Member Frost, Judiciary Committee Chairman Hyde, and Judiciary Committee Ranking Minority Member Conyers. The meeting took place at 5:00 p.m. in room H - 230 in the Capitol. The main issue resolved at that meeting was the manner in which the material would be released to the public.

Chairman Hyde's original proposal did not include a provision for the immediate release of documents to the public. Instead, his plan included referring the communication from Independent Counsel Starr to the Judiciary Committee so that the Committee could review the material to determine whether sufficient grounds existed to recommend to the House that an impeachment inquiry be commenced. The material would have been deemed received in executive session and access to the material would have been restricted to the Members of the Committee on the Judiciary Committee. Chairman Hyde's draft resolution also contained investigative authorities, such as staff deposition authority, which would have enabled the Committee begin conducting an investigation. Chairman Hyde's proposal, particularly the provisions regarding the secrecy of the material and the investigative authorities, were rejected.

Although many Democrats and pundits have criticized the House of Representatives and the Committee for releasing the pertinent parts of Independent Counsel's Starr's referral, few know that a chief proponent of immediately releasing the information was Minority Leader Gephardt. Rep. Gephardt favored release because of his concern about leaks coming from the Committee. He argued that it would be futile to hold material back as there would be selective leaking, which would

prejudice the President's case. Therefore, he stated that there was a general need to release all the material in the referral – including the appendices and supporting evidence – to the public as soon as possible. In fact, he insisted that all of the information be made public. He expressed his sense that many Members of Congress, who did not serve on the Committee, would demand access to the supporting appendices, and it would be unwise for the Committee to restrict the access to those materials to Judiciary Committee Members only. Minority Leader Gephardt also requested that the President be allowed to obtain a copy of the narrative 24 hours before its public release, but did not insist on his request which he abandoned quickly.

Rep. Conyers argued against the release of the materials as did his chief investigative counsel. They were concerned about the sensitivity of the material, particularly grand jury material, and requested that the Committee be given an opportunity to thoroughly review the material. In fact, Rep. Conyers' position regarding public access to the material was similar to Chairman Hyde's original position. At one point during the meeting, Rep. Conyers and Minority Leader Gephardt argued about the advisability of releasing the material to the public for several minutes. Minority Leader Gephardt's position eventually prevailed with one modification. Instead of releasing all of the material immediately, the House authorized the release of the narrative and then gave the Committee about two and a half weeks to review and release the remaining material by September 28, 1998. Speaker Gingrich, Minority Leader Gephardt, and Rules Committee Chairman Solomon made it clear toward the end of the meeting that the presumption was that the Committee would release all of the relevant material and should only redact personal, degrading, irrelevant, or other sensitive information.

On September 10, 1998, the Committee on Rules received testimony regarding the handling

of the Referral. *Hearing before the Committee on Rules on H. Res. 525*, 105th Cong., 2nd Sess. (September 10, 1998). After the hearing, the Committee considered H. Res. 525, which provided for a deliberative review by the Committee on the Judiciary of a communication from an independent counsel, and for the release thereof. *Id.* The full House of Representatives approved H. Res. 525 on September 11, 1998, by a vote of 363-63. 144 Cong. Rec. H7587 -H7608 (daily ed. September 11, 1998). As a result of the passage of H. Res. 525, the narrative was ordered printed as a House document. *Referral from Independent Counsel Kenneth W. Starr in Conformity with the Requirements of Title 28, United States Code, Section 595(c)*, H.R. Doc. 105-310, 2nd Sess, 105th Cong., 129-130 (1998).

In addition to ordering the public release of the narrative, section two of H. Res. 525 directed that the “balance of [the] material . . . shall be released from [executive session status] on September 28, 1998, except as otherwise determined by the committee. Material so released shall immediately be submitted for printing as a document of the House.” Pursuant to this directive, the Committee staff reviewed over 60,000 documents in less than three weeks. The task was daunting and required a great deal of staff resources to complete the job within the allotted time frame. After the staff and Members reviewed the material, the Committee met in executive session on September 17, 18, and 25 to consider the staff’s recommendations regarding the release of materials and proposed redactions to those materials which were made to protect privacy, remove vulgarities, and protect sensitive law enforcement information, such as the names of FBI agents. *See Votes of the Committee in Executive Session Pursuant to H. Res. 525*, Committee on the Judiciary, House of Representatives, Committee Print, Ser. No. 7, 105th Cong., 2nd Sess. (1998). On September 18 and pursuant to H. Res. 525, redacted appendices to the Referral were ordered printed as a House document, (*Appendices to the*

Referral to the United States House of Representatives Pursuant to Title 28, United States Code, Section 595(c) Submitted by the Office of the Independent Counsel, September 9, 1998, H.R. Doc. 105-311, 105th Cong., 2nd Sess. (September 18, 1998)), and redacted supplemental materials to the referral were released on September 28. *Supplemental Materials to the Referral to the United States House of Representatives Pursuant to Title 28, United States Code, Section 595(c) Submitted by the Office of the Independent Counsel, September 9, 1998*, H.R. Doc. 105-316, 105th Cong., 2nd Sess. (September 28, 1998). Also, on September 28, the President's responses to the Referral, which were received by the Committee in executive session, were ordered printed as a House document. *Preliminary Memorandum of the President of the United States Concerning Referral of the Office of the Independent Counsel and Initial Response of the President of the United States to Referral of the Office of the Independent Counsel*, H.R. Doc. 105-317, 105th Cong., 2nd Sess. (September 28, 1998).

Pursuant to H. Res. 525, the Committee was also obligated to "determine whether sufficient grounds exist to recommend to the House that an impeachment inquiry be commenced." In order to fulfill that important obligation, the Chairman and Ranking Minority Member directed the majority and minority chief investigative counsels to advise the Committee regarding the information referred by the Independent Counsel. The Committee received their orally delivered reports on October 5, 1998. The Committee's Chief Investigative Counsel advised that there was enough information to warrant a full inquiry, while the minority's chief investigative counsel advised against conducting a full inquiry. Following those presentations, the Committee approved a resolution, H. Res. 581, which recommended that the full House of Representatives authorize the Committee to conduct an impeachment inquiry. Also, on that day the Committee considered and approved by voice vote

impeachment inquiry procedures which were modeled after the procedures used in 1974. *Authorization of an Inquiry Into Whether Grounds Exist for the Impeachment of William Jefferson Clinton, President of the United States; Meeting of the House Comm. on the Judiciary Held October 5, 1998; Presentation by Inquiry Staff Consideration of Inquiry Resolution Adoption of Inquiry Procedures*, Committee Print, Ser. No. 8, 105th Cong., 2nd Sess. (December 1998). On October 7, the Committee filed its report on H. Res. 581 in the House. *Investigatory Powers of the Committee on the Judiciary with Respect to its Impeachment Inquiry*, H.R. Rept. 105-795, 105th Cong., 2nd Sess. (October 7, 1998). On October 8, by a vote of 258 to 176, the House passed H. Res. 581, which “authorized and directed [the Committee on the Judiciary] to investigate fully and completely whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach William Jefferson Clinton, President of the United States of America.” 144 Cong. Rec. H10119 (daily ed. October 8, 1998).

After the passage of H. Res. 581, Committee staff were directed to investigate fully the allegations and evidence relating to the Referral. Furthermore, the staff met with representatives of the White House to discuss ways in which the inquiry could proceed expeditiously. At an October 21, 1998 meeting, Charles F.C. Ruff, counsel to the President, and his colleagues, were asked to provide exculpatory information to the Committee. They did not supply any information. Also, the White House was provided copies of the Committee’s procedures which, *inter alia*, allowed the President’s counsel to call witnesses. They did not exercise this right until the Committee was preparing to vote on articles of impeachment.

In order to move the process forward, the Committee sent the President 81 requests for admission which were to be answered in writing under oath. *Letter from The Honorable Henry J.*

Hyde to The Honorable William Jefferson Clinton, November 5, 1998. Notwithstanding repeated requests, the White House did not submit its answers until after three weeks passed. *Letter from Mr. David Kendall, Esq. to The Honorable Henry J. Hyde*, November 27, 1998. Many on the Committee felt that the President's answers were evasive, misleading, and perjurious. His answers became the basis for the fourth article of impeachment.

On October 9, 1998, the Subcommittee on the Constitution held a hearing in which 19 legal and constitutional experts testified on the background and history of impeachment. *The Background and History of Impeachment: Hearing before the Subcomm. On the Constitution, Comm. on the Judiciary*, 105th Cong., 2nd Sess. (November 9, 1998). The purpose of the hearing was to hear from a diverse group of scholars regarding the constitutional standard of impeachment -- "high crimes and misdemeanors." The Committee also published two lengthy documents to assist Members with their research into impeachment. *See Constitutional Grounds for Presidential Impeachment: Modern Precedents*, House Comm. on the Judiciary, Comm. Print, Ser. No. 9, 105th Cong., 2nd Sess. (November 1998); *Impeachment: Selected Materials*, House Comm. on the Judiciary, Comm. Print, Ser. No. 10, 105th Cong., 2nd Sess. (November 1998).

On October 19, 1998, the Committee heard testimony from Independent Counsel Starr. *Hearings on Impeachment Inquiry Pursuant to H. Res. 581: Hearing before the Comm. On the Judiciary*, 105th Cong., 2nd Sess. (November 1, 1998). Judge Starr was invited after many Democrats requested that he be called before the Committee. David Kendall, the President's private attorney, questioned Judge Starr for an hour. In all of his questioning, Mr. Kendall never once asked any questions relating to the evidence collected during the grand jury's investigation. On December 1, the Committee adduced testimony from various witnesses regarding the law of perjury.

The Consequences of Perjury and Related Crimes: Hearing before the Comm. on the Judiciary, 105th Cong., 2nd Sess. (December 1, 1998). Two of the witnesses were women who were prosecuted for perjury arising out of civil cases which had many similarities to the *Jones v. Clinton* case. After several months of requesting the White House to submit witnesses, the White House notified the Committee on Friday, December 4, that they wished to call witnesses. This was after the Chairman had already announced that the Committee would consider articles of impeachment the following week. The Committee accommodated the White House's request, and held two days of hearings, including receiving testimony from White House Counsel Charles F.C. Ruff. *Hearings on Impeachment Inquiry Pursuant to H. Res. 581: Hearing before the Comm. On the Judiciary, 105th Cong., 2nd Sess. (December 9, 1998).* The Committee ordered printed Mr. Ruff's submission to the Committee. *Submission by Counsel for President Clinton to the Committee on the Judiciary of the United States House of Representatives, House Comm. on the Judiciary, Comm. Print, Ser. No. 16, 105th Cong., 2nd Sess. (December 1998).*

Finally, on December 10, 11, and 12, 1998, the Committee considered and passed four articles of impeachment. The procedure used to consider the articles of impeachment were similar to and predicated upon the procedures used in 1974. Prior to the consideration of the articles, Rep. Sensenbrenner moved the resolution's favorable recommendation to the House. After the clerk of the Committee reported the resolution, the Committee approved Chairman Hyde's unanimous consent request that provided in pertinent part that ". . . the proposed articles shall be considered as read and open for amendment. Each proposed article and any additional article, if any, shall be separately voted upon, as amended, for the recommendation to the House, if any article has been agreed, the original motion shall be considered as adopted and the Chairman shall report to the House

said resolution of impeachment, together with such articles as have been agreed to.” *See House Committee on the Judiciary Business Meeting*, at 3-6, December 10, 1998 (unofficial transcript). Four articles of impeachment were eventually adopted and ordered reported to the House.

A. VOTES OF THE COMMITTEE

Pursuant to clause 2(l)(2)(B) of House rule XI, the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed herein. The following roll call votes occurred during Committee deliberations on a resolution exhibiting articles of impeachment. Also included is a rollcall vote on a joint resolution sponsored by Rep. Boucher censuring President Clinton. Chairman Hyde allowed a vote on this joint resolution even though it was not germane to the articles of impeachment.

1. Rollcall No. 1 - Amendment to Article I Offered by Rep. Rogan

An amendment was offered by Mr. Rogan to Article I of the Hyde resolution which inserted the words, “one or more of the following”. This language was inserted so that the statements that comprise the perjurious, false and misleading statements in the August 17, 1998 grand jury testimony of President William Jefferson Clinton did not have to include all the circumstances itemized in the paragraphs of Article I, but could relate to one or more of the following circumstances: statements related to the nature and details of his relationship with a subordinate government employee; prior perjurious, false and misleading testimony given in a federal civil rights action brought against him; prior false and misleading statements he allowed his attorney to make to a federal judge in that civil rights action; and his corrupt efforts to influence the testimony of witnesses and to impede the discovery of evidence. The amendment was adopted by a vote of 21 ayes to 16 nays.

ROLLCALL NO. 1

Subject: Amendment of Mr. Rogan to the Resolution Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors. Article I, page 2, line 17, insert after “concerning” the following: “one or more of the following”. Passed by a vote of 21 ayes to 16 noes.

	Ayes	Nays	Present
MR. SENSENBRENNER	X		
MR. MCCOLLUM	X		
MR. GEKAS	X		
MR. COBLE	X		
MR. SMITH	X		
MR. GALLEGLY	X		
MR. CANADY	X		
MR. INGLIS	X		
MR. GOODLATTE	X		
MR. BUYER	X		
MR. BRYANT	X		
MR. CHABOT	X		
MR. BARR	X		
MR. JENKINS	X		
MR. HUTCHINSON	X		
MR. PEASE	X		
MR. CANNON	X		
MR. ROGAN	X		
MR. GRAHAM	X		
MS. BONO	X		
MR. CONYERS		X	
MR. FRANK		X	
MR. SCHUMER		X	
MR. BERMAN		X	

MR. BOUCHER		X	
MR. NADLER		X	
MR. SCOTT		X	
MR. WATT		X	
MR. LOFGREN		X	
MS. JACKSON LEE		X	
MS. WATERS		X	
MR. MEEHAN		X	
MR. DELAHUNT		X	
MR. WEXLER		X	
MR. ROTHMAN		X	
MR. BARRETT (WI)		X	
MR. HYDE, CHAIRMAN	X		
TOTAL	21	16	

2. Rollcall No. 2 - Article I

Article I states that President William Jefferson Clinton provided perjurious, false and misleading testimony to the federal grand jury regarding one or more of the following: 1) the nature of his relationship with Monica Lewinsky; 2) prior perjurious, false, and misleading testimony he gave in the Paula Jones civil rights case; 3) prior false and misleading statements he allowed his attorney, Bob Bennett, to make in the Paula Jones case; and 4) his efforts to influence the testimony of witnesses and to impede the discovery of evidence in the Paula Jones case. Article I was agreed to, as amended, by a vote of 21 ayes to 16 noes.

ROLLCALL NO. 2

Subject: Article I of the Resolution Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors. Article I passed, as amended, by a vote of 21 ayes

to 16 noes.

	Ayes	Nays	Present
MR. SENSENBRENNER	X		
MR. MCCOLLUM	X		
MR. GEKAS	X		
MR. COBLE	X		
MR. SMITH	X		
MR. GALLEGLY	X		
MR. CANADY	X		
MR. INGLIS	X		
MR. GOODLATTE	X		
MR. BUYER	X		
MR. BRYANT	X		
MR. CHABOT	X		
MR. BARR	X		
MR. JENKINS	X		
MR. HUTCHINSON	X		
MR. PEASE	X		
MR. CANNON	X		
MR. ROGAN	X		
MR. GRAHAM	X		
MS. BONO	X		
MR. CONYERS		X	
MR. FRANK		X	
MR. SCHUMER		X	
MR. BERMAN		X	
MR. BOUCHER		X	
MR. NADLER		X	
MR. SCOTT		X	
MR. WATT		X	
MR. LOFGREN		X	

MS. JACKSON LEE		X	
MS. WATERS		X	
MR. MEEHAN		X	
MR. DELAHUNT		X	
MR. WEXLER		X	
MR. ROTHMAN		X	
MR. BARRETT (WI)		X	
MR. HYDE, CHAIRMAN	X		
TOTAL	21	16	

3. Rollcall No. 3 - Article II

Article II states that President William Jefferson Clinton provided perjurious, false and misleading testimony as part of the Paula Jones civil rights action brought against him: 1) in his sworn answers to written questions; and 2) in his January 17, 1998 deposition. Article II was agreed to by a vote of 20 ayes to 17 noes.

ROLLCALL NO. 3

Subject: Article II of the Resolution Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors. Article II passed by a vote of 20 ayes to 17 noes.

	Ayes	Nays	Present
MR. SENSENBRENNER	X		
MR. MCCOLLUM	X		
MR. GEKAS	X		
MR. COBLE	X		
MR. SMITH	X		
MR. GALLEGLY	X		

MR. CANADY	X		
MR. INGLIS	X		
MR. GOODLATTE	X		
MR. BUYER	X		
MR. BRYANT	X		
MR. CHABOT	X		
MR. BARR	X		
MR. JENKINS	X		
MR. HUTCHINSON	X		
MR. PEASE	X		
MR. CANNON	X		
MR. ROGAN	X		
MR. GRAHAM		X	
MS. BONO	X		
MR. CONYERS		X	
MR. FRANK		X	
MR. SCHUMER		X	
MR. BERMAN		X	
MR. BOUCHER		X	
MR. NADLER		X	
MR. SCOTT		X	
MR. WATT		X	
MR. LOFGREN		X	
MS. JACKSON LEE		X	
MS. WATERS		X	
MR. MEEHAN		X	
MR. DELAHUNT		X	
MR. WEXLER		X	
MR. ROTHMAN		X	
MR. BARRETT (WI)		X	

MR. HYDE, CHAIRMAN	X		
TOTAL	20	17	

4. Rollcall No. 4 - Article III

Article III provides that President William Jefferson Clinton obstructed justice in an effort to delay, impede, cover up, and conceal the existence of evidence related to the Paula Jones civil rights case in the following instances: 1) On or about December 17, 1998, President Clinton encouraged Monica Lewinsky to submit a false written statement (affidavit) to the court; 2) On or about December 17, 1998, President Clinton encouraged Monica Lewinsky to give false testimony to the court; 3) On or about December 28, 1998, President Clinton helped in a plan to hide the gifts Monica Lewinsky gave him; 4) Beginning on or about December 7, 1998, and continuing through and including January 14, 1998, President Clinton intensified efforts and succeeded in getting Monica Lewinsky a job to prevent her truthful testimony; 5) On or about January 17, 1998, in his deposition in the Paula Jones civil rights case, President Clinton allowed his attorney, Bob Bennett, to make false and misleading statements about Monica Lewinsky's affidavit; 6) On or about January 18, and January 20-21, 1998, President Clinton made false and misleading statements to Betty Currie, a potential witness, to influence her testimony in the Paula Jones civil case; 7) On or about January 21, 23, and 26, 1998, President Clinton made false and misleading statements to Erskine Bowles, Bruce Lindsey and Sidney Blumenthal, potential witnesses in the criminal case, to influence their testimony.

Article III was agreed to by a vote of 21 ayes to 16 noes.

ROLLCALL NO. 4

Subject: Article III of the Resolution Impeaching William Jefferson Clinton, President of the

United States, for high and misdemeanors. Article III passed by a vote of 21 ayes to 16 noes.

	Ayes	Nays	Present
MR. SENSENBRENNER	X		
MR. MCCOLLUM	X		
MR. GEKAS	X		
MR. COBLE	X		
MR. SMITH	X		
MR. GALLEGLY	X		
MR. CANADY	X		
MR. INGLIS	X		
MR. GOODLATTE	X		
MR. BUYER	X		
MR. BRYANT	X		
MR. CHABOT	X		
MR. BARR	X		
MR. JENKINS	X		
MR. HUTCHINSON	X		
MR. PEASE	X		
MR. CANNON	X		
MR. ROGAN	X		
MR. GRAHAM	X		
MS. BONO	X		
MR. CONYERS		X	
MR. FRANK		X	
MR. SCHUMER		X	
MR. BERMAN		X	
MR. BOUCHER		X	
MR. NADLER		X	
MR. SCOTT		X	
MR. WATT		X	
MR. LOFGREN		X	

MS. JACKSON LEE		X	
MS. WATERS		X	
MR. MEEHAN		X	
MR. DELAHUNT		X	
MR. WEXLER		X	
MR. ROTHMAN		X	
MR. BARRETT (WI)		X	
MR. HYDE, CHAIRMAN	X		
TOTAL	21	16	

5. Rollcall No. 5 - Amendment to Article IV Offered by Rep. Gekas

An amendment was offered by Mr. Gekas to Article IV of the Hyde resolution which struck the word “repeatedly” as a description of conduct that resulted in the misuse and abuse of the President’s office to correspond with the deletion of Paragraphs 1, 2, and 3. Article IV had set forth several grounds to impeach President William Jefferson Clinton’s for misuse and abuse of the office of the President. Paragraph 1 of Article IV, which was deleted by the amendment, stated that President William Jefferson Clinton willfully made false and misleading public statements for the purpose of deceiving the people of the United States. Paragraph 2 of Article IV, which was deleted by the amendment, stated that President William Jefferson Clinton willfully made false and misleading statements to members of his cabinet and White House aides, so that these statements would be repeated publicly using public resources for the purpose of deceiving the people of the United States. Paragraph 3 of Article IV, which was deleted by the amendment, stated that as President, using the Office of the White House counsel, William Jefferson Clinton did frivolously and corruptly assert executive privilege for the purpose of delaying and obstructing a federal criminal investigation and

the proceeding of the grand jury. The remaining Paragraph 4 of Article IV was rewritten by the amendment and provides that President William Jefferson Clinton made false and misleading sworn statements, refused and failed to respond to certain written requests for admissions asked of him by the House of Representatives of the Congress of the United States, (answers to the 81 questions) showing contempt for the impeachment inquiry process. The amendment was adopted by a vote of 29 ayes, 5 noes and 3 present.

ROLLCALL NO. 5

Subject: Amendment by Mr. Gekas to the Resolution Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors. Article IV. Strikes paragraphs regarding “misuse and abuse of power” with respect to false and misleading sworn statements for the purpose of deceiving the people of the United States, members of his cabinet, and in asserting the executive privilege and inserts a section regarding “perjurious, false and misleading sworn statements” made to the Congress. Passed by a vote of 29 ayes to 5 noes and 3 present.

	Ayes	Nays	Present
MR. SENSENBRENNER	X		
MR. MCCOLLUM	X		
MR. GEKAS	X		
MR. COBLE	X		
MR. SMITH	X		
MR. GALLEGLY	X		
MR. CANADY	X		
MR. INGLIS	X		
MR. GOODLATTE	X		
MR. BUYER	X		

MR. BRYANT	X		
MR. CHABOT	X		
MR. BARR	X		
MR. JENKINS	X		
MR. HUTCHINSON	X		
MR. PEASE	X		
MR. CANNON		X	
MR. ROGAN	X		
MR. GRAHAM	X		
MS. BONO	X		
MR. CONYERS	X		
MR. FRANK			X
MR. SCHUMER	X		
MR. BERMAN	X		
MR. BOUCHER	X		
MR. NADLER	X		
MR. SCOTT	X		
MR. WATT	X		
MR. LOFGREN			X
MS. JACKSON LEE		X	
MS. WATERS		X	
MR. MEEHAN			X
MR. DELAHUNT	X		
MR. WEXLER		X	
MR. ROTHMAN	X		
MR. BARRETT (WI)		X	
MR. HYDE, CHAIRMAN	X		
TOTAL	29	5	3

6. Rollcall No. 6 - Article IV

Article IV provides that President William Jefferson Clinton willfully made perjurious, false and misleading sworn statements in response to certain written requests for admissions asked of him by the House of Representatives of the Congress of the United States, (answers to the 81 questions) showing contempt for the impeachment inquiry process. Article IV was adopted by a vote of 21 ayes to 16 noes.

ROLLCALL NO. 6

Subject: Article IV of the Resolution Impeaching William Jefferson Clinton, President of the United States, for high crimes and misdemeanors. Article IV passed, as amended, by a vote 21 ayes to 16 noes.

	Ayes	Nays	Present
MR. SENSENBRENNER	X		
MR. MCCOLLUM	X		
MR. GEKAS	X		
MR. COBLE	X		
MR. SMITH	X		
MR. GALLEGLY	X		
MR. CANADY	X		
MR. INGLIS	X		
MR. GOODLATTE	X		
MR. BUYER	X		
MR. BRYANT	X		
MR. CHABOT	X		
MR. BARR	X		
MR. JENKINS	X		
MR. HUTCHINSON	X		
MR. PEASE	X		
MR. CANNON	X		
MR. ROGAN	X		

MR. GRAHAM	X		
MS. BONO	X		
MR. CONYERS		X	
MR. FRANK		X	
MR. SCHUMER		X	
MR. BERMAN		X	
MR. BOUCHER		X	
MR. NADLER		X	
MR. SCOTT		X	
MR. WATT		X	
MR. LOFGREN		X	
MS. JACKSON LEE		X	
MS. WATERS		X	
MR. MEEHAN		X	
MR. DELAHUNT		X	
MR. WEXLER		X	
MR. ROTHMAN		X	
MR. BARRETT (WI)		X	
MR. HYDE, CHAIRMAN	X		
TOTAL	21	16	

7. Rollcall No. 7 - Censure Resolution

Although not germane to the consideration of a privileged impeachment resolution, Chairman Hyde and the Committee agreed to consider a joint resolution sponsored by Mr. Boucher that would express the sense of Congress with respect to the censure of President William Jefferson Clinton. The joint resolution of censure offered by Mr. Boucher was defeated by a vote 14 ayes, 22 nays and 1 present. The text of the joint resolution follows:

Joint Resolution

Expressing the sense of Congress with respect to the censure of William Jefferson Clinton.

Resolved by the Senate and House of Representatives of the United States of America in

Congress assembled, That it is the sense of Congress that –

(1) on January 20, 1993, William Jefferson Clinton took the oath prescribed by the Constitution of the United States faithfully to execute the office of President; implicit in that oath is the obligation that the President set an example of high moral standards and conduct himself in a manner that fosters respect for the truth; and William Jefferson Clinton, has egregiously failed in this obligation, and through his actions violated the trust of the American people, lessened their esteem for the office of President, and dishonored the office which they have entrusted to him;

(2)(A) William Jefferson Clinton made false statements concerning his reprehensible conduct with a subordinate;

(B) William Jefferson Clinton wrongly took steps to delay discovery of the truth; and

(C) in as much as no person is above the law, William Jefferson Clinton remains subject to criminal and civil penalties; and

(3) William Jefferson Clinton, President of the United States, by his conduct has brought upon himself, and fully deserves, the censure and condemnation of the American people and the Congress; and by his signature on this Joint Resolution, acknowledges this censure and condemnation.

ROLLCALL NO. 7

Subject: Joint Resolution Expressing the sense of Congress with respect to the censure of William Jefferson Clinton. Defeated by a vote of 14 ayes to 22 noes and 1 present.

	Ayes	Nays	Present
MR. SENSENBRENNER		X	
MR. MCCOLLUM		X	
MR. GEKAS		X	
MR. COBLE		X	
MR. SMITH		X	
MR. GALLEGLY		X	
MR. CANADY		X	
MR. INGLIS		X	
MR. GOODLATTE		X	
MR. BUYER		X	
MR. BRYANT		X	
MR. CHABOT		X	
MR. BARR		X	
MR. JENKINS		X	
MR. HUTCHINSON		X	
MR. PEASE		X	
MR. CANNON		X	
MR. ROGAN		X	
MR. GRAHAM		X	
MS. BONO		X	
MR. CONYERS	X		
MR. FRANK	X		
MR. SCHUMER	X		
MR. BERMAN	X		
MR. BOUCHER	X		
MR. NADLER	X		
MR. SCOTT		X	
MR. WATT	X		
MR. LOFGREN	X		
MS. JACKSON LEE	X		

MS . WATERS			X
MR . MEEHAN	X		
MR . DELAHUNT	X		
MR . WEXLER	X		
MR . ROTHMAN	X		
MR . BARRETT (WI)	X		
MR . HYDE , CHAIRMAN		X	
TOTAL	14	22	1

B. COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

C. COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

Clause 2(l)(3)(D) of rule XI requires each Committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on the Judiciary has received no such findings or recommendations from the Committee on Government Reform and Oversight.

D. NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this resolution does not provide new budgetary authority or increased tax expenditures.

E. COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the resolution will have no budget effect.

F. CONSTITUTIONAL AUTHORITY

Pursuant to clause 2(l)(4) of the Rules of the House of Representatives, the Committee finds the authority for this resolution in Article I, section 2, clause 5 of the Constitution.

VI. ARGUMENTS ABOUT CENSURE

The Constitution contains a single procedure for Congress to address the fitness for office of the President of the United States -- impeachment by the House, and subsequent trial by the Senate. Article II, section 4 of the Constitution also specifies the necessary consequence of conviction in an impeachment case: "The President, the Vice-President and all civil officers shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Article I, section 3 states that "Judgment in Cases of Impeachment will not extend further than removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States:" This provision, however, does not authorize Congress to impose legislative punishments short of removal. Read together, the impeachment clauses require removal upon conviction, but allow the Senate at its discretion to impose a single additional penalty -- disqualification from future office.

The Framers' decision to confine legislative sanctioning of executive officials to removal upon impeachment was carefully considered. By forcing the House and Senate to act as a tribunal and trial jury, rather than merely as a legislative body, they infused the process with notions of due process. Under the Constitution, the House impeaches by a majority vote. However, the

requirement of removal upon conviction after a two-thirds vote in the Senate accentuates the magnitude of the procedure, encouraging serious deliberation among members of Congress. Most importantly, by refusing to include any consequences less serious than removal as outcomes of the impeachment process, the Framers made impeachment into such an awesome power that Congress could not use it to harass executive officials or otherwise interfere with operations of coordinate branches.

But for the President or any other civil officer, this kind of shaming punishment by the legislature is precluded by the Constitution, since the impeachment provisions permit Congress only to remove an officer of another branch of government and disqualify him from office. Not only would such a punishment undermine the separation of powers by punishing the President or other civil officers of the government in a manner other than expressly provided for in the Constitution, but it would violate the Constitution's prohibition on Bills of Attainder. U.S. Const. art. I, sec. 9, cl. 3. ("No Bill of Attainder or ex post facto Law shall be passed").

A. Prohibited Bill of Attainder

A Bill of Attainder was originally a mechanism by which the British Parliament could punish specific individuals for activities against the interests of the Crown. *Artway v. Attorney General of New Jersey*, 876 F. Supp. 666, 683 (1995), *aff'd in part, vacated in part*, 81 F.3d 1235 (3rd Cir. 1996). It was a feature of the British Common law abominable to the Framers of our Constitution. *Id.* A Bill of Attainder is a law that is intended to punish a specific individual (or identifiable group of individuals) rather than a regulatory or prophylactic law intended to protect the public. *United States v. Brown*, 381 U.S. 437 (1965). The Bill of Attainder Clause was intended, as the Supreme Court declared in *Brown, id.* at 442, to serve as "a general

safeguard against legislative exercise of the judicial function, or more simply trial by legislature.”

In 1977, the Supreme Court described a Bill of Attainder as “a law that legislatively determines guilt and inflicts punishment upon an identified individual without the provisions of the protections of a judicial trial.” *Nixon v. Administrator of General Services*, 433 U.S. 425, 468 (1977). The Court also said that “a major concern that prompted the bill of attainder prohibition [was] the fear that *the legislature, in seeking to pander to the inflamed popular constituency, will find it expedient openly to assume the mantle of judge.*” *Id.* at 480 (emphasis added); *cf. E.E.O.C. v. Sears, Roebuck and Company*, 504 F. Supp. 241 (1980) (finding no bill of attainder violation because “there has been no determination of . . . guilt” nor imposition of punitive measures).

Importantly, the proposed censure resolution is a joint resolution, requiring passage by both houses and signature by the President. While a simple or concurrent resolution is more like a “collective shout” from the House or Senate Floor than a bill, a joint resolution is very clearly a “bill,” since it is a measure requiring the signature of the President. A joint resolution of censure - - a law formally and publicly expressing condemnation by the legislature directed at a specific individual -- confronts squarely the prohibition on Bills of Attainder.

Defenders of presidential “censure” argue that it does not really punish and therefore cannot be a Bill of Attainder. In determining whether a law is punitive within the context of the prohibition of Bills of Attainder, courts look to what are understood as the motivational, functional, and historical tests: (1) whether the legislature intended the law to be punitive; (2) whether the law reasonably can be said to further non-punitive legislative purposes; and (3) whether the punishment was traditionally judged to be prohibited by the Bill of Attainder clause.

See In re McMullen, 989 F.2d 603, 607 (2d Cir.), *cert. denied*, 114 S. Ct. 301 (1993).

The motivational test is clearly implicated here. As the Congressional Research Service has noted, any argument that censure provisions were not intended to be punitive would “face the task of overcoming express statements by individual Members concerning the appropriate ‘punishment’ in this particular case.” *Censure of the President by Congress*, Jack Maskell, Legislative Attorney, American Law Division, CRS Report for Congress, September 29, 1998, at 9. Indeed, the record is replete with such references. As Representative Pease stated during consideration of the joint resolution of censure:

It seems to me, after all this discussion of what exactly is a resolution of censure regarding the President, there is still no agreement. It is either an action to punish the President or it is an action that doesn’t punish the President. If it is an action to punish the President, it is a bill of attainder and unconstitutional. If it is a resolution that does not punish the President, it is meaningless. For that reason, though I have the greatest respect for those who have offered it, I cannot support the resolution.

Markup Session, Articles of Impeachment of William Jefferson Clinton, December 12, 1998, at 286 (Statement of Rep. Pease).

In *Nixon v. Administrator of General Services*, the Supreme Court examined claims by President Richard Nixon that the Presidential Recordings and Materials Preservation Act constituted an unconstitutional Bill of Attainder. *Nixon v. Administrator of General Services*, 433 U.S. at 468. Importantly, the Court upheld the District Court’s finding that there was “no evidence presented . . . [or] to be found in the legislative record, to indicate that Congress’ design was to impose a penalty upon Mr. Nixon. . . as punishment for alleged past wrongdoings.” *Id.* at 478. The Court noted that “the objectives of preserving the availability of judicial evidence” was properly within Congress’ legislative competence, and agreed with the District Court’s conclusion

that “the Act before us is regulatory and not punitive in character.” *Id.*

In a concurring opinion in *Nixon*, Justice Stevens was concerned that “[t]he statute implicitly condemns him as an unreliable custodian of his papers” and declared that “[l]egislation which subjects a named individual to this humiliating treatment must raise serious questions under the Bill of Attainder Clause.” *Id.* at 484 (J. Stevens, concurring opinion)(emphasis added).

A resolution *explicitly* condemning a person and subjecting him to humiliating treatment confronts directly the Article I prohibition on Bills of Attainder. Moreover, Professor John C. Harrison of the University of Virginia Law School, who testified at the Committee hearing on “The Background and History of Impeachment,” has written that:

A resolution of censure, even if purely expressive, still would have a punitive purpose. Expressed moral condemnation is a form of retribution, and acceptance of it is a form of contrition just as acceptance of more concrete punishment is a form of contrition. That punitive purpose would bring a censure resolution within the ban on bills of attainder if one were to conclude that the injury inflicted on the President, although purely expressive, were punishment within the meaning of the Bill of Attainder Clause.

Letter of John C. Harrison, Professor of Law, University of Virginia Law School, to Representative William Delahunt (December 3, 1998).

B. Censure of President Andrew Jackson

The House of Representatives has never before censured a President. Moreover, no President has ever willingly accepted a censure of the Executive by the Legislative Branch. In 1834, the Senate voted to censure President Andrew Jackson on the ground that, in withdrawing federal funds from the Bank of the United States, he had “assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both.” Telling are the words of protest from President Jackson, which the Senate refused to enter on its Journal:

By an expression of the constitution, before the President of the United States can enter on the execution of his office, he is required to take an oath or affirmation in the following words: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

The duty of defending, so far as in him lies, the integrity of the constitution, would indeed have resulted from the very nature of his office; but by thus expressing it in the official oath or affirmation, which, in this respect, differs from that of every other functionary, the founders of our republic have attested their sense of its importance, and have given to it a peculiar solemnity and force. Bound to the performance of this duty by the oath I have taken, by the strongest obligations of gratitude to the American people, and by the ties which unite my every earthly interest with the welfare and glory of my country, and perfectly convinced that the discussion and passage of the above-mentioned resolution were not only unauthorized by the Constitution, but in many respects repugnant to its provisions and subversive of the rights secured by it to other co-ordinate departments, I deem it an imperative duty to maintain the supremacy of that sacred instrument, and the immunities of the department intrusted to my care, by all means consistent with my own lawful powers, with the rights of others, and with the genius of our civil institutions. To this end, I have caused this, my solemn protest against the aforesaid proceedings, to be placed on the files of the Executive department, and be transmitted to the Senate.

Gales & Seaton's Register, President's Protest, April 17, 1834, Protest of President Andrew Jackson.

President Jackson wrote that the very idea of a censure is a "subversion of that distribution of powers of government which [the Constitution] has ordained and established [and] destructive of the checks and safeguards by which those powers were intended on the one hand to be controlled and the other to be protected." It was for this reason that President Jackson argued that censure was "wholly unauthorized by the Constitution and in derogation of its entire spirit." One of the constitutional scholars appearing before the committee during the course of its impeachment hearings, Gary McDowell, stated this point eloquently:

Impeachment is the only power granted by the Constitution to the Congress to deal with errant executives. It is the only means whereby the necessarily high walls of separation between the two branches may be legitimately scaled. Had the Founders intended some

other means of punishment to be available to your branch they would have said so, as Chief Justice John Marshall once said, “in plain and intelligible language.” That they did not do so should be your only guide in this grave and sensitive matter.

The temptation to do anything possible to avoid exercising the awful constitutional power of impeachment is obviously and understandably great. But such a temptation to take the easy way out by assuming a power not granted should be shunned. And should President Clinton, as a result of bad advice or political pressure, agree to such an unconstitutional punishment as a censure, that would be a breach of his constitutional obligations as great as anything else of which he has been accused. The great office he is privileged to hold deserves his protection against any ill-considered censorious assault from Congress.

Letter of Gary McDowell, Director of the Institute for U.S. Studies, University of London, to Representative William Delahunt (December 3, 1998).

It is important to note that the Senate *expunged* the censure of President Andrew Jackson only three years later. Register of Debates, 24th Congress, 2d Sess. 379-418, 427-506 (1837), see discussion in Fisher, *Constitutional Conflicts Between Congress and the President*, 54-55 (4th ed. 1997).

This is significant because the word expungement, the phrase ‘expungement from the record,’ has legal as well as historical significance. It doesn’t mean we just turn our back on it. It means it never happened. If somebody is convicted of a crime and they later go back to court after their conviction is over and they’ve served their time, if they petition the court to expunge the record, it means they lawfully can answer under oath that they have never been convicted of a crime because it never happened. And on any given date, any future Congress could by a simple majority vote take this piece of paper and erase it from the history books of America, erase its significance, erase its longevity and erase its effect. I don’t see that as a significant rebuke at all.

Markup Session, Articles of Impeachment of William Jefferson Clinton, Statement of Representative James E. Rogan, December 12, 1998, at 310.

Constitutional scholar John O. McGinnis testified before the Committee that:

the current interest in creating new forms of sanctions for the President reflects a cavalier attitude toward constitutional governance, and indeed illustrates the kind of lasting damage that the country risks from presidential misconduct. If a President cannot

legitimately deny that he has breached the public trust there will be a widespread feeling that he must be punished. He or his supporters then may be willing to trade the prerogatives of his office for their personal or political benefit. Thus one way a President who has committed serious misconduct poses a threat to the Republic, McGinnis argues, is the increased likelihood that he will agree to disastrous constitutional precedents to protect his own tenure.

Hearing on “The Background and History of Impeachment,” before the Subcommittee on the Constitution of the House Committee on the Judiciary, 105th Cong., 2d Sess., (Nov. 9, 1998) (written statement of Professor John O. McGinnis, Professor of Law, Yeshiva University Cardozo School of Law) at 19.

Representative Canady underscored this point during the markup of Articles of Impeachment:

Now, we have heard many suggestions about what will happen if this President is impeached. We have heard horror story after horror story. But do we have such fear of following the path marked out for us by the Constitution that we would take it upon ourselves to go down a different path, a path of our own choosing? Will we let our faith in the constitution be put aside and overwhelmed by the fears that have been feverishly propagated by the President’s defenders? Now, there is no question that this is a momentous issue. There is no question that impeaching a President of the United States is a momentous act. But this is not a legislative coup d’etat. This is a constitutional process..... We have made statements, and I have made statements about the President’s conduct, which I have concluded more in sorrow than in anger. But the facts point to the conclusion that the President has been more concerned with maintaining his personal power than with maintaining the dignity and the integrity of the high office entrusted to him under our Constitution.

Markup Session, Statement of Representative Charles T. Canady, Articles of Impeachment for William Jefferson Clinton, December 12, 1998, at 208-12.

VII. Appendices

A. House Resolution 525

[from legislative counsel]

B. House Resolution 581

[from legislative counsel]

C. Correspondence Log**CORRESPONDENCE LOG BETWEEN
THE WHITE HOUSE AND THE JUDICIARY COMMITTEE**

DATE	FROM	TO
09/11/98	Charles F.C. Ruff, Esq., Counsel to the President	Chairman Henry J. Hyde and Hon. Newt Gingrich, Speaker of the House
09/17/98	Erskine Bowles, The White House	Chairman Henry J. Hyde
09/22/98	Charles F.C. Ruff, Esq., Counsel to the President David E. Kendall, Esq. Williams & Connolly	Chairman Henry J. Hyde and Hon. John Conyers, Jr. Ranking Minority Member
10/02/98	Charles F.C. Ruff, Esq., Counsel to the President David E. Kendall, Esq. Williams & Connolly	Chairman Henry J. Hyde and Hon. John Conyers, Jr. Ranking Minority Member
10/21/98	Charles F.C. Ruff, Esq., Gregory B. Craig David E. Kendall Counsels to the President	Chairman Henry J. Hyde and Hon. John Conyers, Jr. Ranking Minority Member
10/23/98	Charles F.C. Ruff, Esq., Gregory B. Craig David E. Kendall Counsels to the President	Chairman Henry J. Hyde
11/05/98	Henry J. Hyde, Chairman	Hon. William Jefferson Clinton
11/06/98	Henry J. Hyde, Chairman	Hon. William Jefferson Clinton
11/09/98	Thomas E. Mooney, Chief of Staff-General Counsel and David P. Schippers, Chief Investigative Counsel	Charles F.C. Ruff, Esq., Gregory B. Craig David E. Kendall Counsels to the President
11/16/98	Henry J. Hyde, Chairman	Charles F.C. Ruff, Esq., Counsel to the President
11/17/98	Henry J. Hyde, Chairman	Charles F.C. Ruff, Esq., Counsel to the President

DATE	FROM	TO
11/17/98	Charles F.C. Ruff, Esq. Counsel to the President	Henry J. Hyde, Chairman
11/18/98	Charles F.C. Ruff, Esq. Counsel to the President	Thomas E. Mooney, Esq. Chief of Staff-General Counsel
11/18/98	Charles F.C. Ruff, Esq. Counsel to the President	Henry J. Hyde, Chairman
11/18/98	Thomas E. Mooney, Chief of Staff-General Counsel	Charles F.C. Ruff, Esq. Counsel to the President
11/20/98	Thomas E. Mooney, Chief of Staff-General Counsel and David P. Schippers, Chief Investigative Counsel	Charles F.C. Ruff, Esq. Counsel to the President
11/20/98	Charles F.C. Ruff, Esq. Counsel to the President	Thomas E. Mooney, Chief of Staff-General Counsel and David P. Schippers, Chief Investigative Counsel
11/25/98	Henry J. Hyde, Chairman	The President, The White House
11/27/98	David E. Kendall, Esq. Counsel to the President	Henry J. Hyde, Chairman
12/02/98	Gregory B. Craig, Esq. Charles F.C. Ruff, Esq. Counsels to the President	Henry J. Hyde, Chairman
12/03/98	Thomas E. Mooney, Chief of Staff-General Counsel	Gregory B. Craig, Esq. Charles F.C. Ruff, Esq. Counsels to the President
12/04/98	Thomas E. Mooney, Chief of Staff-General Counsel	Charles F.C. Ruff, Esq. Counsel to the President
12/04/98	Gregory B. Craig, Esq. Charles F.C. Ruff, Esq. Counsels to the President	Thomas E. Mooney, Chief of Staff-General Counsel
12/04/98	Charles F.C. Ruff, Esq. Counsel to the President	Thomas E. Mooney, Chief of Staff-General Counsel
12/06/98	Thomas E. Mooney, Chief of Staff-General Counsel	Charles F.C. Ruff, Esq. Gregory B. Craig, Esq. Counsels to the President

DATE	FROM	TO
12/07/98	Gregory B. Craig, Esq. Charles F.C. Ruff, Esq. Counsels to the President	Thomas E. Mooney, Chief of Staff-General Counsel
12/07/98	Thomas E. Mooney, Chief of Staff-General Counsel	Gregory B. Craig, Esq. Charles F.C. Ruff, Esq. Counsels to the President

[letters to be inserted here]

D. The Committee's 81 Requests to the President for Admission, the President's Responses, and Citations to Relevant Parts of the Record Provided by the Committee's Majority Staff

COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
INQUIRY OF IMPEACHMENT AUTHORIZED PURSUANT TO H. RES. 581

**REQUESTS FOR ADMISSION OF WILLIAM J. CLINTON
PRESIDENT OF THE UNITED STATES**

AND

*RESPONSES TO THE REQUESTS FOR ADMISSION
GIVEN BY THE PRESIDENT*

AND

RELEVANT CITATIONS TO THE RECORD OF EVIDENCE AND LAW RELATED TO THE REQUESTS FOR ADMISSION AND THE RESPONSES THERETO

- (5) **Q: Do you admit or deny that you are the chief law enforcement officer of the United States of America?**
1. **A:** *The President is frequently referred to as the chief law enforcement officer, although nothing in the Constitution specifically designates the President as such. Article II, Section 1 of the United States Constitution states that "[t]he executive Power shall be vested in a President of the United States of America," and the law enforcement function is a component of the executive power.*
1. **R:** Article II, Section 3 of the U.S. Constitution states in part that the President shall "take Care that the Laws be faithfully executed." Article II, Section 1, clause 1 of the Constitution vests the entire executive branch of government, which includes the United States Department of Justice, in the President. He authorizes, through the Attorney General, all prosecutions brought on behalf of the people of the United States in carrying out his constitutional duty to take care that the laws be faithfully executed.
2. **Q: Do you admit or deny that upon taking your oath of office that you swore you would faithfully execute the office of President of the United States, and would to the best of your ability, preserve, protect and defend the Constitution of the United States?**
2. **A:** *At my Inauguration in 1993 and 1997, I took the following oath: "I do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."*

2. R: Article II, Section 1, clause 8 of the U.S. constitution states that before the President enters on the execution of his office, he shall take, and William J. Clinton did take, the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

3. Q: **Do you admit or deny that, pursuant to Article II, section 2 [sic] of the Constitution, you have a duty to "take care that the laws be faithfully executed?"**

3. A: *Article II, Section 3 (not Section 2), of the Constitution states that the President "shall take Care that the Laws be faithfully executed," and that is a Presidential obligation.*

3. R: Article II, Section 3 of the United States Constitution states in part that the President shall "take Care that the Laws be faithfully executed."

4. Q: **Do you admit or deny that you are a member of the bar and officer of the court of a state of the United States, subject to the rules of professional responsibility and ethics applicable to the bar of that state?**

4. A: *I have an active license to practice law (inactive for continuing legal education purposes) issued by the Supreme Court of Arkansas. The license, No. 73017, was issued in 1973.*

4. R: The Arkansas Rules of Court and Rules of Professional Conduct governing the actions of lawyers licensed to practice law in the State of Arkansas declare that it is professional misconduct for a lawyer to "commit a criminal act that reflects adversely on the lawyers honesty, trustworthiness or fitness as a lawyer in other respects; engage in conduct involving dishonesty, fraud, deceit or misrepresentation; or engage in conduct that is prejudicial to the administration of justice." (Arkansas Rules of Professional Conduct, Rule 8.4 (b-d)).

The comments following Rule 8.4 assert that "lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of attorney."

Furthermore, "Every attorney now or hereafter licensed to practice law in the State of Arkansas shall be a member of the bar of this State and subject to these procedures. The jurisdiction of the Supreme Court Committee on Professional Conduct shall extend to lawyers on inactive or suspended status." (Arkansas Procedures of the Court Regulating Professional Conduct of Attorneys at Law, Section 1 (A)).

5. Q: **Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, in a deposition conducted as part of a judicial proceeding in the case of *Jones v. Clinton* on January 17, 1998?**

5. A: *I took an oath to tell the truth on January 17, 1998, before my deposition in the Jones v. Clinton case. While I do not recall the precise wording of that oath, as I previously stated in my grand jury testimony on August 17, 1998, in taking the oath "I believed then that I had to answer the questions truthfully." App. at 458.¹*
5. R: The record indicates that on January 17, 1998, before beginning to respond to questions during a deposition in a civil rights lawsuit in which he was a named defendant, the President answered in the affirmative to the question "Do you swear and affirm that your testimony will be the truth, the whole truth and nothing but the truth, so help you God?"
6. Q: **Do you admit or deny that you took an oath in which you swore or affirmed to tell the truth, the whole truth, and nothing but the truth, before a grand jury empaneled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit on August 17, 1998?**
6. A: *As the August 17, 1998, videotape reflects, I was asked "Do you solemnly swear that the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?," and I answered, "I do."*
6. R: The record indicates that on August 17, 1998, before testifying before a grand jury empaneled by the United States District Court for the District of Columbia Circuit to investigate whether the President committed acts of perjury, subornation of perjury, obstruction of justice and witness tampering, President Clinton, having been called for examination by the Independent Counsel, answered in the affirmative to the question "Do you swear and affirm that your testimony will be the truth, the whole truth and nothing but the truth, so help you God?"
7. Q: **Do you admit or deny that on or about October 7, 1997, you received a letter composed by Monica Lewinsky in which she expressed dissatisfaction with her search for a job in New York?**
7. A: *At some point I learned of Ms. Lewinsky's decision to seek suitable employment in New York. I do not recall receiving a letter in which she expressed dissatisfaction about her New York job search. I understand Ms. Lewinsky has stated that she sent a note indicating her decision to seek employment in New York, but I do not believe she has said the note expressed dissatisfaction about her search for a job there. App. at 822-23 (grand jury testimony of Ms. Lewinsky).*

¹ Citations to "App." refer to the Appendices to the Office of Independent Counsel Referral to the United States House of Representatives, as published by the House Judiciary Committee. Citations to "Supp." refer to the Supplemental Materials to the Office of Independent Counsel Referral, as published by the House Judiciary Committee. Citations to "Dep." refer to my January 17, 1998, deposition testimony in the civil case, Jones v. Clinton, No. LR-C-94-290 (E.D. Ark.).

7. R: The record indicates that on October 7, 1997, Ms. Lewinsky may have couriered a letter expressing dissatisfaction with her job search to the President. (H. Doc. 105-310, p. 181; see also Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 102-03, H. Doc. 105-311, p. 988).
8. Q: **Do you admit or deny that you telephoned Monica Lewinsky early in the morning on October 10, 1997, and offered to assist her in finding a job in New York?**
8. A: *I understand that Ms. Lewinsky testified that I called her on the 9th of October, 1997. App. at 823 (grand jury testimony of Ms. Lewinsky). I do not recall that particular telephone call.*
8. R: The record indicates that "Lewinsky advised that on October 9 or 10, 1997, Clinton called her between 2:00 and 2:30 in the morning. Lewinsky advised she was asleep when Clinton called. The call lasted for approximately one and one half-hours. Lewinsky and Clinton had their biggest fight ever in this telephone conversation. Clinton said that if he had known how difficult it would be to bring Lewinsky back to the White House, he would have never let her be transferred in the first place. Clinton said he was obsessed with her career and wanted to help her. Clinton said he would get working on a job in New York for Lewinsky." (7/31/98 OIC interview of Monica Lewinsky, pp. 10-11, H. Doc. 105-311, pp. 1460-61; see also Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 104, H. Doc. 105-311, p. 988).
9. Q: **Do you admit or deny that on or about October 11, 1997, you met with Monica Lewinsky in or about the Oval Office dining room?**
9. A: *At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997. Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1997, App. at 2594, and I may have seen her on that day.*
- I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).*
- I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).*
9. R: The record indicates that on "October 11, 1997, at approximately 8:30 a.m., Currie called Lewinsky from the hospital and said Clinton wanted to see Lewinsky at approximately 9:00 a.m., at the White House. Currie told Lewinsky that Clinton had paged Currie to tell her to get in touch with Lewinsky. Lewinsky met alone with Clinton in the dining room." (7/31/98 OIC

interview of Monica Lewinsky, p. 11, H. Doc. 105-311, p. 1461; see also Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 104, H. Doc. 105-311, p. 988.)

10. Q: Do you admit or deny that on or about October 11, 1997, Monica Lewinsky furnished to you, in or about the Oval Office dining room, a list of jobs in New York in which she was interested?

10. A: *At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997. Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1977, App. at 2594, and I may have seen her on that day.*

I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).

I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).

10. R: The record indicates that on October 11, 1998, President Clinton instructed Monica Lewinsky to draft a list of jobs in which she was interested:

"Q At some point, did you send the President something like a list of jobs or interests that you might have in New York?

A Yes. He asked me to prepare that on the 11th of October."
(Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 103-104, H. Doc. 105-311, p. 988).

"Lewinsky advised that Clinton asked her to write a list of potential employers, or jobs she was interested in, and to give it to him. On October 16, 1997, Lewinsky sent Clinton the list, which she refers to as a 'wish list.'" (8/13/98 OIC interview of Monica Lewinsky, p. 3, H. Doc. 105-311, p. 1545).

11. Q: Do you admit or deny that on or about October 11, 1997, you suggested to Monica Lewinsky that Vernon Jordan may be able to assist her in her job search?

11. A: *At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997. Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1977, App. at 2594, and I may have seen her on that day.*

I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).

I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).

11. R: The record indicates that the President agreed to ask Vernon Jordan to assist Monica Lewinsky in her job search:

"Q What do you have in mind about the first time Vernon Jordan's name would have come up in conversations with the President?

A It was either in that phone call or [at the meeting] on October 11th.

Q And tell us what was said about Vernon Jordan, whether it was in the phone call or on the 11th.

A I don't remember. I know that I had discussed with Linda and either I had thought or she had suggested that Vernon Jordan would be a good person who is a close friend of the President and who has a lot of contacts in New York, so that he might be someone who might be able to help me procure a position in New York, if I didn't want to go to the U.N.

Q And what was the President's response?

A I think that was a good idea?"

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 103-104, H. Doc. 105-311, p. 988)

"Following this conversation, Ms. Lewinsky requested of the Pres. that he ask Vernon Jordan to help secure her a non-governmental position in NY. He agreed to ask Mr. Jordan." (2/1/98 Handwritten proffer of Monica Lewinsky, H. Doc. 105-311, p. 710; see also H. Doc. 105-311, p. 1212.)

12. Q: **Do you admit or deny that on or about October 11, 1997, after meeting with Monica Lewinsky and discussing her search for a job in New York, you telephoned Vernon Jordan?**

12. A: *At some point, Ms. Lewinsky either discussed with me or gave me a list of the kinds of jobs she was interested in, although I do not know whether it was on Saturday, October 11, 1997.*

Records included in the OIC Referral indicate that Ms. Lewinsky visited the White House on October 11, 1977, App. at 2594, and I may have seen her on that day.

I do not believe I suggested to Ms. Lewinsky that Mr. Jordan might be able to assist her in her job search, and I understand that Ms. Lewinsky has stated that she asked me if Mr. Jordan could assist her in finding a job in New York. App. at 1079 (grand jury testimony of Ms. Lewinsky); App. at 1393 (7/27/98 FBI Form 302 Interview of Ms. Lewinsky); App. at 1461-62 (7/31/98 FBI Form 302 Interview of Ms. Lewinsky).

I speak to Mr. Jordan often, and I understand that records included in the OIC Referral indicate that he telephoned me shortly after Ms. Lewinsky left the White House complex. Supp. at 1836, 1839. I understand that Mr. Jordan testified that he and I did not discuss Ms. Lewinsky during that call. Supp. at 1793-94 (grand jury testimony of Vernon Jordan).

12. R: The record indicates that on October 11, 1997, at 10:57 a.m., after meeting with Monica Lewinsky beginning at 9:00 a.m., President Clinton took a phone call from Vernon Jordan. (Presidential call log, H. Doc. 105-311, p. 2829.)

13. Q: **Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, a plan in which she would pretend to bring you papers with a work-related purpose, when in fact such papers had no work-related purpose, in order to conceal your relationship?**

13. A: *I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That continues to be my recollection today – that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.*

13. R: The record indicates that such a plan existed. Monica Lewinsky provided the following testimony under oath regarding this subject:

"Q I would like to ask you some questions about any steps you took to keep your relationship with the President secret.

A A lot.

Q All right. Well, why don't we just ask the question open-endedly and we'll follow up.

A Okay. I'm sure, as everyone can imagine, that this is a kind of relationship that you keep quiet, and we both wanted to be careful being in the White House. Whenever I would visit him during--when--during my tenure at the White House, we always--unless it was sort of a chance meeting on the weekend and then we ended up back in the office, we would usually plan that I would either bring papers, or one time we had accidentally bumped into each other in the hall

and went from that way, so then we planned to do that again because that seemed to work well. But we always--there was always some sort of a cover.

Q When you say you planned to bring papers, did you ever discuss with the President the fact that you would try to use that as a cover?

A Yes.

Q Okay. What did the two of you say in those conversations?

A I don't remember exactly. I mean, in general, it might have been something like me saying, well, maybe once I got there kind of saying, "Oh, gee here are your letters," wink, wink, wink, and him saying: "Okay that's good," or--

Q And as part of this concealment, if you will, did you carry around papers when you went to visit the President while you worked at Legislative Affairs?

A Yes, I did.

Q Did you ever actually bring him papers to sign as part of business?

A No.

Q Did you actually bring him papers at all?

A Yes.

Q All right. And tell us a little about that.

A It varied. Sometimes it was just actual copies of letters. One time I wrote a really stupid poem. Sometimes I put gifts in the folder which I brought.

Q And even on those occasions, was there a legitimate business purpose to that?

A No."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 53-55, H. Doc. 105-311, p. 977)

President Clinton gave the following testimony under oath in his deposition the case of Jones v. Clinton regarding the subject:

"Q Is it true that when she worked at the White House she met with you several times?

A I don't know about several times. There was a period when the Republican Congress shut the government down that the whole White House was being run by interns, and she was assigned to

work back in the chief of staff's office, and we were all working there, and so I saw her on two or three occasions then, and then when she worked at the White House, I think there was one or two other times when she brought some documents to me."
(Deposition of President Clinton, 1/17/98, pp. 50-51 (released in news accounts)).g

14. Q: Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that Betty Currie should be the one to clear Ms. Lewinsky in to see you so that Ms. Lewinsky could say that she was visiting with Ms. Currie instead of with you?

14. A: *I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That continues to be my recollection today - that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.*

14. R: The record indicates the President had such discussions with Monica Lewinsky prior to December 17, 1997. Monica Lewinsky provided the following testimony under oath regarding this subject:

"Q Did you ever [prior to your conversation with the President on December 17] have discussions with the President about what you would say about your frequent visits with him after you had left legislative affairs?

A Yes.

Q Yes. What was that about?

A I think we--we discussed that--you know, the backwards route of it was that Betty always needed to be the one to clear me in so that, you know, I could always say I was coming to see Betty."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 55, H. Doc. 105-311, p. 977)

President Clinton was asked about this subject during his deposition on January 17, 1998:

"Q Has it ever happened that a White House record was created that reflected that Betty Currie was meeting with Monica Lewinsky when in fact you were meeting with Monica Lewinsky?

A Not to my knowledge."

(Deposition Testimony of President Clinton in the case of Jones v. Clinton, 1/17/98).

15. Q: Do you admit or deny that you discussed with Monica Lewinsky prior to December 17, 1997, that if either of you were questioned about the existence of your relationship you would deny its existence?

15. A: *I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That continues to be my recollection today – that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.*

15. R: The record indicates that such an agreement to deny existed between the President and Monica Lewinsky:

"Q Had you talked with [the President] earlier [than December 17] about ... false explanations about what you were doing visiting him on several occasions?

A Several occasions throughout the entire relationship. ...It was the pattern of the relationship to sort of conceal it."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 124, H. Doc. 105-311, p. 844).

16. Q: **Do you admit or deny that on or about December 6, 1997, you learned that Monica Lewinsky's name was on a witness list in the case of Jones v. Clinton?**

16. A: *As I stated in my August 17th grand jury testimony, I believe that I found out that Ms. Lewinsky's name was on a witness list in the Jones v. Clinton case late in the afternoon on the 6th of December, 1997. App. at 535.*

16. R: The record indicates that according to the President's sworn testimony, he had such knowledge:

"Q ...[W]hen did you find out that Monica's name was on that witness list?

A "I believe that I found out late in the afternoon on the 6th."

(Grand Jury Testimony of President Clinton, 8/17/98, p. 83, H. Doc. 105-311, p. 535).

17. Q: **Do you admit or deny that on or about December 17, 1997, you told Monica Lewinsky that her name was on the witness list in the case of Jones v. Clinton?**

17. A: *As I previously testified, I recall telephoning Ms. Lewinsky to tell her Ms. Currie's brother had died, and that call was in the middle of December. App. at 567. I do not recall other particulars of such a call including whether we discussed the fact that her name was on the Jones v. Clinton witness list. As I stated in my August 17th grand jury testimony in response to essentially the same questions, it is "quite possible that that happened. . . . I don't have any memory of it, but I certainly wouldn't dispute that I might have said that [she was on the witness list]." App. at 567.*

I recall that Ms. Lewinsky asked me at some time in December whether she might be able to get out of testifying in the Jones v. Clinton case because she knew nothing about Ms. Jones or the case. I told her I believed other witnesses had executed affidavits, and there was a chance they

would not have to testify. As I stated in my August 17th grand jury testimony, "I felt strongly that . . . [Ms. Lewinsky] could execute an affidavit that would be factually truthful, that might get her out of having to testify." App. at 571. I never asked or encouraged Ms. Lewinsky to lie in her affidavit, as Ms. Lewinsky herself has confirmed. *See* App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); *see also* App. at 1161 (grand jury testimony of Ms. Lewinsky).

17. R: The record indicates that the President told Monica Lewinsky about the appearance of her name on that date:

"Q . . . Did you come to have a telephone conversation with the President on December 17?

A Yes. . . .he told me he had some more bad news, that he had seen the witness list for the Paula Jones case and my name was on it. . . .He told me that it didn't necessarily mean that I would be subpoenaed, but that that was a possibility, and if I were subpoenaed, that I should contact Betty and let Betty know that I had received the subpoena."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 123, H. Doc. 105-311, p. 843).

President Clinton was asked about this subject during his deposition on January 17, 1998:

"Q Did you ever talk with Monica Lewinsky about the possibility that she might be asked to testify on this case?

A Bruce Lindsey, I think Bruce Lindsay told me that she was, I think maybe that's the first person [who] told me she was. I want to be as accurate as I can. . . .

18. Q: **Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that the submission of an affidavit in the case of *Jones v. Clinton* might suffice to prevent her from having to testify personally in that case?**

18. A: *As I previously testified, I recall telephoning Ms. Lewinsky to tell her Ms. Currie's brother had died, and that call was in the middle of December. App. at 567. I do not recall other particulars of such a call including whether we discussed the fact that her name was on the Jones v. Clinton witness list. As I stated in my August 17th grand jury testimony in response to essentially the same questions, it is "quite possible that that happened....I don't have any memory of it, but I certainly wouldn't dispute that I might have said that [she was on the witness list]." App. at 567.*

I recall that Ms. Lewinsky asked me at some time in December whether she might be able to get out of testifying in the Jones v. Clinton case because she knew nothing about Ms. Jones or the case. I told her I believed other witnesses had executed affidavits, and there was a chance they would not have to testify. As I stated in my August 17th grand jury testimony, "I felt strongly that...[Ms. Lewinsky] could execute an affidavit that would be factually truthful, that might get her out of having to testify." App. at 571. I never asked or encouraged Ms. Lewinsky to lie in her affidavit, as Ms. Lewinsky herself has

confirmed. *See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).*

18. R: The record indicates that the President made such a suggestion, despite the fact that he denied it in sworn testimony:

Q I believe I was starting to ask you a question a moment ago and we got sidetracked. Have you ever talked to Monica Lewinsky about the possibility that she might be asked to testify in this lawsuit?

A I'm not sure, and let me tell you why I'm not sure. It seems to me the, the, the-I want to be as accurate as I can here. Seems to me the last time she was there to see Betty before Christmas we were joking about how you-all, with the help of the Rutherford Institute, were going to call every woman I'd ever talked to and ask them that, and so I said you would qualify, or something like that. I don't think we ever had more of a conversation than that about it. . . ."

(Deposition Testimony of President Clinton in the case of Jones v. Clinton, 1/17/98 pp. 70-71 (as released in public sources)).

"A I believe I probably asked him, you know, what should I do in the course of that and he suggested, he said, 'Well, maybe you can sign an affidavit.' . . .

Q When he said that you might sign an affidavit, what did you understand it to mean at that time?

A I thought that signing an affidavit could range from anywhere -- the point of it would be to deter or to prevent me from being deposed and so that that could range from anywhere between maybe just somehow mentioning, you know, innocuous things or going as far as maybe having to deny any kind of relationship."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 123-24, H. Doc. 105-311, pp. 843-44).

Furthermore, Monica Lewinsky has stated that she is "100% sure that the President suggested that she might want to sign an affidavit to avoid testifying." (8/19/98 OIC interview of Monica Lewinsky, pp. 4-5 (H. Doc. 105-311, pp.1558-9).

19. Q: **Do you admit or deny that on or about December 17, 1997, you suggested to Monica Lewinsky that she could say to anyone inquiring about her relationship with you that her visits to the Oval Office were for the purpose of visiting with Betty Currie or to deliver papers to you?**

19. A: *I was asked essentially these same questions by OIC lawyers. I testified that Ms. Lewinsky and I "may have talked about what to do in a non-legal context at some point in the past, but I have no specific memory of that conversation." App. at 569. That*

continues to be my recollection today – that is, any such conversation was not in connection with her status as a witness in the Jones v. Clinton case.

19. R: The record indicates that the President made such a suggestion on December 17, 1997:

"Q Did you come to have a telephone conversation with the President on December 17?

A Yes. . .

Q Tell us how the conversation went from there. . .

A . . . At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up, he sort of said, 'You know, you can always say you were coming to see Betty or that you were bringing me letters.' Which I understood was really a reminder of things that we had discussed before."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p.123, H. Doc. 105-311, p. 843).

20. Q: **Do you admit or deny that you gave false and misleading testimony under oath when you stated during your deposition in the case of *Jones v. Clinton* on January 17, 1998, that you did not know if Monica Lewinsky had been subpoenaed to testify in that case?**

20. A: *It is evident from my testimony on pages 69 to 70 of the deposition that I did know on January 17, 1998, that Ms. Lewinsky had been subpoenaed in the Jones v. Clinton case. Ms. Jones' lawyer's question, "Did you talk to Mr. Lindsey about what action, if any, should be taken as a result of her being served with a subpoena?", and my response, "No," *id.* at 70, reflected my understanding that Ms. Lewinsky had been subpoenaed. That testimony was not false and misleading.*

20. R: The record indicates that despite evidence revealing the contrary, President Clinton swore in his deposition that he did not know if Monica Lewinsky had been subpoenaed to testify in that case:

"Q Did she tell you she had been served with a subpoena in this case?

A No. I don't know if she had been.

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

A I don't think so."

(Deposition Testimony of President Clinton in the case of *Jones v. Clinton*, 1/18/98, p. 68 (as released in public sources.))

"I said to the President, 'Monica Lewinsky called me.... She is coming to see me about this subpoena.'" (Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 145 (referencing a December 19, 1997, telephone conversation with the President), H. Doc. 105-316, p. 1815).

21. Q: Do you admit or deny that you gave false and misleading testimony under oath when you stated before the grand jury on August 17, 1998, that you did know prior to January 17, 1998, that Monica Lewinsky had been subpoenaed to testify in the case of *Jones v. Clinton*?

21. A: *As my testimony on January 17 reflected, and as I testified on August 17, 1998, I knew prior to January 17, 1998, that Ms. Lewinsky had been subpoenaed to testify in Jones v. Clinton. App. at 487. That testimony was not false and misleading.*

21. R: The record indicates that President Clinton swore before the grand jury that he did know that Monica Lewinsky had been subpoenaed to testify in that case:

"[M]y recollection is that I knew by then, of course, that she had gotten a subpoena. And I knew that she was, therefore, was slated to testify. ... I remember a conversation about the possibility of her testifying. I believe it must have occurred on the 28th." (Grand Jury Testimony of President Clinton, 8/17/98, pp. 35-36, H. Doc 105-311, pp. 487-88).

22. Q: Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding her moving to New York?

22. A: *When I met Ms. Lewinsky on December 28, 1997, I knew she was planning to move to New York, and we discussed her move.*

22. R: The record indicates that the President had such a discussion with Monica Lewinsky at the White House:

"On December 28, 1997, Lewinsky visited the President at the White House. . . .Lewinsky and the President discussed her move to New York. . . ." (7/ 27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395).

23. Q: Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House in which you suggested to her that she move to New York soon because by moving to New York, the lawyers representing Paula Jones in the case of *Jones v. Clinton* may not contact her?

23. A: *Ms. Lewinsky had decided to move to New York well before the end of December 1997. By December 28, Ms. Lewinsky had been subpoenaed. I did not suggest that she could avoid testifying in the Jones v. Clinton case by moving to New York.*

23. R: The record indicates that the President had such a discussion with Monica Lewinsky at the White House and made such a suggestion:

"On December 28, 1997, Lewinsky visited the President at the White House. . . .the President said that if Lewinsky was in New York the Jones lawyers might not call; that the sooner Lewinsky moved the better; and that maybe the lawyers would ignore her." (7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395).

24. Q: **Do you admit or deny that on or about December 28, 1997, you had a discussion with Monica Lewinsky at the White House regarding gifts you had given to Ms. Lewinsky that were subpoenaed in the case of *Jones v. Clinton*?**

24. A: *As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. at 495, but I do not know whether that conversation occurred on December 28, 1997, or earlier. Ibid. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had. . . ." App. at 495. I simply was not concerned about the fact that I had given her gifts. See App. at 495-98. Indeed, I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling me that the subpoena specifically called for a hat pin that I had given her. App. at 496.*

24. R: The record indicates that the President had such a discussion with Monica Lewinsky:

A We -- we really spent maybe about five -- no more than ten minutes talking about the Paula Jones case on [December 28] . . . I brought up the subject of the case because I was concerned about how I had been brought into the case and been put on the witness list. . . .And then at some point I said to him, 'Well, you know, I - maybe I should put the gifts away outside my house somewhere or give them to someone, maybe Betty.' And he sort of said - I think he responded, 'I don't know' or 'Let me think about that.' And left that topic."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-311, p. 872; See also 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395).

25. Q: **Do you admit or deny that on or about December 28, 1997, you expressed concern to Monica Lewinsky about a hatpin you had given to her as a gift which had been subpoenaed in the case of *Jones v. Clinton*?**

25. A: *As I told the grand jury, "Ms. Lewinsky said something to me like, what if they ask me about the gifts you've given me," App. at 495, but I do not know whether that conversation occurred on December 28, 1997, or earlier. Ibid. Whenever this conversation occurred, I testified, I told her "that if they asked her for gifts, she'd have to give them whatever she had...." App. at 495. I simply was not concerned about the fact that I had given her gifts. See App. at 495-98. Indeed, I gave her additional gifts on December 28, 1997. I also told the grand jury that I do not recall Ms. Lewinsky telling*

me that the subpoena specifically called for a hat pin that I had given her. App. at 496.

25. R: The record indicates that the President expressed such concern:

"I mentioned that I had been concerned about the hat pin being on the subpoena and he said that had sort of concerned him also." (Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-311, p. 872; See also 7/27/98 OIC Interview of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 1395).

26. Q: **Do you admit or deny that on or about December 28, 1997, you discussed with Betty Currie gifts previously given by you to Monica Lewinsky?**

26. A: *I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms. Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. at 531.*

26. R: The record indicates that such a discussion occurred. Monica Lewinsky testified under oath before the grand jury that a few hours after meeting with the President on December 28, 1997, a meeting in which Ms. Lewinsky and President Clinton discussed the fact that gifts given to her by Mr. Clinton had been subpoenaed in the case of *Jones v. Clinton*, Betty Currie called her:

"Q What did [Betty Currie] say?

A She said, "I understand you have something to give me." Or, "The President said you have something to give me." Along those lines. . . .

Q When she said something along the lines of "I understand you have something to give me," or "The President says you have something for me," what did you understand her to mean?

A The gifts."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, pp. 154-55, H. Doc. 105-311, pp. 874-75).

In Monica Lewinsky's February 1, 1998 handwritten statement to the OIC, which Ms. Lewinsky has testified is truthful, she stated, "Ms. Currie called Ms. L later that afternoon and said that the Pres. had told her Ms. L wanted her to hold onto something for her. Ms. L boxed up most of the gifts she had received and gave them to Ms. Currie." (2/1/98 Handwritten Proffer of Monica Lewinsky, p. 7, H. Doc. 105-311, p. 715).

Betty Currie testified that she did not recall the President telling her that Ms. Lewinsky wanted her to hold some items. When asked if a contrary statement by Ms. Lewinsky--

indicating that Ms. Currie had in fact spoken to the President about the gift transfer-- would be false, Ms. Currie replied: "She may remember better than I. I don't remember." (Grand Jury Testimony of Betty Currie, 5/6/98, p. 126, H. Doc. 105-316, p. 584).

Further evidence before the Committee reveals that Betty Currie telephoned Monica Lewinsky and not the other way around regarding the gifts after the President and Monica Lewinsky discussed the gifts:

Mr. Schippers: When Ms. Currie, when they wanted to get rid of the gifts, Ms. Currie went and picked them up, put them under her bed to keep them from anybody else. Another mission accomplished?

Mr. Starr: That's right.

Mr. Schippers: By the way, there has been some talk here that Monica said that she recalled that Betty Currie called her and said, either the President wants me to pick something up, or I understand you have something for me to pick up. Later, Ms. Currie backed off that and said, well, I am not sure, maybe Monica called me. In the material that you made available, you and your staff made available to us, there were 302s in which Monica said, I think when Betty called me, she was using her cell phone. Do you recall that, Judge Starr?

Mr. Starr: I do.

Mr. Schippers: And in that same material that is in your office that both parties were able to review and that we did, in fact, review, there are phone records of Ms. Currie; are there not?

Mr. Starr: There are.

Mr. Schippers: And there is a telephone call on her cell phone to Monica Lewinsky's home on the afternoon of December 28, 1997; isn't there?

Mr. Starr: That is correct.

Mr. Schippers: Once again, Monica is right and she has been corroborated, right?

Mr. Starr: That certainly tends to corroborate Ms. Lewinsky's recollection. (Impeachment Hearing on Inquiry Pursuant to H. Res. 581, Thursday, November 19, 1998, Transcript pp. 407-409.)

President Clinton testified about this subject before the grand jury on August 17, 1998:

"Q After you gave her the gifts on December 28, 1997, did you speak with your secretary, Ms. Currie, and ask her to pick up a box of gifts that were some compilation of gifts that Ms. Lewinsky would have----

A No, sir, I didn't do that.

Q ----to give to Ms. Currie?

A I did not do that.

(Grand Jury Testimony of President Clinton, 8/17/98, p. 51, H. Doc.105-311, p. 638).

27. Q: Do you admit or deny that on or about December 28, 1998 [sic], you requested, instructed, suggested to or otherwise discussed with Betty Currie that she take possession of gifts previously given to Monica Lewinsky by you?

27. A: *I do not recall any conversation with Ms. Currie on or about December 28, 1997, about gifts I had previously given to Ms. Lewinsky. I never told Ms. Currie to take possession of gifts I had given Ms. Lewinsky; I understand Ms. Currie has stated that Ms. Lewinsky called Ms. Currie to ask her to hold a box. See Supp. at 531.*

27. R: See Request for Admission No. 24 (H. Doc. 105-311, p. 872). See also Currie quote as set forth in Request for Admission No. 26 (H. Doc. 105-316, p. 584).

28. Q: Do you admit or deny that you had a telephone conversation on January 6, 1998, with Vernon Jordan during which you discussed Monica Lewinsky's affidavit, yet to be filed, in the case of *Jones v. Clinton*?

28. A: *White House records included in the OIC Referral reflect that I spoke to Mr. Jordan on January 6, 1998. Supp. at 1886. I do not recall whether we discussed Ms. Lewinsky's affidavit during a telephone call on the date.*

28. R: The record indicates that such a conversation may have occurred. See Telephone Calls, Table 35, included in Appendix G as referenced in note 928, H. Doc. 105-310, p. 108 (Vernon Jordan telephones the President less than 30 minutes after speaking with Monica Lewinsky over the telephone about her draft affidavit).

29. Q: Do you admit or deny that you had knowledge of the fact that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton* on January 7, 1998?

29. A: *As I testified to the grand jury, "I believe that [Mr. Jordan] did notify us" when she signed her affidavit. App. at 525. While I do not recall the timing, as I told the grand jury, I have no reason to doubt Mr. Jordan's statement that he notified me about the affidavit around January 7, 1998. Ibid.*

29. R: The record indicates that the President had such knowledge:

Q "... [Y]ou conveyed ... both to Betty Currie and to the President – namely, that you knew Ms. Lewinsky had signed the affidavit [on January 7, 1998]?"

A "Right."

(Grand Jury testimony of Vernon Jordan, 5/5/98, p. 223, H. Doc. 105-316, p. 1828)

"I believe that he [Vernon Jordan] did notify us, I think, when she signed her affidavit. I have a memory of that." (Grand Jury Testimony of President Clinton, 8/17/98, p. 73, H. Doc. 105-311, p. 525).

30. Q: **Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that Monica Lewinsky executed for filing an affidavit in the case of *Jones v. Clinton*?**

30. A: *As I testified to the grand jury, "I believe that [Mr. Jordan] did notify us" when she signed her affidavit. App. at 525. While I do not recall the timing, as I told the grand jury, I have no reason to doubt Mr. Jordan's statement that he notified me about the affidavit around January 7, 1998. Ibid.*

30. R: The record indicates that such a discussion occurred:

"Q Okay, do you believe that it would have been during one of these calls [phone conversations between the President and Vernon Jordan on January 7, 1998] that you would have indicated to the President that Ms. Lewinsky had, in fact, signed the affidavit?"

A That, too, is a reasonable assumption."

(Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 224, H. Doc. 105-316, p. 1828).

31. Q: **Do you admit or deny that on or about January 7, 1998, you had a discussion with Vernon Jordan in which he mentioned that he was assisting Monica Lewinsky in finding a job in New York?**

31. A: *I told the grand jury that I was aware that Mr. Jordan was assisting Ms. Lewinsky in her job search in connection with her move to New York. App. at 526. I have no recollection as to whether Mr. Jordan discussed it with me on or about January 7, 1998.*

31. R: The record indicates that such a discussion occurred:

"I'm sure I said, 'I'm still working on her job [in New York]'." To which Jordan quotes the President as responding, "Good." (Grand Jury Testimony of Vernon Jordan, 5/5/98, p. 226, H. Doc. 105-316, p. 1829).

32. Q: **Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?**

32. A: *I do not believe I saw this affidavit before my deposition, although I cannot be absolutely sure. The record indicates that my counsel had seen the affidavit at some time prior to the deposition. See Dep. at 54.*

32. R: The record indicates that the President was fully aware of the contents of the affidavit of Monica Lewinsky prior to his deposition on January 17, 1998:

During the January 17, 1998 deposition of President Clinton in the case of *Jones v. Clinton*, Robert Bennett, President Clinton's attorney, after describing part of Monica Lewinsky's affidavit, stated, "I am not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's affidavit, so I have not told him a single thing he doesn't know..." (Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 54).

The testimony of Vernon Jordan also indicates that the President had knowledge of the affidavit:

"Q ... [I]s it accurate that based on the conversations you had with [the President] already, you didn't have to explain to him [on January 7, 1998] what the affidavit was?

A I think that's a reasonable assumption."
(Grand Jury testimony of Vernon Jordan, 5/5/98, p. 225, H. Doc. 105-316, p. 1828)

33. Q: **Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, prior to your deposition in that case?**

33. A: *I do not believe I saw this affidavit before my deposition, although I cannot be absolutely sure. The record indicates that my counsel had seen the affidavit at some time prior to the deposition. See Dep. At 54.*

33. R: The record indicates that the President's counsel viewed a copy of the affidavit and briefed the President. Frank Carter, Monica Lewinsky's former attorney, testified before the grand jury that he provided a copy of Monica Lewinsky's affidavit to Robert Bennett, President Clinton's attorney:

"Q Did Monica ask you if she had shown or discussed the affidavit with either Vernon Jordan or Bennett before she signed it?

A I'm not sure. I'm not sure . . . Bob Bennett did not see this until--I believe Bob Bennett did not see this until the 15th of January when I sent him a copy."(Grand Jury Testimony of Frank Carter, 6/18/98, pp.112-13, H. Doc. 105-316, pp. 420-21).

During the January 18, 1998 deposition of President Clinton in the case of Jones v. Clinton, Robert Bennett, President Clinton's attorney, after describing part of Monica Lewinsky's affidavit, stated, "I am not coaching the witness. In preparation of the witness for this deposition, the witness is fully aware of Ms. Jane Doe 6's affidavit, so I have not told him a single thing he doesn't know..." (Deposition of President Clinton in the case of Jones v. Clinton, 1/17/98, p. 54 (as released in public sources)).

34. **Q:** **Do you admit or deny that you had knowledge that any facts or assertions contained in the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton* were not true?**

34. **A:** *I was asked at my deposition in January about two paragraphs of Ms. Lewinsky's affidavit. With respect to Paragraph 6, I explained the extent to which I was able to attest to its accuracy. Dep. at 202-03.*

With respect to Paragraph 8, I stated in my deposition that it was true. Dep. at 204. In my August 17th grand jury testimony, I sought to explain the basis for that deposition answer: "I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate." App. at 473.

34. **R:** The record indicates that the President had such knowledge. In the affidavit executed in the case of *Jones v. Clinton*, Monica Lewinsky asserted the following:

"I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship The occasions that I saw the President after I left my employment at the White House in April, 1996, were official receptions, formal functions or events related to the U.S. Department of Defense, where I was working at the time. There were other people present on those occasions." (Affidavit of Jane Doe # 6, para. 8, H. Doc. 105-311, pp. 1235-36.)

During the January 17, 1998 deposition of President Clinton in the case of Jones v. Clinton, Robert Bennett, President Clinton's attorney, stated "Counsel is fully aware that Ms. Jane Doe #6 has filed, has an affidavit which they are in possession of saying that there is absolutely no sex of any kind in any manner, shape of form, with President Clinton. . . ." (Deposition of President Clinton in the case of Jones v. Clinton, 1/17/98, p. 54 (as released in public sources)).

The Grand Jury Testimony of Monica Lewinsky, given under oath and following a grant of transactional immunity, confirmed that the contents of her affidavit were not true:

"Q Paragraph 8 . . . [of the affidavit] says, 'I have never had a sexual relationship with the President.' Is that true?"

A No."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 204, H. Doc. 105-311, p. 924).

35. **Q: Do you admit or deny that you viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?**
35. A: *I know that Mr. Bennett saw Ms. Lewinsky's affidavit during the deposition because he read portions of it aloud at the deposition. See Dep. at 202. I do not recall whether I saw a copy of Ms. Lewinsky's affidavit during the deposition.*
35. R: The record indicates that the President was present when his attorney, Robert Bennett, read from the affidavit executed by Monica Lewinsky. (Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204 (as released in public sources)).
36. **Q: Do you admit or deny that you had knowledge that your counsel viewed a copy of the affidavit executed by Monica Lewinsky on January 7, 1998, in the case of *Jones v. Clinton*, at your deposition in that case on January 17, 1998?**
36. A: *I know that Mr. Bennett saw Ms. Lewinsky's affidavit during the deposition because he read portions of it aloud at the deposition. See Dep. at 202. I do not recall whether I saw a copy of Ms. Lewinsky's affidavit during the deposition.*
36. R: The record indicates that the President had such knowledge. During the January 17, 1998 deposition of President Clinton in the case of *Jones v. Clinton*, Robert Bennett, the President's attorney, recited portions of the affidavit Monica Lewinsky had executed in the case of *Jones v. Clinton*. The President was present when the affidavit was read. (Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204 (as released in public sources)).
37. **Q: Do you admit or deny that on or about January 9, 1998, you received a message from Vernon Jordan indicating that Monica Lewinsky had received a job offer in New York?**
37. A: *At some time, I learned that Ms. Lewinsky had received a job offer in New York. However, I do not recall whether I first learned it in a message from Mr. Jordan or whether I learned it on that date.*
37. R: The record indicates that President received such a message:

"As I recollect, I said Monica Lewinsky's going to work for Revlon and his response was

thank you very much." (Grand Jury Testimony of Vernon Jordan, 5/28/98, p. 59, H. Doc. 105-316, p. 1903).

38. Q: Do you admit or deny that between January 9, 1998, and January 15, 1998, you had a conversation with Erskine Bowles in the Oval Office in which you stated that Monica Lewinsky received a job offer and had listed John Hilley as a reference?

38. A: *As I testified to the grand jury, I recall at some point talking to Mr. Bowles "about whether Monica Lewinsky could get a recommendation that was not negative from the Legislative Affairs Office," or that "was at least neutral," although I am not certain of the date of the conversation. App. at 562-64. To suggest that I told Mr. Bowles that Ms. Lewinsky had received a job offer and had listed John Hilley as a reference is, as I testified, a "little bit" inconsistent with my memory. App. at 564. It is possible, as I also indicated, that she had identified Mr. Hilley as her supervisor on her resume and in that respect had already listed him as a reference. Ibid.*

38. R: The record indicates that such a conversation occurred:

"[S]he [Monica Lewinsky] had found a job in the private sector, and that she had listed John Hilley as a reference, and could we see if he could recommend her, if asked." (Grand Jury Testimony of Erskine Bowles, 4/2/98, p. 78, H. Doc. 105-316, p. 238).

39. Q: Do you admit or deny that you asked Erskine Bowles if he would ask John Hilley to give Ms. Lewinsky a positive job recommendation?

39. A: *As I testified to the grand jury, I recall at some point talking to Mr. Bowles "about whether Monica Lewinsky could get a recommendation that was not negative from the Legislative Affairs Office," or that "was at least neutral," although I am not certain of the date of the conversation. App. at 562-64. To suggest that I told Mr. Bowles that Ms. Lewinsky had received a job offer and had listed John Hilley as a reference is, as I testified, a "little bit" inconsistent with my memory. App. at 564. It is possible, as I also indicated, that she had identified Mr. Hilley as her supervisor on her resume and in that respect had already listed him as a reference. Ibid.*

39. R: The record indicates that the President asked Erskine Bowles if he would ask Mr. Hilley to give Monica Lewinsky a positive job recommendation. See Request for Admission No. 38 (H. Doc. 105-316, p. 238).

40. Q: Do you admit or deny that during your deposition in the case of *Jones v. Clinton* on January 17, 1998, you affirmed that the facts or assertions stated in the affidavit executed by Monica Lewinsky on January 7, 1998, were true?

40. A: *I was asked at my deposition in January about two paragraphs of Ms. Lewinsky's affidavit. With respect to Paragraph 6, I explained the extent to which I was able to*

attest to its accuracy. Dep. At 202-03.

With respect to Paragraph 8, I stated in my deposition that it was true. Dep. At 204. In my August 17th grand jury testimony, I sought to explain the basis for that deposition answer: "I believe at the time that she filled out this affidavit, if she believed that the definition of sexual relationship was two people having intercourse, then this is accurate." App. at 473.

40. R: The record indicates that the President, under oath, affirmed that the assertions made in Monica Lewinsky's affidavit were true, even though he knew they were false. During the January 17, 1998 deposition of President Clinton in the case of *Jones v. Clinton*, Robert Bennett, the President's attorney, read parts of the affidavit Monica Lewinsky had executed in the case of *Jones v. Clinton*. At one point Mr. Bennett read part of paragraph eight of Monica Lewinsky's affidavit, in which Monica Lewinsky asserts, "I have never had a sexual relationship with the President, he did not propose that we have a sexual relationship, he did not offer me employment or other benefits in exchange for a sexual relationship, he did not deny me employment or other benefits for reflecting a sexual relationship."

After reading from the affidavit out loud, Mr. Bennett asked the President: "Is that a true and accurate statement as far as you know it?" The President answered, "That is absolutely true." (Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 204 (as released in public sources)).

41. Q: **As to each, do you admit or deny that you gave the following gifts to Monica Lewinsky at any time in the past?**

- a. **A lithograph**
- b. **A hatpin**
- c. **A large "Black Dog" canvas bag**
- d. **A large "Rockettes" blanket**
- e. **A pin of the New York skyline**
- f. **A box of "cherry chocolates"**
- g. **A pair of novelty sunglasses**
- h. **A stuffed animal from the "Black Dog"**
- i. **A marble bear's head**
- j. **A London pin**
- k. **A shamrock pin**
- l. **An Annie Lennox compact disc**
- m. **Davidoff cigars**

1. A: *In my deposition in the Jones case, I testified that I "certainly. . .could have" given Ms. Lewinsky a hat pin and that I gave her "something" from the Black Dog. Dep. at 75-76. In my grand jury testimony, I indicated that in late December 1997, I gave Ms. Lewinsky a Canadian marble bear's head carving, a Rockettes blanket, some kind of pin, and a*

bag (perhaps from the Black Dog) to hold these objects. App. at 484-487. I also stated that I might have given her such gifts as a box of candy and sunglasses, although I did not recall doing so, and I specifically testified that I had given Ms. Lewinsky gifts on other occasions. App. at 487. I do not remember giving her the other gifts listed in Question 41, although I might have. As I have previously testified, I receive a very large number of gifts from many different people, sometimes several at a time. I also give a very large number of gifts. I gave Ms. Lewinsky gifts, some of which I remember and some of which I do not.

41. R: The record indicates that the President did present each of these items as gifts to Monica Lewinsky.

A chart prepared as part of her testimony before the Grand Jury details Monica Lewinsky's visits to the President and the exchange of gifts during those visits is contained in H. Doc. 105-311, pp. 1251-61.

42. Q: **Do you admit or deny that when asked on January 17, 1998, in your deposition in the case of *Jones v. Clinton* if you had ever given gifts to Monica Lewinsky, you stated that you did not recall, even though you actually had knowledge of giving her gifts in addition to gifts from the "Black Dog?"**

42. A: *In my grand jury testimony, I was asked about this same statement. I explained that my full response was "I don't recall. Do you know what they were?" By that answer, I did not mean to suggest that I did not recall giving gifts; rather, I meant that I did not recall what the gifts were, and I asked for reminders. See App. at 502-03.*

42. R: The record indicates that the President stated that he did not recall even though he had knowledge:

"Q Well, have you ever given any gifts to Monica Lewinsky?"

A I don't recall. Do you know what they were?"

Q A hat pin?"

A I don't, I don't remember. But I certainly, I could have."

(Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 75 (as released in public sources). See also request for admission number 41 for evidence of numerous gifts Mr. Clinton gave to Ms. Lewinsky.)

Furthermore, the evidence shows that President Clinton and Monica Lewinsky discussed the hat pin gift on December 28, 1997, after Ms. Lewinsky received a subpoena calling for her to produce all gifts she received from Mr. Clinton, including any hat pins. Ms. Lewinsky stated under oath before the grand jury that "I mentioned that I had been

concerned about the hat pin being on the subpoena and he said that that had sort of concerned him also and asked me if I had told anyone that he had given me the hat pin and I said no." (Grand Jury Testimony of Monica Lewinsky, 8/6/98, p. 152, H. Doc. 105-311, p. 1000).

43. **Q:** **Do you admit or deny that you gave false and misleading testimony under oath in your deposition in the case of *Jones v. Clinton* when you responded "once or twice" to the question "has Monica Lewinsky ever given you any gifts?"**
43. **A:** *My testimony was not false and misleading. As I have testified previously, I give and receive numerous gifts. Before my January 17, 1998, deposition, I had not focused on the precise number of gifts Ms. Lewinsky had given me. App. at 495-98. My deposition testimony made clear that Ms. Lewinsky had given me gifts; at the deposition, I recalled "a book or two" and a tie. Dep. at 77. At the time, those were the gifts I recalled. In response to OIC inquiries, after I had had a chance to search my memory and refresh my recollection, I was able to be more responsive. However, as my counsel have informed the OIC, in light of the very large number of gifts I receive, there might still be gifts from Ms. Lewinsky that I have not identified.*
43. **R:** The record indicates that the President gave such false and misleading testimony:
- "Q Has Monica Lewinsky ever given you any gifts?
- A Once or twice. I think she's given me a book or two.
(Deposition of President Clinton in the case of *Jones v. Clinton*, 1/17/98, p. 76 (as released in public sources)).
- The evidence shows that Ms. Lewinsky gave the President approximately 38 gifts presented on numerous occasions. (See chart in House Document 105-311 pp. 1251-61.)
44. **Q:** **Do you admit or deny that on January 17, 1998, at or about 5:38 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his home?**
44. **A:** *I speak to Mr. Jordan frequently, so I cannot remember specific times and dates. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's residence on January 17, 1998, at or about 5:38 p.m. App. at 2876.*
44. **R:** The record indicates that such a telephone call was made. See Telephone Table 46, Call 2, as referenced in 5/28/98 Grand Jury Testimony of Vernon Jordan, pp. 94-95, as cited in Note 1022, H. Doc. 105-310, p. 118.
45. **Q:** **Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home?**

45. A: *According to White House records included in the OIC Referral, I placed a telephone call to Ms. Currie at her residence at 7:02 p.m. and spoke to her at or about 7:13 p.m. App. at 2877. I recall that when I spoke to her that evening, I asked if she could meet with me the following day. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's office on January 17, 1998, at or about 7:02 p.m. Ibid.*
45. R: The record indicates that such a telephone call was made. See Telephone Table 46, Call 4, as referenced in 1/27/98 Grand Jury testimony of Betty Currie, pp. 65-66, and all that follows, as cited in Note 1021, H. Doc. 105-310, p. 118.
46. Q: **Do you admit or deny that on January 17, 1998, at or about 7:02 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Vernon Jordan at his office?**
46. A: *According to White House records included in the OIC Referral, I placed a telephone call to Ms. Currie at her residence at 7:02 p.m. and spoke to her at or about 7:13 p.m. App. at 2877. I recall that when I spoke to her that evening, I asked if she could meet with me the following day. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's office on January 17, 1998, at or about 7:02 p.m. Ibid.*
46. R: The record indicates that such a telephone call was made. See Request for Admission No. 44, referencing the "second conversation" between Mr. Jordan and the President, as noted on p. 95 of the 5/28/98 Grand Jury testimony of Vernon Jordan, H. Doc. 105-316, p. 1912.
47. Q: **Do you admit or deny that on January 17, 1998, at or about 7:13 p.m., after the conclusion of your deposition in the case of *Jones v. Clinton*, you telephoned Betty Currie at her home and asked her to meet with you the next day, Sunday, January 18, 1998?**
47. A: *According to White House records included in the OIC Referral, I placed a telephone call to Ms. Currie at her residence at 7:02 p.m. and spoke to her at or about 7:13 p.m. App. at 2877. I recall that when I spoke to her that evening, I asked if she could meet with me the following day. According to White House records included in the OIC Referral, I telephoned Mr. Jordan's office on January 17, 1998, at or about 7:02 p.m. Ibid.*
47. R: The record indicates that such a telephone conversation occurred:
- "The best that I can remember of a call, the President called, just said that he wanted to talk to me. And I said, 'Fine.' He said, 'Could you come in on Sunday?' And I said, 'Fine.'" (Grand Jury Testimony of Betty Currie, 1/27/98, p. 66, H. Doc. 105-316, p. 558; For corroborative evidence, including phone log references, see Note 1021, H. Doc. 105-310, p.

48. **Q:** **Do you admit or deny that on January 18, 1998, at or about 6:11 a.m., you learned of the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp?**
48. **A:** *I did not know on January 18, 1998 that tapes existed of conversations between Ms. Lewinsky and Ms. Tripp recorded by Ms. Tripp. At some point on Sunday, January 18, 1998, I knew about the Drudge Report. I understand that, while the Report talked about tapes of phone conversations, it did not identify Ms. Lewinsky by name and did not mention Ms. Tripp at all. The Report did not state who the parties to the conversations were or who taped the conversations.*
48. **R:** The record indicates that the President learned of the existence of the tapes early in the morning. The "Drudge Report", which discussed the tapes, was available on the Internet at 6:11 a.m.
- "Q Mr. President, when did you learn about the Drudge Report reporting allegations of you having a sexual relationship with someone at the White House?
- A I believe it was the morning of the 18th, I think . . .
- Q Very early morning hours, sir?
- A . . .yeah, I think it was when I got up Sunday morning, I think. Maybe it was late Saturday night. I don't remember."
(Grand Jury Testimony of President Clinton, 8/17/98, pp. 142-43, H. Doc. 105-311, pp. 594-95).
- This was confirmed by Vernon Jordan during his testimony about a meeting he had with the President on January 19, 1998:
- "A . . .He obviously knew about the Drudge Report, it did not require any lengthy discussion.
- Q Well, when you say he obviously knew about the Drudge Report, how do you know he knew about the Drudge Report?
- A He acknowledged in some way that he knew about the Drudge Report and I think it's fair to say he was as surprised at this Drudge Report that reported that there had been these taped conversations with this person named Linda Tripp."
(Grand Jury Testimony of Vernon Jordan, 3/5/98, p. 126, H. Doc. 105-316, p. 1764.)
49. **Q:** **Do you admit or deny that on January 18, 1998, at or about 12:50 p.m., you telephoned Vernon Jordan at his home?**
49. **A:** *According to White House records included in the OIC Referral, I telephoned Mr. Jordan's*

residence on January 18, 1998, at or about 12:50 p.m. App. at 2878.

49. R: The record indicates that such a telephone call was made. See Telephone Table 47, Call 2, as referenced on p. 174 of H. Doc. 105-311.
50. **Q: Do you admit or deny that on January 18, 1998, at or about 1:11 p.m., you telephoned Betty Currie at her home?**
50. A: *According to White House records included in the OIC Referral, I telephoned Ms. Currie's residence on January 18, 1998, at or about 1:11 p.m. App. at 2878.*
50. R: The record indicates that such a telephone call was made. See Telephone Table 47, Call 3, as referenced on p. 174 of H. Doc. 105-311.
51. **Q: Do you admit or deny that on January 18, 1998, at or about 2:55 p.m., you received a telephone call from Vernon Jordan?**
51. A: *According to White House records included in the OIC Referral, Mr. Jordan telephoned me from his residence on January 18, 1998, at or about 2:55 p.m. App. at 2879.*
51. R: The record indicates that such a telephone call was made. See Telephone Table 47, Call 5, as referenced on p. 174 of H. Doc. 105-311.
52. **Q: Do you admit or deny that on January 18, 1998, at or about 5:00 p.m., you had a meeting with Betty Currie at which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?**
- a. **"You were always there when she was there, right? We were never really alone."**
- b. **"You could see and hear everything."**
- c. **"Monica came on to me, and I never touched her right?"**
- d. **"She wanted to have sex with me and I couldn't do that."**
52. A: *When I met with Ms. Currie, I believe that I asked her certain questions, in an effort to get as much information as quickly as I could, and made certain statements, although I do not remember exactly what I said. See App. at 508.*
- Some time later, I learned that the Office of Independent Counsel was involved and that Ms. Currie was going to have to testify before the grand jury. After learning this, I stated in my grand jury testimony, I told Ms. Currie, "Just relax, go in there and tell the truth." App. at 591.*
52. R: The record indicates that the President made statements similar to these to Betty Currie on January 18, 1998 at a meeting held around 5:00 p.m.:

"Q Is that what you remember him saying?"

A Could you do the second point again – the video –

Q Okay. The second – the videotape –

A She was over at the White House, and then she was alone.

Q Right. That those were among the issues the President brought to your attention when he initially came to your desk?

A The best I remember it, yes, sir.

Q Okay. And then you told us that the President began to ask you a series of questions that were more like statements than questions.

A Right.

Q And you were nodding your head correct; is that right?

A That's correct, sir.

Q Okay. So the President asked you or made a series of statements to you; is that correct?

A That's correct, sir.

Q Okay. Do you remember what the statements were?

A The best I can remember sir – and it's getting worse by the minutes, seems like – "Monica was never – You were always there when Monica was there. We were never really alone." Those two stick in my mind as two statements he made.

Q Let me see if I can refresh your recollection as to some others.

A Yes.

Q Did the President also make the statement: 'Monica came on to me, and I never touched her, right'?

A Yes, that statement was made, sir.

Q Did the President also state to you at that time: 'She wanted to have sex with me, and I can't do that, right'?

A I don't remember the 'right' part coming after there but – probably without the right."

Q Okay.

A Or I don't--but that--just that that statement was made, yes, sir.

Q Okay. And did the President also say to you, 'You could see and hear everything?'

A Correct.

Q You indicated that the President may not have added the 'right' at the end. But would it be fair to say that the way the President was posing these statements to you, that he wanted you to agree with them?

A Not on that one.

Q Not on the 'She wanted to have sex with me, and I can't do that'?

A 'I told her I couldn't do that' or something like that. So it wasn't one that I - I may have been saying 'right,' but I don't think he - I don't - the best that I remember on that one, "She wanted to have sex with me, but I can't - I told her I couldn't do that.'

Q And that one, he didn't necessarily want you to agree with - it is that what your testimony is - that it was just a statement?

A That - I would call it a statement, sir.

Q But the way the other statements were posed to you - and I'll read them again. The way the other statements were posed to you - is it correct that the way they were posed, the President wished you to agree with them? And I'll read them back to you.

A The President wished me to agree with them?

Q Yes.

A Read them again.

Q You were always there when she was there.

A (Nodding.) Right.

Q Okay. Is 'right' meaning, correct, he wanted - the President wanted you to agree with that?

A Oh, because I said 'right' - I was always there. Since I can't say what he wanted - but my impression was that he was just making statements.

Q You added a 'right' to the last statement that I -

A Which one was that?

Q The 'You were always there when she was there, right?' Is that the way you remember the President stating it to you?

A That's how I remember him stating it to me.

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

A I can't speak for him, but -

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

A (Nodding.)

Q And you're nodding your head 'Yes', is that correct?

A That's correct.

Q Okay. With regard to the statement that the President made to you, 'You remember I was never really alone with Monica, right?' - was that also a statement that, as far as you took, that he wished you to agree with that?

A Correct.

Q And to the President's statement to you: You could see and hear everything, right?" - was that also a statement that the president, as far as you could tell, wished you to agree to?

A Not only did he wish me to agree to it, but they were also right. But right.

Q What do you mean they were also right?

A I was always there. I could always hear. And the last one -

Q Okay. You could not hear the President -

A Well, read that question.

Q You could -

A I was always there.

Q Well, the last one was: 'You could see and hear everything.' That is not correct, is it?

A I could not see and hear everything, no.

Q Okay. Now, there was a first one: 'You were there when I was--'

A ' - when she was there.'

Q ' - when she was there.'

A And that's - to my knowing, that's correct.

Q Well, but you've already testified that there were several occasions when the President and Ms. Lewinsky were in the Oval Office when you were not there in -

A But if she was there, I was there. She was not - to my knowing, she didn't come to see him or come there, and I wasn't there.

Q You mean that she was always - you were always there when Ms. Lewinsky came to visit him.

A Mm-hmm.

Q You were always in the general area.

A Correct.

Q Okay. You also told us in the last couple days when we discussed this matter with the President, that he appeared to you - when he was going through these statements and talking about what occurred in the deposition, that he appeared to be concerned.

A Appeared to be concerned, yes.

Q Okay. Let's move on -

A Thank you.

Q - to the next - the following days. You left the White House after this discussion with the President; is that correct?

A (Nodding.)

Q When was the next time you heard from him, approximately?

A I was reminded that Monday was a holiday.

Q Martin Luther King's birthday."

(Grand Jury Testimony of Betty Currie, 1/27/98, pp. 71-76, H. Doc. 105-316, pp. 559-60).

The evidence also indicates that the President knew the Paula Jones attorneys might contact Betty Currie because he suggested to them several times during his deposition that she may possessed information necessary to answer questions posed by counsel. (Deposition of President Clinton, 1/17/98 (released in news accounts)).

53. Q: **Do you admit or deny that you had a conversation with Betty Currie within several days of January 18, 1998, in which you made statements similar to any of the following regarding your relationship with Monica Lewinsky?**

a. "You were always there when she was there, right? "We were never really alone."

b. "You could see and hear everything."

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

d. "She wanted to have sex with me and I couldn't do that."

53. A: *I previously told the grand jury that, "I don't know that I" had another conversation with Ms. Currie within several days of January 18, 1998, in which I made statements similar to those quoted above. "I remember having this [conversation] one time." App. at 592. I further explained, "I do not remember how many times I talked to Betty Currie or when. I don't. I can't possibly remember that. I do remember, when I first heard about this story breaking, trying to ascertain what the facts were, trying to ascertain what Betty's perception was. I remember that I was highly agitated, understandably, I think." App. at 593.*

I understand that Ms. Currie has said a second conversation occurred the next day that I was in the White House (when she was), Supp. at 535-36, which would have been Tuesday, January 20, before I knew about the grand jury investigation.

53. R: The record indicates that the President made statements similar to these to Betty Currie within several days of January 18, 1998:

"... [W]hen he called me in the Oval Office, it was sort of a recapitulation of what we had talked about on Sunday...." (Grand Jury Testimony of Betty Currie, 1/27/98, p. 81, H. Doc. 105-316, p. 561).

54. Q: **Do you admit or deny that on January 18, 1998, at or about 11:02 p.m., you telephoned Betty Currie at her home?**

54. A: *According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 18, 1998, at or about 11:02 p.m. App. at 2881.*

54. R: The record indicates that such a telephone call was made. See Telephone Table 47, Call 11, as referenced on p. 174 of H. Doc. 105-311.
55. **Q: Do you admit or deny that on Monday, January 19, 1998, at or about 8:50 a.m., you telephoned Betty Currie at her home?**
55. A: *According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 8:50 a.m. App. at 3147.*
55. R: The record indicates that such a telephone call was made. See Telephone Table 48, Call 8, as referenced on p. 176 of H. Doc. 105-311.
56. **Q: Do you admit or deny that on Monday, January 19, 1998, at or about 8:56 a.m., you telephoned Vernon Jordan at his home?**
56. A: *According to White House records included in the OIC Referral, I called Mr. Jordan's residence on January 19, 1998, at or about 8:56 a.m. App. at 2864.*
56. R: The record indicates that such a telephone call was made. See Telephone Table 48, Call 10, as referenced on p. 176 of H. Doc. 105-311.
57. **Q: Do you admit or deny that on Monday, January 19, 1998, at or about 10:58 a.m., you telephoned Vernon Jordan at his office?**
57. A: *According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 10:58 a.m. App. at 2883*
57. R: The record indicates that such a telephone call was made. See Telephone Table 48, Call 16, as referenced on p. 177 of H. Doc. 105-311.
58. **Q: Do you admit or deny that on Monday, January 19, 1998, at or about 1:45 p.m., you telephoned Betty Currie at her home?**
58. A: *According to White House records included in the OIC Referral, I called Ms. Currie's residence on January 19, 1998, at or about 1:45 p.m. App. at 2883.*
58. R: The record indicates that such a telephone call was made. See Telephone Table 48, Call 21, as referenced on p. 177 of H. Doc. 105-311.
59. **Q: Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., you met with individuals including Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, and Rahm Emanuel?**

59. A: *I do not believe such a meeting occurred. White House records included in the OIC Referral indicate that Mr. Jordan entered the White House complex that day at 2:44 p.m. Supp. at 1995. According to Mr. Jordan's testimony, he and I met alone in the Oval Office for about 15 minutes. Supp. at 1763 (grand jury testimony of Vernon Jordan).*

I understand that Mr. Jordan testified that we discussed Ms. Lewinsky at that meeting and also the Drudge Report, in addition to other matters. Supp. at 1763. Please also see my Response to Request No. 48. supra.

59. R: The record indicates that Vernon Jordan entered the White House at 2:44 p.m. on January 19, 1998 (H. Doc. 105-316, p. 1995). Vernon Jordan's Grand Jury Testimony reveals that he and the President had a meeting at that time. (Grand Jury Testimony of Vernon Jordan, 3/5/98, p. 124, H. Doc. 105-316, p. 1763).

60. Q: **Do you admit or deny that on Monday, January 19, 1998, at or about 2:44 p.m., at any meeting with Vernon Jordan, Erskine Bowles, Bruce Lindsey, Cheryl Mills, Charles Ruff, Rahm Emanuel, and others, you discussed the existence of tapes of conversations between Monica Lewinsky and Linda Tripp recorded by Linda Tripp, or any other matter relating to Monica Lewinsky?**

60. A: *I do not believe such a meeting occurred. White House records included in the OIC Referral indicate that Mr. Jordan entered the White House complex that day at 2:44 p.m. Supp. at 1995. According to Mr. Jordan's testimony, he and I met alone in the Oval Office for about 15 minutes. Supp. at 1763 (grand jury testimony of Vernon Jordan).*

I understand that Mr. Jordan testified that we discussed Ms. Lewinsky at that meeting and also the Drudge Report, in addition to other matters. Supp. at 1763. Please also see my Response to Request No. 48. supra.

60. R: The record indicates that Vernon Jordan entered the White House at 2:44 p.m. on January 19, 1998 (H. Doc. 105-316, p. 1995). The President met with Vernon Jordan shortly thereafter and they discussed the existence of the Tripp tapes:

"Q Now, with as much specificity as you can, what would you have told him about the Drudge Report?

A That I had seen the Drudge Report. He obviously knew about the Drudge Report, it did not require any lengthy discussion.

Q Well, when you say he obviously knew about the Drudge Report, how do you know he knew about the Drudge Report?

A He acknowledged in some way that he knew about the Drudge Report and I think it's fair to say he was as surprised at this Drudge Report that reported that there had been these taped

conversations with this person named Linda Tripp."
 (Grand Jury Testimony of Vernon Jordan, 3/5/98, p. 126, H. Doc. 105-316, p. 1764).

61. Q: Do you admit or deny that on Monday, January 19, 1998, at or about 5:56 p.m., you telephoned Vernon Jordan at his office?

61. A: *According to White House records included in the OIC Referral, I called Mr. Jordan's office on January 19, 1998, at or about 5:56 p.m. App. at 2883.*

61. R: The record indicates that such a telephone call was made. See Presidential Call Log, H. Doc. 105-311, p. 2882.

62. Q: Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you stated that you rebuffed alleged advances from Monica Lewinsky and in which you made a statement similar to the following?: "Monica Lewinsky came at me and made a sexual demand on me."

62. A: *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*

62. R: The record indicates that such a conversation occurred. Testifying before the grand jury on June 4, 1998, Sidney Blumenthal, an Assistant to the President, related the following discussion he had with the President on January 21, 1998:

He said Dick Morris had called him that day and he said Dick had told him that Nixon---he had read the newspaper and he said "You know, Nixon could have survived if he had gone on television and given an address and said everything he had done wrong and got it all out in the beginning."

And I said to the President, "What have you done wrong?" And he said, "Nothing, I haven't done anything wrong." I said, "Well then, that's one of the stupidest things I've ever heard. Why would you do that if you've done nothing wrong?"

And it was at that point that he gave his account of what had happened to me and he said that Monica-and it came very fast. He said, "Monica Lewinsky came at me and made a sexual demand on me." He rebuffed her. He said, I've gone down that road before, I've caused pain for a lot of people and I'm not going to do that again." (Grand Jury Testimony of Sidney Blumenthal, 6-4-98, p. 49, H. Doc.105-316, p.185).

During his testimony before the grand jury, President Clinton admitted he made "misleading" statements to aides whom he knew were likely to be called to testify before the grand jury. The

President testified as follows:

"Q Do you recall denying any sexual relationship with Monica Lewinsky to the following people: Harry Thomasson, Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal, Mr. Jordan, Ms. Betty Currie? Do you recall denying any sexual relationship with Monica Lewinsky to these individuals?"

A I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe sir, that-you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying.

Q You knew that they might be called into a grand jury, didn't you?

A That's right."

(Grand Jury Testimony of William Jefferson Clinton, 8/17/98, pp. 105-107, H. Doc.105-311, p. 647).

63. **Q:** **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Sidney Blumenthal, in which you made a statement similar to the following in response to a question about your conduct with Monica Lewinsky?: "I haven't done anything wrong."**
63. **A:** *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*
63. **R:** The record indicates that such a conversation occurred. See Blumenthal testimony in request for admission number 62.
64. **Q:** **Do you admit or deny that on January 21, 1998, the day the Monica Lewinsky story appeared for the first time in the *Washington Post*, you had a conversation with Erskine Bowles, Sylvia Matthews and John Podesta, in which you made a statement similar to the following?: "I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand."**
64. **A:** *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*
64. **R:** The record indicates that such a conversation occurred. In his grand jury testimony on June 16,

1998, then White House Deputy Chief of Staff John Podesta (now Chief Of Staff) testified to the following regarding a January 21, 1998 meeting with President Clinton:

"A And we went in to see the President.

Q Who's we?

A Mr. Bowles, myself and Ms. Matthews.

Q Okay. Tell us about that.

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

Q What else did he say?

A He said that-that he had not had a sexual relationship with her, and that he never asked anybody to lie."

(Grand Jury Testimony of John Podesta, 6/16/98, p. 85, H. Doc.105-316, p. 3310).

Erskine Bowles had the following recollection of the same meeting:

"A And this was the day this huge story breaks. And the three of us walk in together-Sylvia Matthews, John Podesta and me-into the oval office, and the President was standing behind his desk.

Q About what time of day is this?

A This is approximately 9:00 in the morning or something---you know, in that area. And he looked up at us and he said the same thing he said to the American people. He said, I want you to know I did not have sexual relationships with this woman Monica Lewinsky. I did not ask anybody to lie. And when the facts come out, you'll understand." (Grand Jury Testimony of Erskine Bowles, 4/2/98, pp. 83-84, H. Doc. 105-316, p. 239).

65. Q: **Do you admit or deny that on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you had never had an affair with Monica Lewinsky?**
65. A: *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*

65. R: The record indicates that on January 23, 1998, President Clinton told John Podesta that he had never had sex with Monica Lewinsky in any way whatsoever:

"A See, we were getting ready to do the State of the Union prep and he was working on the state of the union draft back in his study. I went back there to just to kind of get him going-this is the first thing in the morning-you know, we sort of get engaged. I asked him how he was doing, and he said he was working on this draft, and he said to me that he had never had sex with her, and that-he never asked-you know, he repeated the denial, but he was extremely explicit in saying he never had sex with her.

Q How do you mean?

A Just what I said.

Q Okay. Not explicit, in the sense that he got more specific than sex, than the word "sex."

A Yes, he was more specific than that.

Q Okay. Share that with us.

A Well, I think he said-he said that-there was some spate of, you know, what sex acts were counted, and he said that he had never had sex with her in any way whatsoever-

Q Okay.

A --that they had not had oral sex.

Q No question in your mind he's denying any sex in any way, shape or form, correct?

A That's correct."

(Grand Jury Testimony of John Podesta, 6/16/98, pp. 91-3, H. Doc. 105-316, p. 3311).

66. Q: **Do you admit or deny that on or about January 23, 1998, you had a conversation with John Podesta, in which you stated that you were not alone with Monica Lewinsky in the Oval Office, and that Betty Currie was either in your presence or outside your office with the door open while you were visiting with Monica Lewinsky?**

66. A: *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*

66. R: The record indicates that such a conversation occurred:

"Q Did the President ever speak to that issue with you, the issue of if he didn't have an improper relationship with Ms. Lewinsky, what was she doing there so often? Did he ever speak to that?"

A He said to me-I don't think it was in this conversation, I think it was a couple weeks later. He said to me that after she left, that when she had come by, she came to see Betty, and that he-when she was there, either Betty was with them-either that she was with Betty when he saw her or that he saw her in the Oval Office with the door open and Betty was around-and Betty was out at her desk."

(Grand Jury Testimony of John Podesta, 6/16/98, p.88, H. Doc. 105-316, p. 3310).

67. **Q: Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you did not have an affair with Monica Lewinsky?**

67. A: *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*

67. R: The record indicates that such a conversation occurred. Harold Ickes, a former Deputy Chief of Staff at the White House testified before the grand jury that the President Clinton told him that he had not had a sexual relationship with Monica Lewinsky:

"Q What did the President say about Monica Lewinsky?"

A The only discussion I recall having with him, he denied that he had had sexual relations with Ms. Lewinsky and denied that he had-I don't know how to capsulize it-obstructed justice, let's use that phrase.

(Grand Jury Testimony of Harold Ickes, 6/10/98, p. 21, H. Doc. 105-316, p. 1487; See also Grand Jury Testimony of Harold Ickes from 8/5/98, p. 88, H. Doc.105-316, p.1610 ("He denied to me that he had had a sexual relationship. I don't know the exact phrase, but the word 'sexual' was there. And he denied any obstruction of justice"))).

68. **Q: Do you admit or deny that on or about January 26, 1998, you had a conversation with Harold Ickes, in which you made statements to the effect that you had not asked anyone to change their story, suborn perjury or obstruct justice if called to testify or otherwise respond to a request for information from the Office of Independent Counsel or in any other legal proceeding?**

68. A: *As I have previously acknowledged, I did not want my family, friends, or colleagues to know the full nature of my relationship with Ms. Lewinsky. In the days following the January 21, 1998, Washington Post article, I misled people about this relationship. I have repeatedly apologized for doing so.*

68. R: The record indicates that such a conversation occurred. Harold Ickes testified before the grand jury that: "The two things I recall, the two things that he again repeated in public-had already said publicly and repeated in public that same Monday morning was that he had not-he did not have a--or he had not had a sexual relationship with Ms. Lewinsky and that he had done nothing--now I'm paraphrasing-had done nothing to ask anybody to change their story or suborn perjury or obstruct justice."
(Grand Jury Testimony of Harold Ickes, 6/10/98, p. 73, H. Doc. 105-316, p. 1539).

During his testimony before the grand jury, President Clinton admitted he made "misleading" statements to aides whom he knew were likely to be called to testify before the grand jury. The President testified as follows:

"Q Do you recall denying any sexual relationship with Monica Lewinsky to the following people: Harry Thomasson, Erskine Bowles, Harold Ickes, Mr. Podesta, Mr. Blumenthal, Mr. Jordan, Ms. Betty Currie? Do you recall denying any sexual relationship with Monica Lewinsky to these individuals?"

A I recall telling a number of those people that I didn't have, either I didn't have an affair with Monica Lewinsky or didn't have sex with her. And I believe sir, that-you'll have to ask them what they thought. But I was using those terms in the normal way people use them. You'll have to ask them what they thought I was saying.

Q You knew that they might be called into a grand jury, didn't you?

A That's right."

(Grand Jury Testimony of William Jefferson Clinton, 8/17/98, pp. 105-107, H. Doc.105-311, p. 647).

69. Q: **Do you admit or deny that, on or about January 21, 1998, you and Richard "Dick" Morris discussed the possibility of commissioning a poll to determine public opinion following the *Washington Post* story regarding the Monica Lewinsky matter?**
69. A: *At some point after the OIC investigation became public, Dick Morris volunteered to conduct a poll on the charges reported in the press. He later called back. What I recall is that he said the public was most concerned about obstruction of justice or subornation of perjury. I do not recall saying, "Well, we just have to win then."*
69. R: The record indicates that such a discussion occurred. Richard "Dick" Morris testified before the Grand Jury that during a conversation with the President the same day the Washington Post published a story concerning Monica Lewinsky, Mr. Morris suggested a public poll to test public opinion about the story. President Clinton asked Mr. Morris "When can you do it?", Mr. Morris replied "Tonight." and President Clinton requested Mr. Morris to "Call me tonight with the numbers." (Grand Jury Testimony of Richard Morris, 8/18/98, p. 17, H. Doc. 105-316, p. 2927).

70. **Q: Do you admit or deny that you had a later conversation with Richard "Dick" Morris in which he stated that the polling results regarding the Monica Lewinsky matter suggested that the American people would forgive you for adultery but not for perjury or obstruction of justice?**
70. *A: At some point after the OIC investigation became public, Dick Morris volunteered to conduct a poll on the charges reported in the press. He later called back. What I recall is that he said the public was most concerned about obstruction of justice or subornation of perjury. I do not recall saying, "Well, we just have to win then."*
70. **R:** The record indicates that such a conversation occurred. Richard "Dick" Morris testified before the Grand Jury that he explained the results of a public opinion poll to President Clinton. Mr. Morris testified, "They're just too shocked by this. It's just too new, it's too raw. And the problem is they're willing to forgive you for adultery, but not for perjury or obstruction of justice or the various other things. They're even willing to forgive the conduct. They're not willing to forgive the word. In other words, if in fact you told Monica Lewinsky to lie, they can forgive that, but if you committed subornation of perjury, they won't." (Grand Jury Testimony of Richard Morris, 8/18/98, pp. 28, 29, H. Doc.105-316, pp. 2929, 2930).
71. **Q: Do you admit or deny that you responded to Richard "Dick" Morris's explanation of these polling results by making a statement similar to the following: "[w]ell, we just have to win, then" ?**
71. *A: At some point after the OIC investigation became public, Dick Morris volunteered to conduct a poll on the charges reported in the press. He later called back. What I recall is that he said the public was most concerned about obstruction of justice or subornation of perjury. I do not recall saying, "Well, we just have to win then."*
71. **R:** The record indicates that the President gave such a response. Richard Morris testified before the Grand Jury that after explaining to President Clinton that he would lose political support by admitting to obstructing justice and suborning perjury, President Clinton replied "[w]ell, we just have to win then." (Grand Jury Testimony of Richard Morris, 8/18/98, p. 30, H. Doc. 105-316, p. 2930).
72. **Q: Do you admit or deny the past or present existence of or the past or present direct or indirect employment of individuals, other than counsel representing you, whose duties include making contact with or gathering information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?**
72. *A: I cannot respond to this inquiry because of the vagueness of its terms (e.g., "indirect," "potential," "could be involved"). To the extent it may be interpreted to apply to individuals assisting counsel, please see my responses to Request Nos. 73-75, infra. To the extent the*

inquiry addresses specific individuals, as in Request Nos. 73-75, infra, I have responded and stand ready to respond to any other specific inquiries.

72. R: The record indicates that such individuals may have been employed for such a purpose. Richard Morris testified before the Grand Jury that there was a "White House Secret Police Operation", Mr. Morris explained that the operation stemmed "more from Hillary Clinton than from Bill." Mr. Morris identified Terry Lenzner, Jack Palladino and Betsey Wright as members of this group. (Grand Jury Testimony of Richard Morris, 8/18/98, p. 60, H. Doc. 105-316, p. 2937)
73. Q: **Do you admit or deny having knowledge that Terry Lenzner was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?**
73. A: *My counsel stated publicly on February 24, 1998, that Mr. Terry Lenzner and his firm have been retained since April 1994 by two private law firms that represent me. It is commonplace for legal counsel to retain such firms to perform legal and appropriate tasks to assist in the defense of clients. See also Response to No. 72.*
73. R: The record indicates that Terry Lenzer may have been contacted or employed for such a purpose. Richard Morris testified before the Grand Jury that Terry Lenzner was a member of the "White House Secret Police Operation" but that he was only aware of Mr. Lenzner from news accounts. (Grand Jury Testimony of Richard Morris, 8/18/98, pp. 60,72, H. Doc. 105-316, pp. 2937, 2941).
74. Q: **Do you admit or deny having knowledge that Jack Palladino was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?**
74. A: *My understanding is that during the 1992 Presidential Campaign, Mr. Jack Palladino was retained to assist legal counsel for me and the Campaign on a variety of matters arising during the Campaign. See also Response to No. 72.*
74. R: The record indicates that Mr. Palladino may have been contacted or employed for such a purpose. Richard Morris testified before the Grand Jury that Mr. Palladino was a member of the "White House Secret Police Operation." (Grand Jury Testimony of Richard Morris, 8/18/98, pp. 72, H. Doc. 105-316, pp. 2941.)
75. Q: **Do you admit or deny having knowledge that Betsy Wright was contacted or employed to make contact with or gather information about witnesses or potential witnesses in any judicial proceeding related to any matter in which you are or could be involved?**
75. A: *Ms. Betsey Wright was my long-time chief of staff when I was Governor of Arkansas, and she remains a good friend and trusted advisor. Because of her great knowledge of Arkansas, from time to time my legal counsel and I have consulted with her on a wide range of matters. See also*

Response to No. 72.

75. R: The record indicates that Betsey Wright was contacted or employed for such a purpose. Richard "Dick" Morris testified before the Grand Jury that Betsy Wright told him that "what we do is we work on getting material on them to try to induce them not to compromise the President." Betsy Wright was identified by Mr. Morris as a member of the "White House Secret Police Operation." (Grand Jury Testimony of Richard Morris, p. 76, H. Doc. 105-316, p. 2941).
76. Q: **Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in an interview with Roll Call, when you stated "Well, let me say, the relationship was not improper, and I think that's important enough to say. But because the investigation is going on and because I don't know what is out - what's going to be asked of me, I think I need to cooperate, answer the questions, but I think it's important for me to make it clear what is not. And then, at the appropriate time, I'll try to answer what is. But let me answer - it is not an improper relationship and I know what the word means."?**
76. A: *The tape of this interview reflects that in fact I said: "Well, let me say the relationship's not improper and I think that's important enough to say. . ." With that revision, the quoted words accurately reflect my remarks. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, I misled people about this relationship, for which I have apologized.*
76. R: On August 17, 1998, after testifying before the grand jury, the President addressed the American people from the White House and stated "Indeed I did have a relationship with Ms. Lewinsky that was not appropriate. In fact, it was wrong. It constituted a critical lapse in judgment and a personal failure on my part for which I am solely and completely responsible." (34 Weekly Compilation of Presidential Documents, p. 1638).
77. Q: **Do you admit or deny that you made false and misleading public statements in response to questions asked on or about January 21, 1998, in the Oval Office during a photo opportunity, when you stated "Now, there are a lot of other questions that are, I think, very legitimate. You have a right to ask them; you and the American people have a right to get answers. We are working very hard to comply and get all the requests for information up here, and we will give you as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations. And that's not a dodge, that's really what I've - I've talked with our people. I want to do that. I'd like for you to have more rather than less, sooner rather than later. So we'll work through it as quickly as we can and get all those questions out there to you."?**
77. A: *I made this statement (as corrected), according to a transcript of a January 22, 1998 photo opportunity in the Oval Office. This statement was not false and misleading. It accurately represented my thinking.*

77. R: On January 26, 1998, after making the above statement that he would give as many answers as he could, as soon as he could, the President stated publicly "I did not have sexual relations with that woman, Ms. Lewinsky. . . . these allegations are false."

78. Q: **Do you admit or deny that you discussed with Harry Thomasson, prior to making public statements in response to questions asked by the press in January, 1998, relating to your relationship with Monica Lewinsky, what such statements should be or how they should be communicated?**

78. A: *Mr. Thomasson was a guest at the White House in January 1998, and I recall his encouraging me to state my denial forcefully.*

78. R: The record indicates that such a discussion occurred. On January 22nd, the President Clinton's friend and advisor, Harry Thomasson traveled from California to Washington, D.C., and stayed in the White House residence for the next 34 days. Mr. Thomasson advised the President on how best to communicate with the public regarding his relationship with Monica Lewinsky. Mr. Thomasson appeared before the grand jury on August 11, 1998:

Q Okay. Did you talk specifically about his performance in the interview and his responses in the interview? (referring to a January 21, 1998, interview on television with Jim Lehrer)

A Yes. I mean, to the best of my knowledge, I said, "You know, what you said was exactly right, but the press is just saying you were equivocating." You know. And I said, "If the allegation is not true, then you shouldn't equivocate. You should explain it so there's no doubt in anybody's mind that nothing happened."

Q Okay. Did you tell the President that you thought he had equivocated in the interview?

A I told the President that I thought his response wasn't as strong as it could have been.

Harry Thomasson testified later that the President replied to Mr. Thomasson's statements by saying "You know, you're right. I should be more forceful than that." Grand Jury Testimony of Harry Thomasson, 8/11/98, pp. 15-16, 27 (H. Doc. 105-316, pp. 3730 and 3733).

79. Q: **Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated "But I want to say one thing to the American people. I want you to listen to me. I'm going to say this again. I did not have sexual relations with that woman, Ms. Lewinsky?"**

79. A: *I made this statement on January 26, 1998, although not in response to any question. In referring to "sexual relations", I was referring to sexual intercourse. See also App. at 475. As I stated in Response to Request Nos. 62 to 68, in the days following the January 21, 1998, disclosures, answers like this misled people about this relationship, for which I have apologized.*

79. R: On August 17, 1998, after testifying before the grand jury, the President addressed the American people from the White House and stated "Indeed I did have a relationship with Ms. Lewinsky that was not appropriate. In fact, it was wrong. It constituted a critical lapse in judgment and a personal failure on my part for which I am solely and completely responsible." (34 Weekly Compilation of Presidential Documents, p. 1638).

80. Q: **Do you admit or deny that you made a false and misleading public statement in response to a question asked on or about January 26, 1998, when you stated " ... I never told anybody to lie, not a single time. Never?"**

80. A: *This statement was truthful: I did not tell Ms. Lewinsky to lie, and I did not tell anybody to lie about my relationship with Ms. Lewinsky. I understand that Ms. Lewinsky also has stated that I never asked or encouraged her to lie. See App. at 718 (2/1/98 handwritten proffer of Ms. Lewinsky); see also App. at 1161 (grand jury testimony of Ms. Lewinsky).*

80. R: The record indicates that the President made untruthful statements to many of his Cabinet officials, White House aides, and others who would naturally be asked publicly and called as a witness to testify about his relationship with Monica Lewinsky. See Requests for Information Nos. 62-68.

The record indicates that the President may have directly instructed Betty Currie to lie about his relationship with Monica Lewinsky. See Request for Information No. 52.

After the President knew that Monica Lewinsky was on the witness list in the *Jones* case, the record indicates he told her to lie about the time they spent together:

"A . . . At some point in the conversation, and I don't know if it was before or after the subject of the affidavit came up, he sort of said, 'You know, you can always say you were coming to see Betty or that you were bringing me letters.' Which I understood was really a reminder of things that we had discussed before."

(Grand Jury Testimony of Monica Lewinsky, 8/6/98, p.123, H. Doc. 105-311, p. 843).

81. Q: **Do you admit or deny that you directed or instructed Bruce Lindsey, Sidney Blumenthal, Nancy Hernreich and Lanny Breuer to invoke executive privilege before a grand jury empaneled as part of a judicial proceeding by the United States District Court for the District of Columbia Circuit in 1998?**

81. A: *On the recommendation of Charles Ruff, Counsel to the President, I authorized Mr. Ruff to assert the presidential communications privilege (which is one aspect of executive privilege) with respect to questions that might be asked of witnesses called to testify before the grand jury to the extent that those questions sought disclosure of matters protected by that privilege. Thereafter, I understand that the presidential communications privilege was asserted as to certain questions*

asked of Sidney Blumenthal and Nancy Hernreich. Further, I understand that, as to Mr. Blumenthal and Ms. Hernreich, all claims of official privilege were subsequently withdrawn and they testified fully on several occasions before the grand jury.

Mr. Lindsey and Mr. Breuer testified at length before the grand jury about a wide range of matters, but declined, on the advice of the White House Counsel, to answer certain questions that sought disclosure of discussions that they had with me and my senior advisors concerning, among other things, their legal advice as to the assertion of executive privilege. White House Counsel advised Mr. Lindsey and Mr. Breuer that these communications were protected by the attorney-client privilege, as well as executive privilege. Mr. Lindsey also asserted my personal attorney-client privilege as to certain questions relating to his role as an intermediary between me and my personal counsel in the Jones v. Clinton case, a privilege that was upheld by the federal appeals court in the District of Columbia.

81. R: The record indicates that Bruce Lindsey, Sidney Blumenthal, Nancy Hernreich and Lanny Breuer all invoked executive privilege when they appeared before the grand jury. Executive privilege, unlike the 5th Amendment privilege against self incrimination, the attorney-client privilege, or the spousal privilege, is not a personal privilege. Executive privilege is constitutionally based – it is rooted in the doctrine of separation of powers. Executive privilege, which adheres to the office of the president and not the occupant of that office, shields communications relating to the exercise of core presidential functions.

Because executive privilege is constitutionally based and because it adheres to the office of the President, only the President can authorize its assertion. Most legal scholars agree it can not be delegated to subordinates.

The President, while in Africa, publicly denied knowing anything about the assertions. If that is true, his staff invoked the privilege without his authorization which would be unconstitutional and could be viewed as an abuse of power intended to obstruct the investigation.