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****FINAL CORRECTED VERSION****

STATEMENT
OF
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BEFORE
THE COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

10:00 A.M.

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2141 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C.

Thank you, Mr. Chairman. I welcome this opportunity to appear before the Committee and to provide information relating to the Committee's inquiry into possible impeachable offenses by the President of the United States. This is my first opportunity to publicly report on certain issues related to our investigation. I look forward to doing so and assisting the Committee.

I. Introduction

I appreciate both the seriousness of the Committee's work and the gravity of its assignment. I have reviewed the statements made by the 37 Committee Members in the October 5 hearing. Any citizen who watched that hearing would have been impressed by the depth and breadth of the discussion that day, and proud of the diligence with which Members of this Committee are approaching this extraordinarily difficult and unwelcome task. I appear before you today, therefore, fully recognizing the solemnity and importance of this process.

As you know, in January of this year, Attorney General Reno petitioned the three-Judge panel that oversees independent counsels to authorize our Office to investigate whether Monica Lewinsky or others committed federal crimes relating to the sexual harassment lawsuit brought by Paula Jones against President Clinton. Our Office conducted a swift yet thorough investigation. We completed the primary factual investigation in under eight months, notwithstanding a number of obstacles in our path.

The law requires an independent counsel to report to the House of Representatives substantial and credible information that may constitute grounds for an impeachment. On September 9, pursuant to our statutory duty, we submitted a referral and backup documentation to the House. I am here today at your invitation in furtherance of our statutory obligation.

I recognize that the House of Representatives -- not an independent counsel -- has the sole power to impeach. My role here today is to discuss our referral and our investigation.

II. Lewinsky Investigation

A. Overview

Let me begin with an overview. As our referral explains, the evidence suggests that the President made false statements under oath and otherwise thwarted the search for truth in the Jones v. Clinton case. The evidence further suggests that the President made false statements under oath to the grand jury on August 17.

That same night, the President publicly acknowledged an inappropriate relationship, but maintained that his testimony had been legally accurate. The President also declared that all inquiries into the matter should end because, he said, it was private.

Shortly after the President's August 17 speech, Senators Lieberman, Kerrey, and Moynihan stated that the President's actions were not a private matter. In our view, they were correct. Indeed, the evidence suggests that the President

repeatedly tried to thwart the legal process in the Jones case and the grand jury investigation. That is not a private matter. The evidence further suggests that the President, in the course of these efforts, misused his authority and power as President and contravened his duty to faithfully execute the laws. That, too, is not a private matter.

The evidence suggests that the misuse of Presidential authority occurred in the following ten ways:

First. The evidence suggests that the President made a series of premeditated false statements under oath in his civil deposition on January 17, 1998. The President had taken an oath to tell the truth, the whole truth, and nothing but the truth. By making false statements under oath, the President, the Chief Executive of our Nation, failed to adhere to that oath and to his Presidential oath to faithfully execute the laws.

Second. The evidence suggests that, apart from making false statements under oath, the President engaged in a pattern of behavior during the Jones litigation to thwart the judicial process. The President reached an agreement with Ms. Lewinsky that each would make false statements under oath. He provided job assistance to Ms. Lewinsky at a time when the Jones case was proceeding and Ms. Lewinsky's truthful testimony would have been harmful. He engaged in an apparent scheme to conceal gifts that had been subpoenaed from Ms. Lewinsky. He coached a potential witness, his own secretary Betty Currie, with a false account of relevant events.

Those acts constitute a pattern of obstruction that is fundamentally inconsistent with the President's duty to faithfully execute the laws.

Third. The evidence suggests that the President participated in a scheme at his deposition in which his attorney, in his presence, deceived a United States District Judge in an effort to cut off questioning about Ms. Lewinsky. The President did not correct his attorney's false statement. A false statement to a federal judge in order to prevent relevant questioning is an obstruction of the judicial process.

Fourth. The evidence suggests that on January 23, 1998, after the criminal investigation had become public, the President made false statements to his Cabinet and used his Cabinet as unwitting surrogates to publicly support the President's false story.

Fifth. The evidence suggests that the President, acting in a premeditated and calculated fashion, deceived the American people on January 26 and on other occasions when he denied a relationship with Ms. Lewinsky.

Sixth. The evidence suggests that the President, after the criminal investigation became public, made false statements to his aides and concocted false alibis that these government employees repeated to the grand jury. As a result, the grand jury received inaccurate information.

Seventh. Having promised the American people to cooperate with the investigation, the President refused six invitations to

testify to the grand jury. Refusing to cooperate with a duly authorized federal criminal investigation is inconsistent with the general statutory duty imposed on all Executive Branch employees to cooperate with criminal investigations. It also is inconsistent with the President's duty to faithfully execute the laws.

Eighth. The President and his Administration asserted three different governmental privileges to conceal relevant information from the federal grand jury. The privilege assertions were legally baseless in these circumstances. They were inconsistent with the actions of Presidents Carter and Reagan in similar circumstances. And they delayed and impeded the investigation.

Ninth. The President made false statements under oath to the grand jury on August 17, 1998. The President again took an oath to tell the truth, the whole truth, and nothing but the truth. The evidence demonstrates that the President failed to adhere to that oath and thus to his Presidential oath to faithfully execute the laws.

Tenth. The evidence suggests that the President deceived the American people in his speech on August 17 by stating that his testimony had been legally accurate.

In addition to those ten points, it bears mention that well before January 1998, the President used government resources and prerogatives to pursue his relationship with Monica Lewinsky. The evidence suggests that the President used his secretary Betty Currie, a government employee, to facilitate and conceal the

relationship with Monica Lewinsky. The President used White House aides and the United States Ambassador to the United Nations in his effort to find Ms. Lewinsky a job at a time when it was foreseeable -- even likely -- that she would be a witness in the Jones case. And the President used a government attorney -- Bruce Lindsey -- to assist his personal legal defense during the Jones case.

In short, the evidence suggests that the President repeatedly used the machinery of government and the powers of his Office to conceal his relationship with Monica Lewinsky from the American people, from the judicial process in the Jones case, and from the grand jury.

B. Sexual Harassment Law

Let me turn, then, to the legal context in which the Lewinsky issues first arose. At the outset, I want to emphasize that our referral never suggests that the relationship between the President and Ms. Lewinsky in and of itself could be a high crime or misdemeanor. Indeed, the referral never passes judgment on the President's relationship with Ms. Lewinsky. The propriety of a relationship is not the concern of our Office.

The referral is instead about obstruction of justice, lying under oath, tampering with witnesses, and misuse of power. The referral cannot be understood without appreciating this vital distinction.

This case raises the following initial question: Is a plaintiff in a sexual harassment lawsuit entitled to obtain

truthful evidence from the defendant, and from associates of the defendant, in order to support her claim? That should be easy to answer. No citizen who finds himself accused in a sexual harassment case, or in any other kind of case, can lie under oath or otherwise obstruct justice and thereby prevent the plaintiff from discovering evidence and proving her case.

Paula Jones, a former Arkansas state employee, filed a federal sexual harassment suit against President Clinton in 1994. The President denied those allegations. We will never know whether a jury would have credited Ms. Jones's allegations. We also will never know whether the ultimate decisionmaker would have found that the alleged facts, if true, constitute sexual harassment. When the President and Ms. Jones settled the case last week, the Eighth Circuit Court of Appeals was still considering the preliminary legal question whether the facts as alleged could constitute sexual harassment.

After the suit was first filed in 1994, the President attempted to delay the trial until his Presidency was over. The President claimed a temporary Presidential immunity from civil suit. The case proceeded to the Supreme Court. At oral argument, the President's attorney specifically warned our Nation's highest Court that if Ms. Jones won, her lawyers would be able to investigate the President's relationships with other women, as is common in sexual harassment cases. The Supreme Court rejected the President's constitutional claim -- and did so by a nine to zero vote. The Court concluded that the

Constitution did not provide such a temporary immunity from suit.

The idea was simple and powerful: No one is above the law. The Supreme Court sent the case back for trial with words that warrant emphasis: "Like every other citizen who invokes" the District Court's jurisdiction, Ms. Jones "has a right to an orderly disposition of her claims."

After the Supreme Court's decision, the parties started to gather the facts. The parties questioned relevant witnesses in depositions. They submitted written questions. They made requests for documents.

Sexual harassment cases are often "he said-she said" disputes. Evidence reflecting the behavior of both parties can be critical -- including the defendant's relationships with other employees in the workplace.

Such questions can be uncomfortable, but they occur every day in courts and law offices around the country. Individuals take an oath to tell the truth, the whole truth, and nothing but the truth. And no one is entitled to lie under oath simply because he or she does not like the questions or because he believes the case is frivolous or financially motivated or politically motivated. The Supreme Court has emphatically and repeatedly rejected the notion that there is ever a privilege to lie. The Court has stated that there are ways to object to questions; lying under oath is not one of them.

During the fact-gathering process, Judge Susan Webber Wright followed the standard principles of sexual harassment cases.

Over repeated objection from the President's attorneys, the Judge permitted inquiries into the President's relationships with government employees. On January 8, 1998, for example, Judge Wright stated that questions as to the President's relationships with other employees "are within the scope of the issues in this case."

In making these rulings, Judge Wright recognized that the questions might prove embarrassing. She stated that "I have never had a sexual harassment case where there was not some embarrassment." She also stated that she could not protect the parties from embarrassment.

Let me summarize the five points that explain how the President's relationship with Ms. Lewinsky -- what was otherwise private conduct -- became a matter of concern to the courts. This is critical to fully understand the nature of the Committee's inquiry.

One. The President was sued for sexual harassment, and the Supreme Court ruled that the case should go forward.

Two. The law of sexual harassment and the law of evidence allow the plaintiff to inquire into the defendant's relationships with other women in the workplace, which in this case included President Clinton's relationship with Ms. Lewinsky.

Three. Applying those settled legal principles, Judge Susan Webber Wright repeatedly rejected the President's objections to such inquiries. The Judge, instead, ordered the President to answer the questions.

Four. It is a federal crime to commit perjury and obstruct justice in civil cases, including sexual harassment cases. Violators are subject to a sentence of up to ten years imprisonment for obstruction and up to five years for perjury.

Five. The evidence suggests that the President and Ms. Lewinsky made false statements under oath and obstructed the judicial process in the Jones case by preventing the court from obtaining the truth about their relationship.

At his grand jury appearance, the President invoked a Supreme Court Justice's confirmation hearings as a comparison to his current situation. The President's use of the analogy did not fit the facts in the Monica Lewinsky matter, however. The President's having raised the analogy, let me make it more fitting to the case here.

Suppose that there is a nominee for a high government position. Assume that there is an allegation of sexual harassment. Suppose that several women other than the accuser who have worked with the nominee testify before the Senate Judiciary Committee. Suppose that the nominee confers with one of those women ahead of time, and that they agree that they will both lie to the Judiciary Committee about their relationship. Assume further that they both do lie under oath about their relationship. And suppose further that a criminal investigation develops and the nominee again lies under oath to the grand jury. If that were proved to have happened, what would the Senate Judiciary Committee do?

Suppose that the lying under oath and obstruction of justice occurs in a sexual harassment suit brought against the nominee. Suppose further that the false statements and obstruction continue into a subsequent criminal investigation. What would this Committee do with compelling evidence of perjury and obstruction of justice committed by, for example, a Justice of the Supreme Court in a sexual harassment suit in which he was the defendant?

Those hypotheticals -- which track the facts of this case -- put in relief the issue before the Committee. Let me again stress that the House, not an independent counsel, has the sole power to impeach. I am suggesting that consideration of our referral be focused on the issues actually presented by the referral.

C. The President's Actions: December 5 -- January 17

I will next turn to some of the essentials of the referral. That will include the specifics of Ms. Lewinsky's involvement in the Jones case and the President's actions in response to that involvement.

The key point about the President's conduct is this. On at least six different occasions -- from December 17, 1997, through August 17, 1998 -- the President had to make a decision. He could choose truth, or he could choose deception. On all six occasions, the President chose deception -- a pattern of calculated behavior over a span of months.

On December 5, 1997, Ms. Jones's attorneys identified Ms.

Lewinsky as a potential witness. Within a day, the President learned that Ms. Lewinsky's name was on the witness list.

After learning this, the President faced his first critical decision. Would he and Monica Lewinsky tell the truth about their relationship? Or would they provide false information -- not just to a spouse or to loved ones -- but under oath in a court of law?

Eleven months ago, the President made his decision. At approximately 2:00 a.m. on December 17, 1997, he called Ms. Lewinsky at her Watergate apartment and told her that she was on the witness list. This was news to Ms. Lewinsky. And it bears noting that the President -- not his lawyer -- made this call to the witness.

During this 2:00 a.m. conversation, which lasted approximately half an hour, the President could have told Ms. Lewinsky that they must tell the truth under oath. The President could have explained that they might face embarrassment but that, as a citizen and as President, he could not lie under oath and he could not sit by while Monica did so. The President did not say anything like that.

On the contrary, according to Ms. Lewinsky, the President suggested that she could sign an affidavit and use -- under oath -- deceptive cover stories that they had devised long ago to explain why Ms. Lewinsky had visited the Oval Office area. The President did not explicitly instruct Ms. Lewinsky to lie. He did not have to. Ms. Lewinsky testified that the President's

suggestion that they use the pre-existing cover stories amounted to a continuation of their pattern of concealing their intimate relationship. Starting with this conversation, the President and Ms. Lewinsky understood, according to Ms. Lewinsky, that they were both going to make false statements under oath.

The conversation between the President and Ms. Lewinsky on December 17 was a critical turning point. The evidence suggests that the President chose to engage in a criminal act -- to reach an understanding with Ms. Lewinsky that they would both make false statements under oath. At that moment, the President's intimate relationship with a subordinate employee was transformed into an unlawful effort to thwart the judicial process. This was no longer an issue of private conduct.

Recall that the Supreme Court had concluded that Paula Jones was entitled to an "orderly disposition" of her claims. The President's action on December 17 was his first direct effort to thwart the Supreme Court's mandate.

The story continued: The President faced a second choice. On December 23, 1997, the President submitted under oath a written answer to an interrogatory. The request stated in relevant part: "Please state the name . . . of [federal employees] with whom you had sexual relations when you [were] . . . President of the United States." In his sworn answer, the President stated "None."

On December 28, the President faced a third critical choice. On that day, the President met with Ms. Lewinsky at the White

House. They discussed the fact that Ms. Lewinsky had been subpoenaed for gifts she had received from the President. According to Ms. Lewinsky, she raised the question of what she should do with the gifts. Later that day, the President's personal secretary, Betty Currie, drove to Ms. Lewinsky's Watergate home. Ms. Lewinsky gave Ms. Currie a sealed box that contained some of the subpoenaed gifts. Ms. Currie then stored the box under her bed at home.

In her written proffer on February 1, four weeks after the fact, Ms. Lewinsky stated that Ms. Currie had called her to retrieve the gifts. If so, that necessarily meant that the President had asked Ms. Currie to call. It would directly and undeniably implicate him in an obstruction of justice. Ms. Lewinsky later repeated that statement in testimony under oath. Ms. Currie, for her part, recalls Ms. Lewinsky calling her. But even if Ms. Lewinsky called Ms. Currie, common sense and the evidence suggest some Presidential knowledge or involvement, as the referral explains.

Let me add another point about the gifts. In his grand jury appearance in August, the President testified that he had no particular concern about the gifts in December 1997 when he had talked to Ms. Lewinsky about them. And he thus suggested that he would have had no reason to take part in December in a plan to conceal the gifts. But there is a serious problem with the President's explanation. If it were true that the President in December was unconcerned about the gifts, he presumably would

have told the truth under oath in his January deposition about the large number of gifts that he and Ms. Lewinsky had exchanged. But he did not tell the truth. At that deposition, when asked whether he had ever given gifts to Monica Lewinsky, and he had given her several on December 28, the President stated "I don't recall. Do you know what they were?"

In short, the critical facts to emphasize about the transfer of gifts are these: First, the President and Ms. Lewinsky met and discussed what should be done with the gifts subpoenaed from Ms. Lewinsky. Second, the President's personal secretary Ms. Currie drove later that day to Ms. Lewinsky's home to pick up the gifts. Third, Ms. Currie stored the box under her bed.

Meanwhile, the legal process continued to unfold, and the President took other actions that had the foreseeable effect of keeping Ms. Lewinsky "on the team." The President helped Ms. Lewinsky obtain a job in New York. His efforts began after the Supreme Court's decision in May 1997 -- at a time when it had become foreseeable that she could be an adverse witness against the President. These job-related efforts intensified in December 1997 after Ms. Lewinsky's name appeared on the witness list.

Vernon Jordan, who had been enlisted in the job search for Ms. Lewinsky, testified that he kept the President informed of the status of Ms. Lewinsky's job search and her affidavit. On January 7, 1998, Mr. Jordan told the President that Ms. Lewinsky had signed the affidavit. Mr. Jordan stated to the President that he was still working on getting her a job. The President

replied, "Good." In other words, the President, knowing that a witness had just signed a false affidavit, encouraged his friend to continue trying to find her a job. After Ms. Lewinsky received a job offer from Revlon on January 12, Vernon Jordan called the President and said: "Mission accomplished."

As is often the situation in cases involving this kind of financial assistance, no direct evidence reveals the President's intent in assisting Ms. Lewinsky. Ms. Lewinsky testified that no one promised her a job for silence; of course, crimes ordinarily do not take place with such explicit discussion. But federal courts instruct juries that circumstantial evidence is just as probative as direct evidence. And the circumstantial evidence here is strong. At a bare minimum, the evidence suggests that the President's job assistance efforts stemmed from his desire to placate Ms. Lewinsky so that she would not be tempted -- under the burden of an oath -- to tell the truth about the relationship. Monica Lewinsky herself recognized that at the time, saying to a friend, "Somebody could construe or say, 'Well, they gave her a job to shut her up. They made her happy.'"

And given that the President's plan to testify falsely could succeed only if Ms. Lewinsky went along, the President naturally had to be concerned that Ms. Lewinsky at any time might turn around and decide to tell the truth. Indeed, some wanted her to tell the truth. For example, one friend talked to Ms. Lewinsky about the December 28 meeting with the President. The friend stated that she was concerned because she "didn't want to see

[Monica] being like Susan McDougal" and did not want Monica "to lie to protect the President." Needless to say, any sudden decision by Ms. Lewinsky to tell the truth, whether out of anger at the President or simple desire to be law-abiding, would have been very harmful to the President. That helps to explain his motive in providing job assistance.

In mid-January, Ms. Lewinsky finalized her false affidavit with her attorney, who sent it to Judge Wright's Court. The affidavit falsely denied a sexual relationship with the President and essentially recounted the cover stories they had discussed in their middle-of-the-night conversation on December 17.

Let me turn to the President's January 17 deposition. Some have suggested that the President might have been surprised or ambushed at his deposition. Those suggestions are wrong. The President had clear warning that there would be questions about Monica Lewinsky. She had been named on the December 5 witness list. On January 12, only five days before the deposition, Ms. Jones's attorneys identified Ms. Lewinsky as a trial witness. In response, Judge Wright approved her as a witness. Two days later, on January 14, the President's private attorney asked Ms. Lewinsky's attorney to fax Ms. Lewinsky's affidavit. During the deposition itself, the President's attorney stated that the President was "fully familiar" with Ms. Lewinsky's affidavit.

At the outset of his January 17 deposition, therefore, the President faced a fourth critical decision. Fully aware that he would likely receive questions about Ms. Lewinsky, would the

President continue to make false statements under oath -- this time in the presence of a United States District Judge?

At the start of the deposition, Judge Susan Webber Wright administered the oath. The President swore to tell the truth, the whole truth, and nothing but the truth. As his testimony began, the President, in response to a question from Ms. Jones's attorneys, stated that he understood he was providing his testimony under the penalty of perjury.

The President was asked a series of questions about Ms. Lewinsky. After a few questions, the President's attorney -- Mr. Bennett -- objected to the questioning about Ms. Lewinsky, referring to it as "innuendo." Mr. Bennett produced Ms. Lewinsky's false affidavit. Mr. Bennett stated to Judge Wright that Ms. Lewinsky's affidavit indicated that "there is absolutely no sex of any kind in any manner, shape, or form." Mr. Bennett stated that the President was "fully aware of Ms. Lewinsky's affidavit." During Mr. Bennett's statements, the President sat back and let his attorney mislead Judge Wright. The President said not a word -- to the Judge or, so far as we are aware, to his attorney.

Judge Wright overruled Mr. Bennett's objection. The questioning continued. In response, the President made false statements not only about his intimate relationship with Ms. Lewinsky, but about a whole host of matters. The President testified that he did not know that Vernon Jordan had met with Ms. Lewinsky and talked about the Jones case. That was untrue.

He testified that he could not recall being alone with Ms. Lewinsky. That was untrue. He testified that he could not recall ever being in the Oval Office hallway with Ms. Lewinsky except perhaps when she was delivering pizza. That was untrue. He testified that he could not recall gifts exchanged between Ms. Lewinsky and him. That was untrue. He testified -- after a 14-second pause -- that he was "not sure" whether he had ever talked to Ms. Lewinsky about the possibility that she might be asked to testify in the lawsuit. That was untrue. The President testified that he did not know whether Ms. Lewinsky had been served a subpoena at the time he last saw her in December 1997. That was untrue. When his attorney read Ms. Lewinsky's affidavit denying a sexual relationship, the President stated that the affidavit was "absolutely true." That was untrue.

The evidence thus suggests that the President -- long aware that Ms. Lewinsky was a likely topic of questioning at his deposition -- made not one or two, but a series of false statements under oath. The President further allowed his attorney to use Ms. Lewinsky's affidavit, which the President knew to be false, to deceive the Court. This evidence suggests that the President directly contravened the oath he had taken -- as well as the Supreme Court's mandate, in which the Court had stated that Ms. Jones was entitled, like every other citizen, to a lawful disposition of her case.

D. The President's Actions: January 17-21

As our referral outlines, the President's deposition did not

mark the end of the scheme to conceal. During his deposition testimony, the President referred to his secretary Betty Currie. The President testified, for example, that Ms. Lewinsky had come to the White House to see Ms. Currie, not him; that Ms. Currie had been involved in assisting Ms. Lewinsky in her job search; and that Ms. Currie had communicated with Vernon Jordan about Mr. Jordan's assistance to Ms. Lewinsky. In response to one question at the deposition, the President said he did not know the answer and "you'd have to ask Betty."

Given the President's repeated references to Ms. Currie and his suggestion to Ms. Jones's attorneys that they contact her, the President had to know that Ms. Jones's attorneys might want to question Ms. Currie. Shortly after 7:00 p.m. on Saturday, January 17 -- just two and a half hours after the deposition -- the President attempted to contact Ms. Currie at her home. The President asked Ms. Currie to come to the White House the next day, which she did, although it was unusual for her to come in on a Sunday. According to Ms. Currie, the President appeared concerned and made a number of statements about Ms. Lewinsky to Ms. Currie. The statements included:

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

"You could see and hear everything."

Ms. Currie concluded that the President wanted her to agree with him when he made these statements. Ms. Currie stated that she did in fact indicate her agreement -- although she knew that

the President and Ms. Lewinsky had been alone and that she could not hear or see them when they were alone.

Ms. Currie further testified that the President ran through the same basic statements with her again on January 20 or 21.

What is important with respect to these two episodes is that at the time the President made these statements, he knew that they were false. He knew he had been alone with Ms. Lewinsky. He knew Ms. Currie could not see or hear everything. The President thus could not have been trying to refresh his recollection, as he subsequently suggested. That raises the question: Is there a legitimate explanation for the President to have said those things in that manner to Ms. Currie? The circumstances suggest not. The facts suggest that the President was attempting to improperly coach Ms. Currie, at a time when he could foresee that she was a potential witness in Jones v. Clinton.

E. The President's Actions: January 21-August 17

The President's next major decision came in the days immediately after January 21. On the 21st, the Washington Post publicly reported the story of Ms. Lewinsky's relationship with the President. After the public disclosure of his relationship with Ms. Lewinsky and the ongoing criminal investigation, the President faced a decision. Would he admit the relationship publicly, correct his testimony in Ms. Jones's case, and ask for the indulgence of the American people? Or would he continue to deny the truth?

For this question, the President consulted others. According to Dick Morris, the President and he talked on January 21. Mr. Morris suggested that the President publicly confess. The President replied "But what about the legal thing? You know, the legal thing? You know, Starr and perjury and all." Mr. Morris suggested they take a poll. The President agreed. Mr. Morris called with the results. He stated that the American people were willing to forgive adultery but not perjury or obstruction of justice. The President replied, "Well, we just have to win, then."

Over the next several months, it became apparent that the strategy to win had many prongs. First, the President denied the truth publicly and emphatically. Second, he publicly promised to cooperate with the investigation. Third, the President deflected and diverted the investigation by telling aides false stories that were then relayed to the grand jury. Fourth, he refused invitations to testify to the grand jury for over six months. Fifth, his Administration delayed the investigation through multiple privilege claims, each of which has been rejected by the federal courts. Sixth, surrogates of the President attacked the credibility and legitimacy of the grand jury investigation. Seventh, surrogates of the President attempted to convince the Congress and the American people that the matter was unimportant.

The first step was for the President to deny the truth publicly. For this, political polling led to Hollywood staging. The President's California friend and producer Harry Thomason

flew to Washington and advised that the President needed to be very forceful in denying the relationship. On Monday, January 26, in the Roosevelt Room, before Members of Congress and other citizens, the President provided a clear and emphatic public statement denying the relationship.

The President also made false statements to his Cabinet and aides. They then spoke publicly and professed their belief in the President.

The second step was to promise cooperation. The President told the American people on several television and radio shows on January 21 and 22 that "I'm going to do my best to cooperate with the investigation."

The third step was the President's refusal to provide testimony to the grand jury despite six invitations to do so and despite his public promise to cooperate. Refusing invitations to provide information to a grand jury in a federal criminal investigation authorized by the Attorney General of the United States -- and one in which there is a high national interest in prompt completion -- was inconsistent with the President's initial January promise to cooperate and with the general statutory duty of all government officials to cooperate with federal criminal investigations.

As a fourth step, the President not only refused to testify himself, but he authorized the use of various governmental privileges to delay the testimony of many of his taxpayer-paid assistants. The extensive use of governmental privileges against

grand jury and criminal investigations has, of course, been a pattern throughout the Administration. Most notably, the White House cited privilege in 1993 to prevent Justice Department and Park Police officials from reviewing documents in Vincent Foster's office in the days after his death.

In the Lewinsky investigation, the President asserted two privileges, Executive Privilege and a government attorney-client privilege. A subordinate Administration official, without objection from the President, claimed a previously unheard-of privilege that was called the protective function privilege. The privileges were asserted to prevent the full testimony of several White House aides and the full testimony of the sworn law enforcement officers of the Secret Service.

In asserting Executive Privilege, the President was plowing headlong into the Supreme Court's unanimous decision 24 years ago in United States v. Nixon. There, the Supreme Court ruled that Executive Privilege was overcome by the need for relevant evidence in criminal proceedings. And thus, it came as no surprise that Chief Judge Norma Holloway Johnson rejected President Clinton's effort to use Executive Privilege to prevent disclosure of relevant evidence.

In asserting protective function and government attorney-client privileges, the Administration was asking the federal courts to make up one new privilege out of whole cloth and to apply another privilege in a context in which no federal court had ever applied it before. And thus it again came as little

surprise that the federal courts rejected the Administration's claims. Indeed, as to the government attorney-client claim, the D.C. Circuit and the District Court, like the Eighth Circuit a year ago, stated that the President's position not only was wrong but would authorize a "gross misuse of public assets." The Supreme Court refused to grant review of the cases notwithstanding the Administration's two strongly worded petitions.

This point bears emphasis: The Administration justified its many privilege claims by claiming an interest in protecting the Presidency, not the President personally. But that justification is dubious for two reasons. First, Presidents Carter and Reagan waived all government privileges at the outset of criminal investigations in which they were involved. The examples set by those two Presidents demonstrate that such privilege claims in criminal investigations are manifestly unnecessary to protect the Presidency. Second, these novel privilege claims were quite weak as a matter of law.

And that raises a question: What was it about the Monica Lewinsky matter that generated the Administration's particularly aggressive approach to privileges? The circumstantial evidence suggests an answer: delay. Indeed, when this Office sought to have the Supreme Court decide all three privilege claims at once this past June, the Administration opposed expedited consideration.

Not only did the Administration invoke these three losing

privileges, but the President publicly suggested that he had not invoked Executive Privilege when in fact he had. On March 24, 1998, while travelling in Africa, the President was asked about Executive Privilege. He stated in response: "You should ask someone who knows. . . . I haven't discussed that with the lawyers. I don't know." But White House Counsel Charles Ruff had filed an affidavit in federal court only seven days earlier in which he swore that he had discussed the assertion of Executive Privilege with the President and the President had approved its invocation.

After Chief Judge Johnson ruled against the President, the President dropped the Executive Privilege claim in the Supreme Court. In August, the President explained to the grand jury why he dropped it. The President stated: "I didn't really want to advance an executive privilege claim in this case beyond having it litigated."

But this statement -- to the grand jury -- was inaccurate. In truth, the President had again asserted Executive Privilege only a few days earlier. And a few days after his grand jury testimony, the President again asserted Executive Privilege to prevent the testimony of Bruce Lindsey. These Executive Privilege cases continue to this day; indeed, one case is now pending in the D.C. Circuit.

When the President and the Administration assert privileges in a context involving the President's personal issues; when the President pretends publicly that he knows nothing about the

Executive Privilege assertion; when the President and the Administration rebuff our Office's efforts to expedite the cases to the Supreme Court; when the President contends in the grand jury that he never really wanted to assert Executive Privilege beyond having it litigated -- despite the fact that he had asserted it six days earlier and did so again eleven days afterwards, there is substantial and credible evidence that the President has misused the privileges available to his Office. And the misuse delayed and impeded the federal grand jury's investigation.

The fifth tactic was diversion and deflection. The President made false statements to his aides and associates about the nature of the relationship -- with knowledge that they could testify to that effect to the grand jury sitting here in Washington. The President did not simply say to his associates that the allegations were false or that the issue was a private matter that he did not want to discuss. Instead, the President concocted alternative scenarios that were then repeated to the grand jury.

The final two tactics were related: (i) to attack the grand jury investigation, including the Justice Department prosecutors in my Office -- to declare war, in the words of one Presidential ally -- and (ii) to shape public opinion about the proper resolution of the entire matter. It is best that I leave it to someone outside our Office to elaborate on the war against our Office. But no one really disputes that those tactics were

employed -- and continue to be employed to this day.

F. The President's Actions: August 17

This strategy proceeded for nearly seven months. It changed course in August after Monica Lewinsky reached an immunity agreement with our Office, and the grand jury, after deliberation, issued a subpoena to the President.

The President testified to the grand jury on August 17. Beforehand, many in Congress and the public advised that the President should tell the whole truth. They cautioned that the President could not lie to the grand jury. Senator Hatch, for example, stated that "So help me, if he lies before the grand jury, that will be grounds for impeachment." Senator Moynihan stated simply that perjury before the grand jury was, in his view, an impeachable offense.

The evidence suggests that the President did not heed this Senatorial advice. Although admitting to an ambiguously defined inappropriate relationship, the President denied that he had lied under oath at his civil deposition. He also denied any conduct that would establish that he had lied under oath at his civil deposition. The President thus denied certain conduct with Ms. Lewinsky and devised a variety of tortured and false definitions.

The President's answers have not been well received. Congressman Schumer, for one, stated that "it is clear that the President lied when he testified before the grand jury." Congressman Meehan stated that the President engaged in a "dangerous game of verbal Twister." Indeed, the President made

false statements to the grand jury and then that same evening spoke to the Nation and criticized all attempts to show that he had done so as invasive and irrelevant. The President's approach appeared to contravene the oath he took at the start of the grand jury proceedings. It also disregarded the admonitions of those Members of Congress who warned that lying to the grand jury would not be tolerated. It also discounted Judge Wright's many orders in which she had ruled that this kind of evidence was relevant in the Jones case.

And thus ended the over-eight-month journey that had begun on December 5, 1997, when Monica Lewinsky's name appeared on the witness list. The evidence suggests that the eight months included false statements under oath, false statements to the American people, false statements to the President's Cabinet and aides, witness tampering, obstruction of justice, and the use of Presidential authority and power in an effort to conceal the truth of the relationship and to delay the investigation.

III. Jurisdiction

Given the serious nature of perjury and obstruction of justice, regardless of its setting, it is obvious that the actions of the President and Ms. Lewinsky to conceal the truth warranted criminal investigation. Let me explain how the investigation came to be handled by our Office rather than by the Department of Justice or some new independent counsel. The explanation is straightforward.

On January 8, an attorney in my Office was informed that a

witness (who was Linda Tripp, a witness in prior investigations), had information she wanted to provide. A message was conveyed back that she should provide her information directly. Ms. Tripp called our Office on January 12. In that conversation and later, she provided us a substantial amount of information.

Let me pause here and emphasize that our Office, like most law enforcement agencies, has received innumerable tips about a wide variety of matters over the past four years -- from Swiss bank accounts to drug smuggling. You name it. We have heard it. In each case, we must make an initial assessment whether it is a serious tip or a crank call, as well as an assessment of jurisdictional issues.

We handled the information from Ms. Tripp in this same manner. When we confirmed that the information appeared credible, we reached out to the Department of Justice, as we have done regularly during my tenure as independent counsel. We contacted Deputy Attorney General Eric Holder within 48 hours after Ms. Tripp provided us information. The next day, we fully informed the Deputy Attorney General about Ms. Tripp's information. About Ms. Tripp's tapes and the questions concerning their legality under state law. About the consensual FBI recording of Ms. Tripp and Ms. Lewinsky. About the indications that Vernon Jordan was providing employment assistance to a witness who had the potential to harm the President -- a fact pattern that we had seen in the Webster Hubbell investigation, as I shall describe presently.

We discussed jurisdiction. We noted that it is in everyone's interest to avoid time-consuming jurisdictional challenges. We stated that the Lewinsky investigation could be considered outside our jurisdiction as then constituted. We stressed that someone needed to work the case: the Justice Department or an independent counsel.

Later that evening, the Deputy Attorney General telephoned and reported that the Attorney General had tentatively decided to assign the matter to us. Before her decision was final, we reviewed the evidence in detail with two experienced career prosecutors in the Department. One senior Justice Department prosecutor listened to portions of the FBI tape. The Attorney General made her final decision on Friday, January 16. That day, through a senior career prosecutor, the Attorney General asked the three-Judge Special Division to expand our jurisdiction. The Special Division granted the request that day.

In short, our entry into this investigation was standard, albeit expedited, procedure.

IV. Referral Standards

Seven months later, after conducting the factual investigation and after the President's grand jury testimony, the question we faced was what to do with the evidence. Section 595(c) of Title 28 in the independent counsel statute requires an independent counsel investigating possible crimes to provide to the House of Representatives -- in the words of the statute -- "substantial and credible information that may constitute grounds

for an impeachment."

This reporting provision suggests a statutory preference that possible criminal wrongdoing by the President be addressed in the first instance by the House of Representatives. It also requires an analysis of the law of impeachment.

As we understood the text of the Constitution, its history, and relevant precedents, it was clear that obstruction of justice in its various forms, including perjury, "may constitute grounds for an impeachment." Even apart from any abuses of Presidential authority and power, the evidence of perjury and obstruction of justice required us to refer this information to the House.

Perjury and obstruction of justice are, of course, serious crimes. In 1790, the First Congress passed a criminal law that banned perjury. A violator was subject to three years' imprisonment. Today, federal criminal law makes perjury a felony punishable by five years' imprisonment.

In cases involving public officials, courts treat false statements with special condemnation. United States District Judge Royce Lamberth recently sentenced Ronald Blackley, former Chief of Staff to the former Secretary of Agriculture, to 37 months' imprisonment for false statements. The Court stated that it "has a duty to send a message to other high-level government officials that there is a severe penalty to be paid for providing false information under oath."

Although perjury and obstruction of justice are serious federal crimes, some have suggested that they are not high crimes

or misdemeanors when the underlying events concern the President's private actions. Under this theory, a President's obstruction and perjury must involve concealment of official actions. This interpretation does not appear in the Constitution itself. Moreover, the Constitution lists bribery as a high crime or misdemeanor. And if a President involved in a civil suit bribed the judge to rule in his favor or bribed a witness to provide favorable testimony, there could be no textual question that he had committed a high crime or misdemeanor under the plain language of Article II -- even though the underlying events would not have involved his official duties. In addition, virtually everyone agrees that serious crimes such as murder and rape would be impeachable even though they do not involve official duties.

Justice Story stated in his famous Commentaries that there is not a syllable in the Constitution which confines impeachment to official acts. With respect, an absolute and inflexible requirement of a connection to official duties appears, fairly viewed, to be an incorrect interpretation of the Constitution.

History and practice support the conclusion that perjury, in particular, is a high crime or misdemeanor. Perjury has been the basis for the removal of several judges. As far as we know, no one questioned whether perjury was a high crime or misdemeanor in those cases. In addition, as several of the scholars who appeared before you testified, perjury seems to have been recognized as a high crime or misdemeanor at the time of the Founding. And the House Manager's report in the impeachment of

Judge Walter Nixon for perjury stated, "It is difficult to imagine an act more subversive to the legal process than lying from the witness stand." And finally, I note that the Federal Sentencing Guidelines include bribery and perjury in the same Guideline (2J1.3), reflecting the common-sense conclusion that bribery and perjury are equivalent means of interfering with the governmental process.

For these reasons, we concluded that perjury and obstruction of justice, like bribery, "may constitute grounds for an impeachment." Having said that, let me again emphasize my role here. Whether the President's actions are, in fact, grounds for an impeachment or some other congressional sanction is a decision in the sole discretion of the Congress.

A final point warrants mention in this respect. Criminal prosecution and punishment are not the same as -- or a substitute for -- congressionally imposed sanctions. As the Supreme Court stated in a 1993 case, "the Framers recognized that most likely there would be two sets of proceedings for individuals who commit impeachable offenses -- the impeachment trial and a separate criminal trial. In fact, the Constitution explicitly provides for two separate proceedings. The Framers deliberately separated the two forums to avoid raising the specter of bias and to ensure independent judgment."

V. The Office of Independent Counsel: 1994-1998

Our job over the past several years has involved far more than simply the Monica Lewinsky matter. The pattern of

obstruction of justice, false statements, and misuse of Executive authority in the Lewinsky investigation did not occur in a vacuum.

A. Overview

In August 1994, I took over the Madison Guaranty investigation from Bob Fiske. Over the ensuing years, I have essentially become independent counsel for five distinct investigations: for Madison and Whitewater, for Foster-related matters, for the Travel Office, for the FBI Files matter, and for the Monica Lewinsky investigation -- as well as for a variety of obstruction and related matters arising from those five major investigations. A brief overview of those investigations may assist the Committee in its assessment of the President's conduct.

First, some statistics. Our investigation has resulted in conviction of fourteen individuals, including the former Associate Attorney General of the United States Webster Hubbell, the then-sitting Governor of Arkansas Jim Guy Tucker, and the Clintons' two business partners Jim and Susan McDougal.

We are proud not only of the cases we have won, but also of our decisions not to indict. To take one well-known example, the Senate Whitewater Committee sent our Office public criminal referrals on several individuals. The Committee stated in its June 21, 1996, public letter that the testimony of Susan Thomases was "particularly troubling and suggests a possible violation of law." But this Office did not seek charges against her.

Apart from our indictments and convictions, this Office also has faced an extraordinary number of legal disputes -- on issues of privilege, jurisdiction, substantive criminal law, and the like. By my count, at least seventeen of our cases have been decided by the federal courts of appeals, and we have won all seventeen. One privilege case arising in our Travel Office investigation went to the D.C. Circuit where we prevailed 2-1 and then to the Supreme Court where we lost 6-3.

We had to litigate in the courts as our investigation ran into roadblocks and hurdles that slowed us down. It is true that the Administration produced a great amount of information. But unlike the prosecutors in the investigations involving Presidents Reagan and Carter, we have been forced to go to court time and again to seek information from the Executive Branch and to fight a multitude of privilege claims asserted by the Administration -- every single one of which we have won.

In sum, this Office has achieved a superb record in courts of law -- of significant and hard-fought convictions, of fair and wise decisions not to charge, of thorough and accurate reports on the Vincent Foster and Monica Lewinsky matters, of legal victories in various courts. We go to court and not on the talk-show circuit. And our record shows that there is a bright line between law and politics, between courts and polls. It leaves the polls to the politicians and spin doctors. We are officers of the court who live in the world of the law. We have presented our cases in court, and with very rare exception, we have won.

B. Madison Guaranty: President Clinton and Susan McDougal

The center of all of this -- the core of our Arkansas-based investigation -- was Madison Guaranty Savings and Loan. Madison was a federally insured savings and loan in Little Rock, Arkansas, run by Jim and Susan McDougal. Like many savings and loans in the 1980's, Madison was fraudulently operated. Mrs. Clinton and other lawyers at the Rose Law Firm in Little Rock performed legal work for Madison in the 1980's.

Madison first received national attention in March 1992 when a New York Times report raised several issues about the relationship between the Clintons and the McDougals in connection with Madison. Federal bank regulators examined Madison in 1992 and 1993. The regulators sent criminal referrals to the Justice Department, and the Justice Department launched a criminal investigation of Madison in November 1993. In part because of the relationship of the Clintons to the McDougals, Attorney General Reno appointed Bob Fiske in January 1994. I was appointed independent counsel in August 1994 to continue the investigation.

Madison exemplified the troubled practices of savings and loans in the 1980's. The failure of the institution ultimately cost federal taxpayers approximately \$65 million. Congresswoman Waters put it this way in a 1995 hearing: "By any standard, Madison Guaranty was a disaster. . . . It gambled with investments, cooked the books and ultimately bilked the taxpayers of the United States. Madison is a metaphor for the S&L crisis."

The McDougals' operation of Madison raised serious questions whether bank funds had been used illegally to assist business and political figures in Arkansas such as Jim Guy Tucker and then-Governor Clinton. As to the Clintons, the question arose primarily because they were partners with the McDougals in the Whitewater Development Company. The Whitewater corporation initially controlled and developed approximately 230 acres of property on the White River in Northern Arkansas. Given Jim McDougal's role at the center of both institutions and given Whitewater's constant financial difficulties, there were two important questions: Were Madison funds diverted to benefit Whitewater? If so, were the Clintons either involved in or knowledgeable of that diversion of funds?

These questions were not idle speculation. In early 1994, a Little Rock Judge and businessman David Hale pled guilty to certain unrelated federal crimes. As part of his plea, David Hale told Mr. Fiske's team that he had received money as a result of a loan from Madison in 1986 and that his company loaned it to others as part of a scheme to help some members of the Arkansas political establishment.

One loan of \$300,000 went to Susan McDougal's make-believe company, Master Marketing. Based on our investigation, we now know that some \$50,000 of the proceeds of that loan went to benefit the Whitewater corporation. David Hale stated that he had discussed the Susan McDougal loan with Governor Clinton, including at a meeting in 1986 with Jim McDougal and the

Governor.

In August 1994, when I first arrived in Little Rock, we devised a plan. First, based on the testimony of David Hale and others, as well as documentary evidence, we would take steps, if appropriate, to seek an indictment of Jim and Susan McDougal and others involved in what clearly appeared to be criminal transactions. If a Little Rock jury convicted the McDougals or others, we would then obtain their testimony and determine whether they had other relevant information -- including, of course, whether the McDougals possessed information that would either exonerate or incriminate the Clintons as to Madison and Whitewater matters.

This approach was the time-honored and professional way to conduct the investigation. We garnered a number of guilty pleas in my first year, including from Webster Hubbell, who had worked at the Rose Law Firm and was knowledgeable about its work with Madison, including that of Mrs. Clinton. In addition, Robert Palmer, a real estate appraiser, pled guilty to fraudulently doctoring Madison documents to deceive federal bank examiners. Three other associates of McDougal pled guilty and agreed to cooperate.

In August 1995, a year after I was appointed, a federal grand jury in Little Rock indicted Jim and Susan McDougal and the then-sitting Governor of Arkansas Jim Guy Tucker. The case went to trial in March 1996 amid charges by all three defendants -- and their allies -- that the case was a political witch hunt.

Some predicted that an Arkansas jury would never convict the sitting Governor. Those expectations were heightened when President Clinton was subpoenaed as a defense witness. The President testified for the defense from the Map Room of the White House. During his sworn testimony, the President testified that he did not know about the Susan McDougal loan nor had he ever been in a meeting with Hale and McDougal about the loan. He also testified that he had never received a loan from Madison. This was important testimony. Its truth -- or falsity -- went to the core issue of our investigation.

On May 28, 1996, all three defendants were convicted -- Jim McDougal of 18 felonies, Susan McDougal of four felonies, and Governor Tucker of two felonies. Governor Tucker announced his resignation that day.

After his conviction, Jim McDougal began cooperating with our investigation. We spent many hours with him gaining additional insights and facts. He informed our career investigators and prosecutors that David Hale was accurate. According to Jim McDougal, President Clinton had testified falsely at the McDougal-Tucker trial. Jim McDougal testified he had been at a meeting with David Hale and Governor Clinton about the Master Marketing loan. And Jim McDougal testified that Governor Clinton had received a loan from Madison. Jim McDougal said on one of his first sessions with our Office that the President's trial testimony was, in his words, "at variance with the truth."

In late 1997, we considered whether this evidence justified a referral to Congress. We drafted a report. But we concluded that it would be inconsistent with the statutory standard because of the difficulty of establishing the truth with a sufficient degree of confidence. We also weighed a prudential factor in reaching that conclusion. There were still two outstanding witnesses who might later corroborate -- or contradict -- the McDougal and Hale accounts: Jim Guy Tucker and Susan McDougal.

In 1998, we were finally able to obtain information from Governor Tucker. It had taken four long years to hear from the Governor. He pled guilty in a tax conspiracy case. When Governor Tucker ultimately testified before the Little Rock grand jury in March and April of this year, he had little knowledge of the loan to Susan McDougal's fictitious company and the President's possible involvement in it. He did shed light on the overall transactions involving Castle Grande and Madison. Importantly, as to one subject, Governor Tucker exonerated the President regarding longstanding questions whether the President and Governor Tucker had a conversation about the Madison referrals in the White House in October 1993.

The remaining witness who perhaps could shed light on the issue was Susan McDougal. And therein lies a story that has caused literally years of delay and added expense to the investigation.

Because the proceeds from the fraudulent loan Susan McDougal received had benefitted the Clintons -- the proceeds were used to

pay obligations of the Whitewater Development Company for which the Clintons were potentially personally liable -- Susan McDougal was subpoenaed to testify before the grand jury in August 1996 and asked several questions at the heart of the investigation, including:

"Did you ever discuss your loan from David Hale with William Jefferson Clinton?"

"To your knowledge, did William Jefferson Clinton testify truthfully during the course of your trial?"

Susan McDougal refused to answer any of the questions. District Judge Susan Webber Wright then held her in civil contempt, a decision later upheld by the United States Court of Appeals.

The month of September 1996 thus was a crucial time for our Office in its attempt to obtain Susan McDougal's truthful testimony. On September 23, 1996, just two weeks after Ms. McDougal had been found in contempt by Judge Wright, President Clinton was interviewed on PBS. The President said, "There's a lot of evidence to support" various charges that Susan McDougal had made against this Office. But the President cited no evidence.

The President's comments can reasonably be described as supportive of Ms. McDougal's decision to disobey the court order. So far as we are aware, no sitting President has ever publicly indicated his agreement with a convicted felon's stated reason for refusing to obey a federal court order to testify. Essentially, the President of the United States, the Chief Executive, sided with a convicted felon against the United

States, as represented by United States District Judge Susan Webber Wright, the United States Court of Appeals for the Eighth Circuit, and the Office of Independent Counsel.

The President was also asked in this interview whether he would consider pardoning Ms. McDougal. The President refused to rule out a pardon.

The President's answers to these questions were roundly criticized. A New York Times editorial captured the point well, stating that the President's remarks "undercut a legal process that is going forward in an orderly way."

C. Madison Guaranty: Mrs. Clinton and Webster Hubbell

A separate area of our original investigation concerned the Rose Law Firm's work in 1985 and 1986 for Madison. It appeared that Rose may have assisted Madison in performing legal work concerning a piece of property (IDC/Castle Grande), which involved McDougal, Madison, and fraudulent transactions. The complicated real estate deal known as Castle Grande was structured to avoid state banking regulatory requirements and involved violations of federal criminal law.

Grand jury subpoenas were issued in 1994 and 1995 to the Rose Law Firm and to the President and Mrs. Clinton seeking all documents relating to Madison and Castle Grande. We ultimately learned that Mrs. Clinton had performed some work related to Madison's IDC/Castle Grande transactions, but the whole issue remained partially enshrouded in mystery as our Office and the Senate Whitewater Committee investigated the issue in 1995.

The problem was that some of the best evidence regarding Mrs. Clinton's work -- her Rose Law Firm billing records and her time sheets for 1985 and 1986 -- could not be found. The missing records raised suspicions by late 1995 and became a public issue. Webster Hubbell and Vincent Foster had been responsible during the 1992 campaign for gathering information about Mrs. Clinton's work for Madison. Yet the billing records could not be found. The Rose Firm's work for Madison could not be fully pieced together. The Rose Firm no longer had the records.

On January 5, 1996, the records of Mrs. Clinton's activities at Madison were finally produced under unusual circumstances. The records detailed Mrs. Clinton's work on a variety of Madison issues, including the preparation of an option agreement that Madison used to deceive federal bank examiners as part of the Castle Grande deal. After a thorough investigation, we have found no explanation how the billing records got where they were or why they were not discovered and produced earlier. It remains a mystery to this day. Then, in the summer of 1997, a second set of these billing records was found in the attic of the late Vincent Foster's house in Little Rock. The time sheets for Rose's 1985-86 Madison work have never been found.

We should note that Webster Hubbell may have additional information pertaining to Castle Grande -- whether exculpatory or inculpatory -- that we have been unable to obtain. Mr. Hubbell was at the Rose Firm at the relevant time in 1985 and 1986, he gathered information about the Madison issue in the 1992

campaign, and his father-in-law Seth Ward was involved in the Castle Grande deal.

Two other important facts suggest that Mr. Hubbell may have additional information. First, on March 13, 1994, after a meeting at the White House where it had been discussed that Mr. Hubbell would resign from the Justice Department, then-Chief of Staff Mack McLarty told Mrs. Clinton that "We're going to be supportive of Webb."

As this criminal investigation was beginning in 1994 under Bob Fiske and later my Office, Mr. Hubbell received payments totalling nearly \$550,000 from several companies and individuals. Many were campaign contributors. These individuals had been contacted through the White House Chief of Staff Mr. McLarty. In June 1994, during a week in which he made several visits to the White House, Indonesian businessman James Riady met with Webster Hubbell and then wired him \$100,000. One of the individuals who arranged for Mr. Hubbell to receive a consulting contract was Vernon Jordan. The company that he convinced to hire Hubbell was MacAndrews & Forbes, parent company of Revlon -- the same company that later hired Monica Lewinsky upon Mr. Jordan's recommendation. As he was destined later to do with Monica Lewinsky, Mr. Jordan personally informed the President about his assistance to Mr. Hubbell.

Most of the \$550,000 was given to Mr. Hubbell for little or no work. This rush of generosity obviously gives rise to an inference that the money was essentially a gift. And if it was a

gift, why was it given? This money was given despite the fact that Mr. Hubbell was under criminal investigation for fraudulent billing and was a key witness in the Madison Guaranty investigation.

Second, as is known to the public, on certain prison tapes while Mr. Hubbell was in prison, he said to his wife: "I won't raise those allegations that might open it up to Hillary." On another tape, Mr. Hubbell said to White House employee Marsha Scott that he might "have to roll over one more time."

Mr. Hubbell's statements -- when combined with the amount of money he received and the information he was in a position to know -- raise very troubling questions. Mr. Hubbell is currently under federal indictment, and it would be inappropriate to say more about that at this time.

D. Travel Office

Let me add a few brief words about the Travel Office matter. This phase of work arose out of investigations by others of the 1993 firings of Billy Dale and six career co-workers. We do not anticipate that any evidence gathered in that investigation will be relevant to the Committee's current task. The President was not involved in our Travel Office investigation.

As to the status of that investigation, it was on hold for quite a while, in part because of litigation. The investigation is not terminated, but we expect to announce any decisions and actions soon.

E. FBI Files

As to the FBI files matter, there are outstanding issues that we are attempting to resolve with respect to one individual. But I can address two issues of relevance to the Committee's work. First, our investigation, which has been thorough, found no evidence that anyone higher than Mr. Livingstone or Mr. Marceca was in any way involved in ordering the files from the FBI. Second, we have found no evidence that information contained in the files of former officials was used for an improper purpose.

VI. The Office of Independent Counsel

A. Staff

Let me now mention a few words about our personnel, about our process, and about our reflections on this investigation. The character and conduct of the men and women of our Office -- career professionals who take their jobs and their oaths very seriously -- have been badly distorted. Perhaps that is inevitable given the nature of the issues involved in this case and the fact that the President of the United States is the subject of a criminal investigation. But it is regrettable. And so let me offer some truth about the Office.

I will start with our personnel. During the Lewinsky investigation, my staff has included skilled and experienced prosecutors from around the country. They have brought an enormous amount of experience and expertise to the Office. My colleagues during the past year have included a former United

States Attorney; the Chief of the Public Corruption unit of the United States Attorney's Office in Los Angeles; the Chief of the Public Corruption unit of the United States Attorney's Office in Miami; the chief of the bank fraud unit of the United States Attorney's office in San Antonio; prosecutors with lengthy experience in the Public Integrity Section of the Department of Justice; seasoned federal prosecutors from ten different States and the District of Columbia; and veteran state prosecutors from Maryland and Oregon.

The Office also has benefitted from the assistance of Sam Dash, Chief Counsel to the Senate Watergate Committee, who has offered great wisdom throughout my tenure as independent counsel. Professor Ronald Rotunda, constitutional law scholar from the University of Illinois, similarly has provided important advice on a variety of issues. The Office also has received assistance from professors at the University of Michigan, the University of Illinois, Notre Dame, and George Washington. Moreover, former law clerks for six different Supreme Court Justices have served on my staff during the past year.

During the Lewinsky investigation, the Office also relied on many talented investigators with extensive service in the FBI and other law enforcement agencies. And the FBI Laboratory yet again provided superb assistance, as it has throughout the Madison/Whitewater investigation.

In addition, let me express my great appreciation for the grand jurors who devoted much time and energy to examining the

witnesses and considering the evidence. Those 23 citizens of the District of Columbia have performed invaluable service, and I publicly thank them. This is the rare case where grand jury transcripts become publicly scrutinized, and as you now know, these grand jurors were active, knowledgeable, fair, and completely dedicated to uncovering and understanding the truth.

B. The Process

In all of our investigations, difficult decisions have been taken through our Office's deliberative process. The process calls upon each attorney -- drawing upon his or her background and experience -- to offer views on issues in question. This deliberative process is laborious, sometimes tedious. But it is an attempt to ensure that our Office makes the best decisions it can. I have drawn upon a vast array of experienced prosecutors and investigators because I was sensitive to -- and am sensitive to -- the fact that an independent counsel exists outside the Justice Department and is an unusual entity within our constitutional system.

Throughout this investigation, we have made every effort to follow Department of Justice practice and policy and to utilize time-honored law enforcement techniques. Of course, with their vast experience in the Department and FBI, my prosecutors and investigators embody such policy and practice. Nonetheless, it was often the case during an all-attorneys meeting that we would repair to the United States Attorney's Manual to be sure we had it right. It is true that some traditional law enforcement

procedures may not be entirely comfortable for some witnesses. But the procedures have been refined over decades of practice in which society's right to detect and prosecute crime has been balanced against individual liberty. It was not our place to reinvent the investigative wheel. Nor was it our place to discard law enforcement practices that are used every day by prosecutors and police throughout the country.

C. Decisions During the Investigation

With that, let me be the first to say that the Lewinsky investigation, in particular, presented some of the most challenging issues any lawyer could face. We had to make numerous difficult decisions -- and often had to do so quickly. Those included factual judgments (is witness X or witness Y telling us the whole truth?), strategic choices (do we provide immunity to Ms. Lewinsky in order to obtain her testimony? Is it appropriate to subpoena the President?), legal decisions (Do we accept the assertion of Executive Privilege for Bruce Lindsey or do we go to court to challenge it? What about the asserted Secret Service privilege?), and historic constitutional judgments (what is the meaning of Section 595(c) of the independent counsel statute and how do we write a referral that satisfies its requirements?).

Major decisions during the Lewinsky investigation have not been easy. And given the hurricane-force political winds swirling about us, we were well aware that, no matter what decision we made, criticism would come from somewhere. As

Attorney General Reno has said, in high-profile cases like these, you are damned if you do and damned if you don't, so you'd better just do what you think is the right and fair thing.

We also attempted to be thorough. But we did not invent that approach just for the Lewinsky case. To take just one previous example, in investigating matters relating to the death of Vincent Foster, we were painstaking in examining evidence, questioning witnesses, and calling upon experts in homicide and suicide. We were criticized during that investigation for being too thorough, taking too long. But time has proved the correctness of our approach. After an extensive investigation, the Office produced a report that addressed the many questions, confronted the difficult issues, laid out new evidence, and reached a definitive conclusion. Over time, the controversy over the Foster tragedy has dissipated because we insisted on being uncompromisingly thorough both in the investigation and in our report.

After the Attorney General and the Court of Appeals assigned us the Lewinsky investigation, the Office again received criticism for being too thorough. But the Lewinsky investigation could not be properly conducted in a slapdash manner. It was our duty to be meticulous, to be careful. We were. And in the process, we uncovered substantial and credible evidence of serious legal wrongdoing by the President.

Some then suggested that the report we submitted to Congress was too thorough. But bear in mind that we submitted the

referral, as we were required by statute, to the House of Representatives, not to the public. And we must dispute the suggestion that a report to the House suggesting possible impeachable offenses committed by the President of the United States should tell something less than the full story. The facts, the story are critical -- they affect credibility, they are necessary to avoid a distorted picture, they ultimately are the basis for a just conclusion. As a result, just as the jurors found the details of specific land deals critical in our trial of Governor Jim Guy Tucker and the McDougals, just as the Supreme Court includes the details of grisly murders in its death penalty cases, so too the details of the President's relationship with Ms. Lewinsky became relevant -- indeed, critical -- in determining whether and the extent to which the President made false statements under oath and otherwise obstructed justice in both the Jones v. Clinton case and then again in his grand jury testimony.

As you know, by an overwhelming bipartisan vote, the House immediately disclosed our referral to the public. But I want to be clear that the public disclosure or non-disclosure of the referral and the backup materials was a decision our Office did not make -- and lawfully could not make. We had no way of knowing in advance of submitting the referral, and we did not know, whether the House would publicly release both the report and the backup materials; would release portions of one or both; would release redacted versions of the report and backup

documents; would prepare and release a summary akin to Mr. Schippers' oral presentation; or would simply keep the referral and backup materials under seal just as Special Prosecutor Jaworski's submission in 1974 remained under seal. As a result, we respectfully but firmly reject the notion that our Office was trying to inflame the public. We are professionals, and we were trying to get the relevant facts, the full story, to the House of Representatives. That was our task. And that is what we did.

In fact, the referral has served a purpose. There has been virtually no dispute about a good many of the factual conclusions in the report. In the wake of the referral, for example, few have ventured that the President told the truth, the whole truth, and nothing but the truth in his civil case and before the grand jury. A key reason, we submit, is that we insisted -- as we have in our other investigations -- that we be exhaustive in the investigation and that we document the facts and conclusions in our report.

D. Reflections

I want to be absolutely clear on one point, however. Any suggestion that the men and women of our Office enjoyed or relished this investigation is wrong. It is nonsense. In at least three ways, the Lewinsky investigation caused all of us considerable dismay -- and continues to do so.

First, none of us has any interest whatsoever in investigating the factual details underlying the allegations of perjury and obstruction of justice in this case. My staff and I

agree with the sentiments expressed by Chairman Hyde in the November 9 hearing when he said "I'd like to forget all of this. I mean, who needs it?" But the Constitution and the criminal law do not have exceptions for unseemly or unpleasant or difficult cases. The Attorney General and the Court of Appeals assigned us a duty to pursue the facts. And we did so.

Second, this investigation has proved difficult for us because it centered on legal wrongdoing by the President of the United States. The Presidency is an Office that we -- like all Americans -- revere and respect. No prosecutor is comfortable when he or she reports wrongdoing by the President. All of us want to believe that our President has at all times acted with integrity -- and certainly that he has not violated the criminal law.

Everyone in my Office therefore envies the position years ago of Paul Curran, the distinguished counsel appointed by Attorney General Griffin Bell to investigate certain financial transactions involving President Carter. Mr. Curran received complete cooperation from President Carter, found no wrongdoing, and promptly returned to private life. I would like to do the same.

Third, this investigation was unpleasant because our Office knew that some Americans, for a variety of reasons, would be opposed to our work. But we would not, could not, allow ourselves to be deterred from doing our work. As I have said, our Office was assigned a specific duty to gather the facts --

and then, if appropriate, to make decisions and report the facts as quickly as we possibly could. In the end, we tried to adhere to the principle Congressman Graham discussed on October 5: Thirty years from now, not thirty days from now, we want to be able to say that we did the right thing.

E. The Independent Counsel

At the end of the day, I -- and no one else -- was responsible for our key decisions. And my background thus warrants brief note.

I came to this job as a product of the judicial process, of the courts. I began my legal career in 1973 as a law clerk, first for Judge David Dyer on the Fifth Circuit Court of Appeals and then for two years for Chief Justice Warren Burger. Following my clerkships, I was in private law practice in Los Angeles and Washington, during which time I worked on all manner of litigation matters -- civil, administrative, and criminal.

After William French Smith took office as Attorney General in January 1981, I served as Counselor to the Attorney General from 1981 to 1983. In that capacity, I experienced firsthand the varied and difficult judgment calls that faced the Attorney General every day -- whether it was dealing with the aftermath of the attempted assassination of President Reagan or selecting a Supreme Court nominee, in that case Justice Sandra Day O'Connor. I took away from the experience an admiration that has continued to this day for the career Justice Department lawyers, prosecutors, and law enforcement officials who toil without

fanfare, and for whom the guiding principles are fairness and respect for the law.

In 1983, President Reagan nominated and the Senate confirmed me to be a Judge on the United States Court of Appeals for the District of Columbia Circuit. I became a colleague on a Court with truly great Judges -- from J. Skelley Wright to Antonin Scalia, from Ruth Ginsburg to Robert Bork -- and tackled the important and intricate issues that came before the D.C. Circuit. The cases included issues as diverse as the constitutional right of a military serviceman to wear a yarmulke (a right I supported in vain) and the right of a newspaper, in that case The Washington Post, to be free under the First Amendment from the crushing threat of liability under the libel laws.

In 1989, I accepted appointment as Solicitor General of the United States. The Solicitor General is, as you know, the lawyer who represents the United States in arguments before the Supreme Court. A distinguished predecessor, Thurgood Marshall, often stated that being Solicitor General was the greatest job a lawyer could have, bar none. Justice Marshall had it right. As Solicitor General, I argued 25 cases before the Supreme Court. The arguments covered the spectrum of our law including whether flag burning is a protected right under the Constitution, whether there is a constitutional right to refuse unwanted medical treatment near the end of one's life, and whether the Senate's decision to convict and remove an impeached Judge is subject to judicial review. While I was Solicitor General, my overarching

goal was to run an Office faithful to the law, not to political or ideological opinion. And I think the record shows that I did just that.

In 1993, I left my second tour of duty in the Justice Department and returned to private practice and teaching constitutional law. In the period before I was named independent counsel in August 1994, I was not completely absent from public service, however. In late 1993, I was asked by the Senate Ethics Committee, chaired by Nevada's Democratic Senator Richard Bryan, to review Senator Packwood's diaries as part of the Ethics Committee's investigation.

Every person is, of course, deeply affected by his or her experiences. For my part, my experience is in the law and the courts. I am not a man of polls, public relations, or politics - - which I suppose is obvious at this point. I am not experienced in political campaigns.

As a product of the law and the courts, I have come to an unyielding faith in our court system -- our system of judicial review, the independence of our judges, our jury system, the integrity of the oath, the sanctity of the judicial process. The phrase on the facade of the Supreme Court "Equal Justice Under Law," the inscription inside the Justice Department building, "the United States wins its point when justice is done its citizens in the courts," are more than slogans. They are principles that the courts in this country apply every day. Our Office saw that firsthand in the trial of Governor Jim Guy

Tucker, Jim McDougal, and Susan McDougal. A juror said afterwards that they fought for the defendants' liberty, but were overwhelmed by the evidence. It is our judicial process that helps make this country distinct. And my background, my instincts, my beliefs have instilled in me a deep respect for the legal process that is at the foundation of our Republic.

President Lincoln asked that "reverence for the laws . . . be proclaimed in legislative halls and enforced in courts of justice." Mr. Chairman, my Office and I revere the law. I am proud of what we have accomplished. We were assigned a difficult job. We have done it to the very best of our abilities. We have tried to be both fair and thorough.

I thank the Committee and the American people for their attention.