

Appendix A-1

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Materials Relating to the Independent Counsel's January 19, 2001 Resolution of the Investigation of President William Jefferson Clinton

**Office of the Independent Counsel**

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January 19, 2001

Independent Counsel Robert W. Ray today issued the following statement:

President Clinton announced today his agreement to accept a five-year suspension of his license to practice law in the State of Arkansas. In that agreement, President Clinton acknowledged that he knowingly gave evasive and misleading answers in violation of Chief Judge Susan Webber Wright's discovery orders concerning his relationship with Monica Lewinsky and that that conduct was prejudicial to the administration of justice. In President Clinton's public statement, he acknowledged that he knowingly violated Judge Wright's discovery orders and that certain of his answers concerning his relationship with Monica Lewinsky were false. He also agreed not to seek legal fees in connection with this matter.

The country has reached the end of the tortuous path it has traveled for the last three years. By agreement with President Clinton, and upon entry of the Agreed upon Order of Discipline in Pulaski County Circuit Court, I have decided to exercise my discretion, consistent with the principles of federal prosecution, to decline prosecution of all matters within the January 16, 1998 jurisdictional mandate of the Special Division of the United States Court of Appeals for the District of Columbia Circuit. That mandate authorized this Office to investigate whether "Monica Lewinsky or others suborned perjury, intimidated witnesses, obstructed justice . . . or otherwise violated federal law . . . in dealing with witnesses, potential witnesses, attorneys, or others concerning the civil case Jones v. Clinton." That matter will be closed.

Fifteen months ago, I took an oath of office to conclude this investigation in a prompt, responsible, and cost-effective manner. In my judgment, I have fulfilled that promise.

I also pledged to heed the words of Justice Sutherland who wrote 60 years ago that the prosecutor's foremost obligation is not to win a case, but to ensure that "justice shall be done." This resolution, by agreement with President Clinton, means that justice has, in fact, been done. It is in the best interests of law enforcement and the country.

I also believe that this resolution is faithful to this country's principles of liberty and law. During World War II, Judge Learned Hand wondered "whether we do not rest our hopes too much upon constitutions, upon laws, and upon courts." He went on to say, "Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it." He believed that "[t]he spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias."

It is my hope that the result announced today will help restore faith and trust in federal law enforcement efforts in investigations of high ranking government officials. When he was Attorney General, Justice Robert H. Jackson observed that "the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility."

Under the Independent Counsel statute, this Office is obligated to prepare and submit to the Special Division a report that "set[s] forth fully and completely the work of the independent counsel." Once filed with the Special Division, the final report remains under seal until such time, if at all, the Special Division authorizes its public release. Historically, public release

occurs only after those persons named in a report are notified, pursuant to the statute, and have a full opportunity to read the relevant portions of the report that pertain to them and to prepare and file comments. This process typically takes several months after a report is filed.

Finally, I especially want to recognize and express my gratitude to agents of the Federal Bureau of Investigation and other law enforcement agencies for their contributions to the work of this Office. Those contributions have been critical to the appropriate conclusion of this and other investigations. Members of the grand jury sitting here in Washington also deserve our thanks.

Upon Entry of the Order of Agreed Discipline, President Clinton will be discharged from all criminal liability for matters within the remaining jurisdiction of this Office. These matters are now concluded.

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DAVID E. KENDALL

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

January 19, 2001

BY HAND

Robert W. Ray, Esq.
Independent Counsel
Office of the Independent Counsel
1001 Pennsylvania Avenue, N.W.
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Washington, D.C. 20004

Dear Mr. Ray:

We have had many discussions in recent days, both in person and by telephone. As you know, we are taking steps to bring this matter to a timely and appropriate conclusion, which the President believes is in the best interest of the country and his family. We know that you, too, seek to do what you believe is best for the country, and we appreciate the way in which you are discharging your responsibilities under the Independent Counsel Act.

In order to conclude this matter, we have met with the Arkansas Committee on Professional Conduct to settle the lawsuit arising out of the President's deposition testimony in the Paula Jones case. I am attaching to this letter a copy of the Agreed Order of Discipline which we have been able to negotiate with the Committee. The offer stated in this Order remains open to us until Friday, January 19, 2001.

The President is prepared to sign this Order to settle the Committee's suit. As you can see, this would mean accepting a five-year suspension, paying a \$25,000 fine (as legal fees for the Committee's outside counsel), and formally acknowledging a violation of one of the Arkansas Rules of Professional Conduct. The President is

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Robert W. Ray, Esq.
January 19, 2001
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willing to sign this Order, notwithstanding that a five-year suspension is far harsher than appropriate under the Arkansas precedents for this type of conduct (not having occurred during the practice of law and not involving a criminal conviction). Typically, the Committee has issued a reprimand in these circumstances. As you can see from the recent cases decided by the Arkansas Supreme Court, which we provided to your office, five-year suspensions have been imposed on lawyers who had pleaded guilty to several criminal charges and served several months in the federal penitentiary. While we therefore disagree with the terms the Committee is seeking, the President has decided he would be willing to accept this harsh settlement to do whatever he can to achieve closure before he leaves office.

In that same vein, the President has decided he will not seek any legal fees to which he might otherwise become entitled under the Independent Counsel Act as a result of the Lewinsky investigation. Thus, we will not file an application with the Special Division for reimbursement of those fees.

As we have discussed, the President described to the grand jury on August 17, 1998, what he had attempted to do in his deposition. He stated that when he was deposed, "I was doing my best to be truthful" (p. 28, Aug. 17, 1998, grand jury transcript). "I wanted to be legal without being particularly helpful" (id. at 78), "[m]y goal in this deposition was to be truthful but . . . I did not wish to do the work of the Jones lawyers" (id. at 80), and "I was determined to walk through the mine field of this deposition without violating the law, and I believe I did" (ibid.) (emphasis added in all quotations).

Reasonable people may conclude he crossed over that line he was trying to walk, and walking that line was plainly a dangerous and risky exercise. But when it comes to stating now what the President's intent was then in the deposition, all he can in conscience do is say what he told the earlier grand jury: he tried to avoid testifying falsely. When it comes to what his subjective motivation was, what the President actually believed, however successful he ultimately might have been in walking that line, all he can do is to state what that was.

We respect and agree with the goal you have articulated of bringing this matter to closure in the best interests of the country. We have attempted to do all we can to achieve that end. I believe that our mutual communications have been professional, candid, and, as appropriate, confidential. I think both sides have discharged our respective duties and responsibilities in a fair and honorable way.

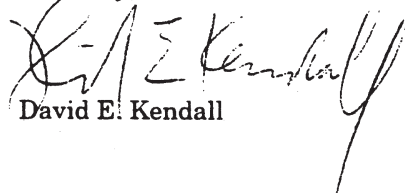
Given the steps the President is prepared to take, we know he might be legally prejudiced, as you have acknowledged in our discussions, if he signed the

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Robert W. Ray, Esq.
January 19, 2001
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Order prior to having an assurance there would be no prosecution. I am confident that, were you in our shoes, you would show the same prudence. For that reason, we would need to hear from you prior to proceeding to sign the Order, which the President is prepared to do immediately.

In the public statement you made on the day you took office fifteen months ago, you quoted Justice Sutherland's words in Berger v. United States, written over sixty-five years ago, that "the Government's interest in a matter entrusted to a prosecutor is to act fairly and impartially: 'not that it should win a case, but that justice shall be done.'" I believe that the President has paid an extraordinarily high price for his conduct and that it is now time to bring this matter to a conclusion without further action against him. I hope you will agree that, in the unique circumstances of this highly publicized matter, this would, finally, constitute justice.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Kendall". The signature is written in a cursive style with a large, sweeping initial "D".

David E. Kendall

**Office of the Independent Counsel**

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January 19, 2001

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

Dear Mr. Kendall:

This letter responds to your presentation to me of an Agreed Order of Discipline ("Order") with respect to a complaint by the Arkansas Supreme Court Committee on Professional Conduct, signed by President Clinton, and a written copy of a prepared public statement that President Clinton intends to issue regarding his agreement to and acceptance of the terms of the Order.

Upon entry of that Order by the Pulaski County Circuit Court and following the President's issuance of his public statement, I have decided to exercise my discretion, consistent with the principles of federal prosecution, to decline prosecution, with prejudice, of all matters within the January 16, 1998 jurisdictional mandate of the United States Court of Appeals for the District of Columbia Circuit, Division 94-1 for the Purpose of Appointing Independent Counsels (the "Special Division"). Subject to the foregoing terms, the investigation is now concluded, and Grand Jury 2000-3 (impaneled July 11, 2000) will thereafter be discharged.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert W. Ray", written over a horizontal line.

Robert W. Ray
Independent Counsel

1/19/01 FRI 13:54 FAX 202 456 6279

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

January 19, 2001

STATEMENT BY THE PRESIDENT

Today, I signed a consent order in the law suit brought by the Arkansas Committee on Professional Conduct, which brings to an end that proceeding. I have accepted a five-year suspension of my law license, agreed to pay a \$25,000 fine to cover counsel fees, and acknowledged a violation of one of the Arkansas Model Rules of Professional Conduct because of testimony in my Paula Jones case deposition. The disbarment suit will now be dismissed.

I have taken every step I can to end this matter. I have already settled the Paula Jones case, even after it was dismissed as being completely without legal and factual merit. I have also paid court and counsel fees in restitution and been held in civil contempt for my deposition testimony regarding Ms. Lewinsky, which Judge Wright agreed had no bearing on Ms. Jones' case, even though I disagreed with the findings in the judge's order. I will not seek any legal fees incurred as a result of the Lewinsky investigation to which I might otherwise become entitled under the Independent Counsel Act.

I have had occasion frequently to reflect on the Jones case. In this Consent Order, I acknowledge having knowingly violated Judge Wright's discovery orders in my deposition in that case. I tried to walk a line between acting lawfully and testifying falsely, but I now recognize that I did not fully accomplish this goal and that certain of my responses to questions about Ms. Lewinsky were false.

I have apologized for my conduct, and I have done my best to atone for it with my family, my Administration, and the American people. I have paid a high price for it, which I accept because it caused so much pain to so many people. I hope my actions today will help bring closure and finality to these matters.

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OFFICE OF THE INDEPENDENT COUNSEL
ROBERT W. RAY

Fifteen months ago I promised the American people that I would complete this investigation promptly and responsibly.

Today I fulfill that promise.

President Clinton has acknowledged responsibility for his actions. He has admitted that he knowingly gave evasive and misleading answers to questions in the Jones deposition and that his conduct was prejudicial to the administration of justice; he has acknowledged that some of his answers were false; he has agreed to a five year suspension of his Arkansas bar license; and he has agreed not to seek attorney's fees in connection with this matter.

The nation's interests have been served. And therefore, I decline prosecution.

In doing so, I have tried to heed Justice Robert Jackson's wisdom: "The citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility."

I trust that the decision made today meets the expectations of the American people, who deserve a resolution that acknowledges the president's conduct, respects America's institutions, and demonstrates sensitivity to our constitutional system of government.

This matter is now concluded. May history and the American people judge that it has been concluded justly.

-- Televised Statement by Independent Counsel Robert W. Ray
Upon Resolution of the Lewinsky Investigation

Friday, January 19, 2001