

# III. Findings

This Section summarizes the factual findings of this Office's investigation and details the Independent Counsel's analysis in declining prosecution of President Clinton.

## A. Summary of Findings.

On January 17, 1998, President Clinton, after being placed under oath by the Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas, testified in a deposition presided over by Judge Wright regarding his relationship with Monica Lewinsky. At the conclusion of President Clinton's testimony, Judge Wright specifically reminded President Clinton of her confidentiality order, barring discussion of the deposition.

On August 17, 1998, President Clinton testified before a duly empaneled federal grand jury conducting a criminal investigation that was undertaken by this Office at the specific request of Attorney General Janet Reno. President Clinton testified before the grand jury about his conduct in connection with Monica Lewinsky and the *Jones* case.

To evaluate the truthfulness of President Clinton's testimony before Judge Wright, the Independent Counsel examined evidence regarding the relationship between President Clinton and Monica Lewinsky. With respect to that relationship, the Independent Counsel reports:

- President Clinton and Monica Lewinsky engaged in an intimate sexual relationship from November 1995 to March 1997.
- During the course of that relationship, President Clinton and Lewinsky frequently were alone.
- Substantial evidence, including the testimony of Lewinsky, established that the sexual contact between Lewinsky and President Clinton involved instances where he touched her in an intimate way.
- President Clinton acknowledged that (1) in an attempt to conceal the true facts about his relationship with Lewinsky, he knowingly gave evasive and misleading answers concerning that relationship in violation of United States District Judge Susan Webber Wright's discovery orders, (2) his knowing violation of Judge Wright's discovery orders was prejudicial to the administration of justice, and (3) certain of his answers concerning his relationship with Lewinsky were false.

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To evaluate President Clinton's compliance with Judge Wright's discovery order, the Independent Counsel also examined the conduct of President Clinton in discussing his *Jones* deposition with others. With respect to that conduct, the Independent Counsel reports:

- At the conclusion of President Clinton’s deposition, Judge Wright specifically admonished President Clinton that a confidentiality order was in effect and that he was prohibited from discussing his deposition with anyone.
- Following his deposition, President Clinton contacted his secretary, Betty Currie, and asked her to come to the office the next day, which was a Sunday, where, in sum and substance, he made the following statements to her:
  - You were always there when Monica was there.
  - We were never really alone.
  - Monica came on to me, and I never touched her, right?
  - You could see and hear everything.

To evaluate the truthfulness of President Clinton’s testimony before a federal grand jury, the Independent Counsel examined President Clinton’s responses to questions posed to him before the grand jury. With respect to those responses, the Independent Counsel reports:

- President Clinton acknowledged he had been alone with Monica Lewinsky.
- President Clinton denied having had sexual relations with Lewinsky, as he understood the term, and also denied that he had had intimate contact with her breasts or genitalia.
- President Clinton said his conversation with Currie following his *Jones* deposition was for the purpose of determining whether his own recollection of his contact with Lewinsky was accurate.

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## B. Factual Background.

### 1. Evidence From Monica Lewinsky Relating to the Truthfulness of President Clinton’s Testimony.

Monica Lewinsky testified that on November 15, 1995, while she was employed as a White House intern and the *Jones* case was pending, President Clinton began a physical relationship with her.<sup>47</sup> That relationship included

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<sup>47</sup> Lewinsky 8/6/98 GJ at 10. Lewinsky testified before the grand jury after entering into a cooperation agreement with this Office, dated July 28, 1998, for which she received immunity from prosecution for her own conduct in connection with the *Jones v. Clinton* litigation. Agreement between OIC and Monica Lewinsky, July 28, 1998, GJ 97–2 Exh. No. ML–2. President Clinton claimed his improper relationship with Lewinsky did not begin until 1996. Statement of William Jefferson Clinton, GJ 97–2 Exh. No. WJC–1. The evidence corroborates Lewinsky: Presidential movement logs for November 15 and 17, 1995, show President Clinton in the locations, and at the times, described by Lewinsky. Lewinsky 8/6/98 GJ at 10–12; Presidential Movement Logs for Nov. 15, 1995 (Doc. No. 1222–DC–00000156); Presidential Movement Logs for Nov. 15, 1995 (Doc. No. 1362–DC–00000549); WAVES Records for Monica Lewinsky on Nov. 15, 1995 (Doc. No. V006–DC–00000005); Presidential Movement

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mutual sexual contact.<sup>48</sup> Throughout their intimate physical relationship and afterward, President Clinton and Lewinsky exchanged numerous personal gifts<sup>49</sup> and had sexually explicit telephone conversations.<sup>50</sup>

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President Clinton's sexual encounters with Lewinsky were typically pre-planned and orchestrated to conceal the true nature of the relationship.<sup>51</sup> The two arranged to meet on weekends because "most people weren't in on the weekends so . . . it would be safer to do that then."<sup>52</sup> On other occasions, Lewinsky testified,

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Logs for Nov. 17, 1995 (Doc. No. 1222-DC-00000162); EPASS Record for Monica Lewinsky on Nov. 17, 1995 (Doc. No. 827-DC-00000008); WAVES Record for Monica Lewinsky on Nov. 17, 1995 (Doc. No. V006-DC-00000005). Presidential telephone records for November 15 and 17, 1995 reflect calls between President Clinton and congressmen while he and Lewinsky were alone, as Lewinsky described. Lewinsky 8/6/98 GJ at 20; Lewinsky 8/26/98 Depo. at 5-13; Presidential Phone Records from Nov. 15, 1995 (Doc. No. 1472-DC-00000003 through 00000008); Presidential Phone Records from Nov. 17, 1995 (Doc. No. 1472-DC-00000011 through 00000015). White House photographs taken on November 17, 1995, show President Clinton eating pizza and standing in his Chief of Staff's office area, as described by Lewinsky in her testimony. Lewinsky 8/6/98 GJ at 14-16; Lewinsky 8/26/98 Depo. at 10-14; Photographs of President Clinton standing in his Chief of Staff's office area along with Monica Lewinsky and others (Doc. No. V006-DC-00003740 through 00003744). Betty Currie remembered that Lewinsky delivered pizza to President Clinton on November 17, 1995, as Lewinsky said in her testimony. Lewinsky 8/6/98 GJ at 14-16; Currie 1/27/98 GJ at 25; Currie 5/14/98 GJ at 36-38.

<sup>48</sup> Lewinsky 8/6/98 GJ at 12-13, 16, 18-20, 31; Lewinsky 8/20/98 GJ at 67-68; Lewinsky 8/26/98 Depo. at 6-7, 11-12, 14-16, 24-30, 36-37, 48-50; Lewinsky 12/8/00 Int. at 4. The investigation necessarily considered whether the President was truthful in testifying about his relationship with Monica Lewinsky. In assessing whether the President was truthful about that relationship, or might have intended to take steps to keep the truth about that relationship from coming to light, a precise description of the nature, times, locations, and supporting evidence of their physical relations was included in the Impeachment Referral, *supra* note 10, at 28-30 (first encounter November 15, 1995); *id.* at 30-32 (second encounter November 17, 1995); *id.* at 32-33 (third encounter December 31, 1995); *id.* at 34-35 (fourth encounter January 7, 1996); *id.* at 35-36 (fifth encounter January 21, 1996); *id.* at 36-37 (sixth encounter February 4, 1996); *id.* at 39-40 (seventh encounter March 31, 1996); *id.* at 44-47 (eighth encounter April 7, 1996); *id.* at 57-59 (ninth encounter February 28, 1997); *id.* at 60 (tenth and final encounter March 29, 1997); *id.* at 71 (Lewinsky's unsuccessful attempt to have an eleventh encounter on August 19, 1997). Those descriptions need not be repeated here.

<sup>49</sup> President Clinton and Lewinsky exchanged in excess of 48 gifts. Inventory Sheets—Gifts from President Clinton to Lewinsky produced by Currie in a box (Doc. No. 824-DC-00000001-2, 00000010 & 00000011); Additional gifts from President Clinton to Lewinsky produced by Currie (Doc. No. 902-DC-00000004 through 00000005); FBI Receipt for Property Received (Jul. 29, 1998) from Monica Lewinsky, Law Offices of Plato Cacheris (gifts from President Clinton to Lewinsky); Inventory of Consensual Search of Monica Lewinsky's apartment conducted on Jan. 22, 1998 (items seized from Lewinsky's apartment containing various gifts and memorabilia including gifts from President Clinton); White House Productions to subpoenas V006 and D1415 (gifts from Lewinsky to President Clinton) (David Kendall also responded to subpoena D1415); Productions from David E. Kendall, private counsel to President Clinton, response to subpoenas V002 and D1507 (gifts from Lewinsky to President Clinton).

<sup>50</sup> Lewinsky 8/6/98 GJ at 23-24, 139, 142-43; Clinton 8/17/98 GJ at 9.

<sup>51</sup> Lewinsky 8/20/98 GJ at 16, 18, 19, 22; Lewinsky 8/26/98 Depo. at 14, 17-18, 27-28; Lewinsky 2/1/99 Senate Depo. at 38-39; Currie 5/6/98 GJ at 155; Byrne 7/17/98 GJ at 4; *see also* Currie 5/6/98 GJ at 83-86 (meetings between Clinton and Lewinsky frequently occurred on "Saturdays or after hours").

<sup>52</sup> Lewinsky 8/6/98 GJ at 47; *see also* Lewinsky 8/6/98 at 18-19, 58, 149; Lewinsky 8/20/98 GJ at 7, 22; Lewinsky 8/26/98 Depo. at 14; Lewinsky 2/1/99 Senate Depo. at 61; Currie 7/22/98 GJ at 65-66. United States Secret Service personnel noticed a pattern. According to Brent Chinery, Uniformed Division, "when Monica would come in when I was working, it was always like on a Saturday morning or a Sunday morning around 9:00 or 10:00 in the morning. Nobody else would be around in the West Wing except for the President and Betty. Once Monica came in, even though the President was over in the residence, we knew he would be coming over to the oval [office] once Monica came in." Chinery 7/23/98 GJ at 50.

“we would usually plan that I would either bring papers, or . . . accidentally [bump] into each other in the hall . . . there was always some sort of cover.”<sup>53</sup>

To conceal the sexual aspect of their relationship from others, President Clinton and Lewinsky agreed that, if asked, each would deny the relationship and would falsely claim Lewinsky was present in the Oval Office area to bring him official papers or to visit President Clinton’s personal secretary, Betty Currie.<sup>54</sup> Lewinsky testified her friendship with Betty Currie was “a function of making [her] relationship with the President easier.”<sup>55</sup>

President Clinton’s and Lewinsky’s ninth sexual encounter on February 28, 1997, however, resulted in evidence establishing the sexual nature of their relationship—a stain on a blue dress worn by Lewinsky that day.<sup>56</sup> Tests revealed that the stain was President Clinton’s semen.<sup>57</sup>

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## 2. President Clinton’s Civil Discovery Responses.

President Clinton initially responded to the *Jones v. Clinton* complaint through a motion to dismiss the action claiming he was immune from civil suit while President.<sup>58</sup> On May 27, 1997, the United States Supreme Court ruled unanimously that the President of the United States was not immune while in office from being sued for private or personal activity, and the case was remanded to Judge Wright for further proceedings, including pretrial discovery.<sup>59</sup> Judge Wright imposed a Confidentiality Order prohibiting all parties and their counsel, agents, and spokespersons from disclosing to any person, directly or indirectly, the content and substance of any deposition, the questions asked, and the identity of witnesses to be deposed.<sup>60</sup>

As part of the pretrial discovery process, Jones attempted to show that President Clinton had engaged in a pattern of similar sexually oriented conduct with

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<sup>53</sup> Lewinsky 8/6/98 GJ at 53–54; *see also* Lewinsky 8/6/98 GJ at 18; Lewinsky 8/26/98 Depo. at 27–28, 34, 35; Byrne 7/17/98 GJ at 5.

<sup>54</sup> Lewinsky 8/6/98 GJ at 53–55, 123; Lewinsky 2/1/99 Senate Depo. at 53, 54–55, 58–61, 76, 91; Clinton 8/17/98 GJ at 118; Clinton 1/17/98 Depo. at 69.

<sup>55</sup> Lewinsky 8/6/98 GJ at 48.

<sup>56</sup> Impeachment Referral, *supra* note 10, at 57–59 (detailing the encounter).

<sup>57</sup> *See* Lewinsky 8/6/98 GJ at 32, 39–40; *see also* *infra* p. 35 and note 115 (describing FBI Laboratory tests confirming that semen on the dress was President Clinton’s).

<sup>58</sup> President Clinton’s Motion to Dismiss on Grounds of Presidential Immunity, *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Aug. 10, 1994).

<sup>59</sup> *Clinton v. Jones*, 520 U.S. 681 (1997).

<sup>60</sup> Confidentiality Order On Consent of All Parties at 2–3, *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Oct. 30, 1997):

IT IS HEREBY ORDERED, AND COUNSEL FOR ALL PARTIES CONSENT to the entry of the following confidentiality order to apply to the parties, counsel for the parties, and agents (including spokespersons) for the parties, prohibiting disclosure directly or indirectly of:

1. The time, place, or date on which any deposition is to be taken or the identity of any witness to be deposed; and
2. The content of any deposition, including but not limited to the questions asked, the answers given, whether any objections were made, the substance of any objections, the length of the deposition, whether the deposition went well or poorly, and whether new information was disclosed or old information confirmed; . . .

subordinate government employees.<sup>61</sup> Jones's attorneys served President Clinton with written interrogatories,<sup>62</sup> one of which stated:

Please state the name, address, and telephone number of each and every [federal employee] with whom you had sexual relations <sup>[63]</sup> when you [were] . . . President of the United States.<sup>64</sup>

President Clinton objected that this invaded his privacy, was irrelevant, was "beyond any reasonable scope of discovery," and was meant "solely to harass, embarrass and humiliate" him.<sup>65</sup> On December 11, 1997, Judge Wright overruled President Clinton's objection.<sup>66</sup> Judge Wright ordered President Clinton to answer questions regarding any state or federal employees with whom he had had sexual relations between May 8, 1986 and December 11, 1997.<sup>67</sup> On December 23, 1997, pursuant to Judge Wright's Discovery Order,<sup>68</sup> President Clinton, under penalty of perjury, answered "None."<sup>69</sup>

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On December 15, 1997, Jones's lawyers served President Clinton with a second set of document requests, asking him to "produce documents that related to communications between the President and Monica Lewi[n]sky."<sup>70</sup> On January 15, 1998, President Clinton's attorneys served his responses to Jones's document request, objecting to the scope of the request, but responding that notwithstanding that objection, President Clinton had no "documents concerning Monica

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<sup>61</sup> Second Set of Interrogatories from Plaintiff to Defendant Clinton, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Oct. 1, 1997).

<sup>62</sup> Written interrogatories are a common discovery device in federal civil cases by which a party serves written questions on the opposing party. The rules require that they be answered under oath and therefore under penalty of perjury. *See* Fed. R. Civ. P. 33.

<sup>63</sup> "Sexual relations" was not expressly defined in the interrogatory, and as Judge Wright later noted, remained undefined in the litigation until President Clinton's January 17, 1998 deposition. Clinton 1/17/98 Depo. at 26 (statement of Judge Wright). President Clinton was asked in the grand jury whether his "definition of sexual relationship is intercourse only," to which he answered, "No, not necessarily intercourse only. But it would include intercourse. I believe, I believe that the common understanding of the term, if you say two people are having a sexual relationship, most people believe that includes intercourse." Clinton 8/17/98 GJ at 23.

<sup>64</sup> Second Set of Interrogatories from Plaintiff to Defendant Clinton (Interrog. No. 10) at 7, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Oct. 1, 1997). The interrogatory in the text reflects Judge Wright's order, dated December 11, 1997, limiting the scope of the question to cover only women who were state or federal employees at the relevant times. Order, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Dec. 11, 1997).

<sup>65</sup> President Clinton's Responses to Plaintiff's Second Set of Interrogatories at 5, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Nov. 3, 1997) (Answer No. 10).

<sup>66</sup> Order, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Dec. 11, 1997).

<sup>67</sup> *See id.* at 4.

<sup>68</sup> *Id.*

<sup>69</sup> President Clinton's Supplemental Responses to Plaintiff's Second Set of Interrogatories at 2, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Dec. 23, 1997) (response to Interrog. No. 10).

<sup>70</sup> Plaintiff's Second Request for Production of Documents and Things at 6, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Dec. 15, 1997). "Documents" was defined by Jones's lawyers as that term is used in Fed. R. Civ. P. 34, which defines documents as including "writings, drawing, graphs, charts, photographs, phonorecords, and other data compilations." Plaintiff's Second Request for Production of Documents and Things at 2, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Dec. 15, 1997). The Jones attorneys also defined document to include "any tangible thing on which appears, or in which is stored or contained, any words, numbers, symbols, or images." *Id.*

Lewinsky” or “reflecting any communications, meetings or visits involving [President] Clinton and Ms. Lewinsky, especially within the White House.”<sup>71</sup>

[26] In contrast, Lewinsky later testified

[t]here were . . . some occasions when I sent him cards or notes that I wrote things that he deemed too personal to put on paper just in case something ever happened, if it got lost getting there or someone else opened it. So there were several times when he remarked to me, you know, you shouldn’t put that on paper.<sup>72</sup>

President Clinton agreed he had told her “she should be careful what she wrote, because a lot of it was clearly inappropriate and would be embarrassing if somebody else read it.”<sup>73</sup> Lewinsky said President Clinton admonished her about written references to their relationship during their final conversation on January 5, 1998, because of “[a]n embarrassing mushy note” she had recently sent him.<sup>74</sup>

### 3. Monica Lewinsky as a Witness in *Jones v. Clinton*.

On December 5, 1997, attorneys for Jones gave President Clinton’s attorneys a proposed witness list identifying Lewinsky as a potential witness.<sup>75</sup> Lewinsky testified that President Clinton called her in the middle of the night at around 2:00 or 2:30 a.m. on December 17, 1997,<sup>76</sup> and they spoke for about a half an hour.<sup>77</sup> During that conversation, he told her she was on the witness list.<sup>78</sup> Lewinsky later described the telephone conversation to the grand jury:

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I was—I’m sure, as you can imagine, I was upset and shocked [about being included on the witness list]. He told me that it didn’t necessarily mean that I would be subpoenaed, but that that was a possibility, and if I were to be subpoenaed, that I should contact Betty and let Betty know that I had received the subpoena.

I believe that I probably asked him, you know, what should I do in the course of that and he suggested, he said, “Well, maybe you can sign an affidavit.”<sup>[79]</sup>

At some point in the conversation, and I don’t know if it was before or after the subject of the affidavit came up, he sort of said, “[y]ou know,

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<sup>71</sup> President Clinton’s Responses to Plaintiff’s Second Set of Requests at 11–12, *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Jan. 15, 1998). In contrast, on January 27, 1998, in response to a grand jury subpoena issued on January 20, 1998 seeking “all documents and things referring or relating to Monica Lewinsky,” President Clinton produced to this Office, among other things: two antique books (Doc. Nos. V002–DC–00000003, V002–DC–00000471), and a coffee mug inscribed “Santa Monica” (Doc. No. V002–DC–00000473). Grand Jury Subpoena No. V002 (E.D. Va. Jan. 20, 1998).

<sup>72</sup> Lewinsky 8/6/98 GJ at 56.

<sup>73</sup> Clinton 8/17/98 GJ at 49.

<sup>74</sup> Lewinsky 8/6/98 GJ at 189–92.

<sup>75</sup> Plaintiff’s Witness List, *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Dec. 5, 1997).

<sup>76</sup> Lewinsky 8/6/98 GJ at 121–22.

<sup>77</sup> *Id.* at 121–26.

<sup>78</sup> *Id.* at 122–23.

<sup>79</sup> *Id.* at 123. Lewinsky said President Clinton suggested she might want to sign an affidavit. *Id.* The President testified he told Lewinsky that if she were called as a witness, she would “have to get a lawyer.” Clinton 8/17/98 GJ at 119. Lewinsky said she was “99.9 percent certain” that President Clinton did not tell her she should get a lawyer. Lewinsky 8/26/98 Depo. at 57.



you can always say you were coming to see Betty or that you were bringing me letters.” Which I understood was really a reminder of things that we had discussed before.<sup>80</sup>

On December 19, 1997, Lewinsky was served with a subpoena to appear for a deposition in *Jones v. Clinton*.<sup>81</sup> On January 7, 1998, Lewinsky executed an affidavit declaring, “I have never had a sexual relationship with the President. . . .”<sup>82</sup> Lewinsky admitted to the grand jury that this statement in her affidavit was false.<sup>83</sup>

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#### **4. President Clinton’s Deposition Testimony in *Jones v. Clinton*.**

On Saturday, January 17, 1998, President Clinton gave testimony under oath, as administered by Judge Wright, at a deposition in *Jones v. Clinton*.<sup>84</sup> During his deposition, President Clinton testified as follows:

Q: At any time were you and Monica Lewinsky together alone in the Oval Office?

A: I don’t recall. . . .

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

A: Yeah, that’s correct. . . .<sup>85</sup>

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<sup>80</sup> Lewinsky 8/6/98 GJ at 123–24; *see also* Lewinsky 2/1/99 Senate Depo. at 49–50; *but see* Lewinsky 2/1/99 Senate Depo. at 52–53 (responding “I don’t believe so, no” when asked whether President Clinton’s statement about what Lewinsky might say related to her affidavit). Lewinsky said she understood President Clinton’s advice to mean she might be able to execute an affidavit that “could range from anywhere between maybe just somehow mentioning. . . innocuous things or going as far as maybe having to deny any kind of relationship.” Lewinsky 8/6/98 GJ at 124. President Clinton later explained to the grand jury he “felt strongly. . . that she could execute an affidavit that would be factually truthful, that might get her out of having to testify.” Clinton 8/17/98 GJ at 119.

<sup>81</sup> Subpoena in a Civil Case (Monica Lewinsky), *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Dec. 17, 1997) (Doc. No. 1736–DC–00002677) (GJ 00–3 Exh. No. 222). Lewinsky 8/6/98 GJ at 127–28; Lewinsky 8/20/98 GJ at 65–66; Lewinsky 2/1/99 Senate Depo. at 62–63.

<sup>82</sup> Aff. of Jane Doe #6 [Monica Lewinsky] (Jan. 7, 1998) (Doc. Nos. 849–DC–00000634 through 00000635); *but see* Lewinsky 12/8/00 Int. at 3 (admitting affidavit was false and misleading).

<sup>83</sup> Lewinsky 8/6/98 GJ at 204–05. On December 8, 2000, Lewinsky again confirmed that her denial of a “sexual relationship” in the affidavit was “false.” Lewinsky 12/8/00 Int. at 3.

<sup>84</sup> The deposition was videotaped at the Washington, D.C. law offices of Robert S. Bennett, President Clinton’s attorney in the *Jones* case. Clinton 1/17/98 Depo. at 1. Judge Wright administered the following oath to President Clinton, as recorded on that videotape (GJ 00–3 Exh. No. 14–c):

JUDGE WRIGHT: Mr. President, please raise your right hand. Do you solemnly swear (or affirm) that the matter before the Court—excuse me—that the testimony that you are about to give, in the matter before the Court, will be the truth, the whole truth, and nothing but the truth, so help you God?

THE PRESIDENT: I do.

<sup>85</sup> Clinton 1/17/98 Depo. at 52–53.

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

A: I don't believe so, unless we were walking back to the back dining room with the pizza. I just, I don't remember. I don't believe we were alone in the hallway, no.<sup>86</sup>

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Q: [H]ave you ever had sexual relations with Monica Lewinsky, as that term is defined in Deposition Exhibit 1,<sup>[87]</sup> as modified by the Court?

[30] A: I have never had sexual relations with Monica Lewinsky. I've never had an affair with her.<sup>88</sup>

When asked about Lewinsky during the deposition, President Clinton referred to Betty Currie as having responsive information. For example, he said, "Betty suggested [Vernon Jordan] meet with [Lewinsky],"<sup>89</sup> or responded to questions by suggesting that Jones's lawyers "should ask Betty."<sup>90</sup>

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<sup>86</sup> *Id.* at 58–59.

<sup>87</sup> Definition of Sexual Relations, Deposition of William Jefferson Clinton, *Jones v. Clinton*, (Jan. 17, 1998) (Doc. No. 849–DC–00000586). The proffered definition was in three parts. *Id.* President Clinton's attorney objected that it was confusing and overbroad. Clinton 1/17/98 Depo. at 20. Judge Wright agreed "definition number two is too encompassing, it's too broad, and so is definition number three. Definition number one encompasses intent, . . . but numbers two and three . . . are just too broad." Clinton 1/17/98 Depo. at 22. As a result of Judge Wright's ruling (reflected below in ~~strike out~~), the definition of "sexual relations" used was as follows:

Definition of Sexual Relations

For the purposes of this deposition, a person engages in "sexual relations" when the person knowingly engages in or causes –

(1) contact with the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to arouse or gratify the sexual desire of any person;

~~(2) contact between any part of the person's body or an object and the genitalia or anus of another person; or~~

~~(3) contact between the genitalia or anus of the person and any part of another person's body.~~

"Contact" means intentional touching, either directly or through clothing.

President Clinton later agreed the definition "was the one the Judge decided on and I was bound by it." Clinton 8/17/98 GJ at 18.

<sup>88</sup> Clinton 1/17/98 Depo. at 78; *but see* Lewinsky 12/8/00 Int. at 4 (stating the opposite).

<sup>89</sup> Clinton 1/17/98 Depo. at 72.

<sup>90</sup> *Id.* at 62, 71. Other examples occurred as follows:

Q. Do you recall ever walking with Monica Lewinsky down the hallway from the Oval Office to your private kitchen there in the White House?

A. . . . at some point during the government shutdown, . . . [Lewinsky] was back there with a pizza that she brought to me and to others. I do not believe she was there alone, however. I don't think she was. And my recollection is that on a couple of occasions after that she was there but my secretary, Betty Currie, was there with her. She and Betty are friends. That's my, that's my recollection.

*Id.* at 56–58.

Q. And how do you know [Currie and Lewinsky] are friends?

*Continued—*



During the first break in the deposition, President Clinton, his attorney Robert S. Bennett, White House Counsel Charles F.C. Ruff, and Deputy White House Counsel Bruce R. Lindsey discussed whether to place Lewinsky's affidavit on the record, ultimately agreeing that Bennett would do so and then "ask President Clinton a few questions about it."<sup>91</sup> Bennett recalled that at this break, he and President Clinton "read[ ] or review[ed] Paragraphs 6 and 8 of the Lewinsky affidavit" in which she denied a sexual relationship with President Clinton.<sup>92</sup> President Clinton expressly "consented to" placing Lewinsky's affidavit "on the record at the deposition," and "indicated he would affirm Paragraphs 6 and 8."<sup>93</sup> Immediately after the break, Bennett asserted before Judge Wright that the affidavit established that "there is absolutely no sex of any kind in any manner, shape or form" between President Clinton and Lewinsky.<sup>94</sup> Following a later break in the deposition, Bennett read aloud for the record the portion of Lewinsky's affidavit denying a "sexual relationship" and asked President Clinton whether the statement was "true and accurate," to which President Clinton responded under oath: "That is absolutely true."<sup>95</sup>

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A. Well, I know they're friends because, because Betty befriended her when she was working there, . . . I think Betty just sort of adopted her, you know. She's much younger than Betty, obviously. I think Betty just took an interest in her and kind of adopted her and has kept in touch with her over the time since she left the White House. . . .

Q. Now, to your knowledge, has Monica Lewinsky ever sent any letters from the Pentagon to Betty Currie in the White House?

A. I don't know. You'd have to ask Betty about that.

*Id.* at 61–62.

<sup>91</sup> Aff. of Robert S. Bennett ¶ 6 (June 9, 2000); Supplementary Aff. of Robert S. Bennett at ¶ 2 (Aug. 11, 2000). These affidavits and others executed by Mr. Bennett were authorized by President Clinton and submitted to this Office by David E. Kendall, private counsel to President Clinton, in connection with this investigation. See Letter from David E. Kendall, to Robert W. Ray, Independent Counsel (July 17, 2000) (transmitting June 9, 2000 affidavit); *see also* Supplementary Aff. of Robert S. Bennett at ¶ 1 (Aug. 11, 2000); Second Supplementary Aff. of Robert S. Bennett at ¶ 2 (Sept. 11, 2000); Third Supplementary Aff. of Robert S. Bennett at ¶ 2 (Oct. 20, 2000); Fourth Supplementary Aff. of Robert S. Bennett at ¶ 2 (Nov. 22, 2000).

<sup>92</sup> Third Supplementary Aff. of Robert S. Bennett at ¶ 3b (Oct. 20, 2000).

<sup>93</sup> Second Supplementary Aff. of Robert S. Bennett at ¶¶ 3c & d (Sept. 11, 2000).

<sup>94</sup> Clinton 1/17/98 Depo. at 54. President Clinton later claimed before the grand jury that he "was not paying a great deal of attention to this exchange." Clinton 8/17/98 GJ at 58. In contrast, Judge Wright's law clerk, Barry W. Ward, who attended the deposition, executed a sworn statement that he had "observed President Clinton looking directly at Mr. Bennett" during Mr. Bennett's statement. Ward 1/25/99 Aff. at 1; *see also* 145 Cong. Rec. S1351 (daily ed. Feb. 8, 1999) (reading portions of Ward's affidavit, including the quoted portion, on the Senate floor).

<sup>95</sup> Clinton 1/17/98 Depo. at 204; *but see* Lewinsky 12/8/00 Int. at 2 (conceding the statement in her affidavit was false). Bennett advised Judge Wright as follows on September 30, 1998:

As you are aware, Ms. Monica Lewinsky submitted an affidavit dated January 7, 1998 . . . in support of her motion to quash the subpoena for her testimony. This affidavit was made part of the record of President Clinton's deposition on January 17, 1998.

It has recently been made public in the Starr Report that Ms. Lewinsky testified before a federal grand jury in August 1998 that portions of her affidavit were misleading and not true. Therefore, pursuant to our professional responsibility, we wanted to advise you that the Court should not rely on Ms. Lewinsky's affidavit or remarks of counsel characterizing that affidavit.

Letter from Robert S. Bennett, private counsel to President Clinton, to the Hon. Susan Webber Wright (Sept. 30, 1998).

At the conclusion of the deposition, Judge Wright specifically instructed President Clinton that the parties were prohibited from “saying anything whatsoever” to anyone about the substance and details of the deposition pursuant to the Court’s October 30, 1997 Confidentiality Order:<sup>96</sup>

JUDGE WRIGHT: All right. Before he leaves, I want to remind him, as the witness in this matter, and everyone else in the room, that this case is subject to a Protective Order regarding all discovery, that it’s my intent that this deposition not be used for any purposes other than the purposes envisioned by the Rules of Civil Procedure and the Rules of Evidence, and that is for use in this Court case and for no other purpose, and therefore, all parties present, including Secret Service agents, videographers, court reporters and the witness are not to say anything whatsoever about the questions they were asked, the substance of the deposition, the length of it, objections, recess, any details, whether the President did well or did not do well, whether he is credible or not credible, whether he admitted or denied any specific allegations, and this is extremely important to this Court that the, this process not be used for any purpose other than the purposes envisioned in the Rules of Evidence and the Rules of Civil Procedure, and that’s all I’m going to say. I gave a similar admonition about a year-and-a-half ago when I was up here in the White House, and it worked that time, and I hope that it works this time as well. If it does not, of course, anyone who violates that can be subject to sanctions of the Court.<sup>97</sup>

[33]

## 5. President Clinton’s Conduct After His Deposition.

Early Saturday evening, following the conclusion of his deposition, President Clinton returned to the White House and called Betty Currie to ask her to come to the White House the next day to meet with him.<sup>98</sup> When President Clinton met with Currie on Sunday, January 18, 1998, he discussed his deposition with her.<sup>99</sup> Currie testified that President Clinton appeared “concerned,” and told her he had been asked questions about Lewinsky at the deposition.<sup>100</sup> Currie thought his comments were intended to be “more like statements than questions”<sup>101</sup> that “he wished [her] to agree with,”<sup>102</sup> and, in sum and substance, were as follows:<sup>103</sup>

- You were always there when Monica was there.
- We were never really alone.

[34]

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<sup>96</sup> Clinton 1/17/98 Depo. at 212–13.

<sup>97</sup> *Id.*

<sup>98</sup> Currie 1/27/98 GJ at 65–67; Clinton 8/17/98 GJ at 147–48; Presidential Call Log, Jan. 17, 1998 (Doc. No. V006–DC–00002066).

<sup>99</sup> Clinton 1/17/98 Depo. at 148; Currie 1/27/98 GJ at 70–71.

<sup>100</sup> Currie 1/27/98 GJ at 70–75.

<sup>101</sup> *Id.* at 71 (“Q: Okay. And then you told us that the President began to ask you a series of questions that were more like statements than questions. A: Right”).

<sup>102</sup> *Id.* at 74 (“Q: Would it be fair to say, then—based on the way he stated it and the demeanor that he was using at the time that he stated it to you—that he wished you to agree with that statement? A: I can’t speak for him, but—Q: How did you take it? . . . A: (Nodding.) Q: And you’re nodding your head ‘Yes’; is that correct? A: That’s correct”).

<sup>103</sup> Currie 1/24/98 Int. at 6.

- Monica came on to me, and I never touched her, right?
- You could see and hear everything.<sup>104</sup>

Currie also told Office of the Independent Counsel investigators she felt President Clinton made these remarks to gauge her reaction.<sup>105</sup> Currie said President Clinton met with her again a few days later to reiterate these statements.<sup>106</sup>

[35]

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<sup>104</sup> Currie 1/27/98 GJ at 71–74; Currie 7/22/98 GJ at 6–7, 10–11, 79; *see also* Clinton 8/17/98 GJ at 55–57. According to Currie, the way President Clinton phrased the inquiries made them sound like both questions and statements at the same time. Currie 1/24/98 Int. at 6.

At different points in her grand jury testimony, there are minor variations in the wording used or agreed to by Betty Currie in recounting President Clinton's statements. *Compare* Currie 1/27/98 GJ at 71 ("You were always there when Monica was there" (Currie statement)) *with id.* at 74 (Q: "You were always there when she was there, right?" Is that the way you remember the President stating it to you?" A: "That's how I remember him stating it to me"). Less than ten days after the events, she claimed her memory of the details was "getting worse by the minute." *Id.* at 71.

Currie explained that discrepancies in her testimony were due to memory problems. For example, in her May 6, 1998 testimony, Currie acknowledged she sometimes would come to the White House on weekends or when few others were present solely to have Lewinsky admitted and bring her to see President Clinton. Currie 5/6/98 GJ at 83–86. Just over two months later, she testified that "[she] d[id]n't remember any occasions" when she came just to admit Lewinsky, though she could not rule it out. Currie 7/22/98 GJ at 24.

To resolve discrepancies in Currie's testimony and to assess her credibility as a witness, the Independent Counsel invited Currie to be interviewed by this Office in December 2000. *See* Letter from John S. Bowler, Assoc. Independent Counsel, to Lawrence H. Wechsler, attorney for Betty Currie (Dec. 8, 2000). Currie's attorney declined on her behalf stating, "The fact is that your request to re-interview Mrs. Currie, with regard to precisely the same matters covered by your office's previous interviews, represents an unwelcome, and we believe completely unnecessary, imposition upon my client. . . . As you know, your office had the opportunity to interview Mrs. Currie on numerous occasions, and had the further opportunity to question Mrs. Currie in the grand jury on no less than five separate occasions. As you have copies of the notes and reports of the interviews and of the transcripts of the grand jury testimony, there can be no question but that you have a full record of my client's recollections as to the matters that you have elected to investigate." Letter from Lawrence H. Wechsler, attorney for Betty Currie, to John S. Bowler, Assoc. Independent Counsel 1 (Dec. 11, 2000).

<sup>105</sup> Currie 1/24/98 Int. at 7.

<sup>106</sup> Currie 1/27/98 GJ at 80–82. Deputy White House Counsel Cheryl D. Mills also attempted to contact Betty Currie to discuss this Office's investigation at a time when Mills knew that Currie had retained counsel and after it had been publicly disclosed that Currie had been subpoenaed to testify before the grand jury. *See* Mills 8/11/98 GJ at 81–82 (discussing pager message from Mills to Currie at 9:18 p.m. on Saturday, January 24, 1998: "Checking on you. Thinking about you. Page me if you need me. C. D. Mills XOXOXO"); *id.* at 83 (acknowledging that she had known at the time that Currie was already represented with respect to the investigation because she had helped her retain counsel); Amy Goldstein, *Summons Thrusts President's Gatekeeper Into View*, Wash. Post, Jan. 23, 1998, at A20 (reporting that, the day before Mills's page, Currie had been subpoenaed by this Office); *id.* at 82–83 (acknowledging that although she could not recall whether her page "was before or after I had already had discussions with [Currie] regarding a lawyer and I knew that you all [the Office of the Independent Counsel] were seeking to speak with her[,] . . . if it is that time frame, that's like [sic] what I would have been paging her about"). Mills characterized Currie as "a friend of mine" and testified that she paged Currie "frequently." *Id.* at 77–80.

On January 22, 1998, five days after the President's deposition, Jones's lawyers issued a subpoena for Betty Currie's deposition. Currie was served with the subpoena on January 27. Subpoena in a Civil Case (Betty Currie), *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Jan. 22, 1998) (Doc. No. ES–DC–00000006) (GJ 00–3 Exh. No. 216). Jones's lawyers also supplemented their witness list to include Currie on January 23. Plaintiff's Supplement To Witness List, *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Jan. 23, 1998) (Doc. No. ES–DC–00000001) (GJ 00–3 Exh. No. 217).

In order to prevent civil discovery from interfering with the criminal investigation by, among other things, having witnesses like Currie simultaneously subpoenaed by Jones's attorneys and the grand jury, the Independent Counsel filed a motion with Judge Wright to stay discovery until the criminal investigation was resolved. Motion of the United States for Limited Intervention and a Stay of Discovery, *Jones v. Clinton*, LR–C–94–290 (E.D. Ark. Jan. 28, 1998). On January 29, 1998, Judge Wright

*Continued—*

After Currie met with President Clinton on Sunday afternoon, she paged Lewinsky four times, at 5:12 p.m., 6:22 p.m., 7:06 p.m., and 8:28 p.m.<sup>107</sup> Currie testified President Clinton “may have asked me to call [Lewinsky] to see what she knew or where she was or what was happening.”<sup>108</sup> At 11:02 p.m., President Clinton called Currie to ask whether she had spoken to Lewinsky, which Currie had not.<sup>109</sup>

The next morning, Monday, January 19, Currie continued trying to contact Lewinsky, paging her at 7:02 a.m., 8:08 a.m., 8:33 a.m., 8:37 a.m., and 8:41 a.m.<sup>110</sup> Currie said she was calling to tell Lewinsky that she (Lewinsky) had been mentioned during President Clinton’s deposition.<sup>111</sup> At 8:50 a.m., President Clinton called Currie at her home.<sup>112</sup> Currie told President Clinton that she had been unable to reach Lewinsky.<sup>113</sup>

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Wright granted the Independent Counsel’s request, and ordered that “the plaintiff and defendants may not continue with discovery of those matters that concern Monica Lewinsky” because of the need to “protect the integrity of the criminal investigation” and the “fact that the government’s proceedings could be impaired and prejudiced were the Court to permit inquiry into the Lewinsky matter by parties in this civil case.” Order at 3, *Jones v. Clinton*, LR-C-94-290 (E.D. Ark. Jan. 29, 1998).

<sup>107</sup> The messages said, in order of reference, “PLEASE CALL KAY AT HOME,” “PLEASE CALL KAY AT HOME,” “PLEASE CALL KAY AT HOME,” and “CALL KAY,” with Currie referring to herself as “Kay.” See Lewinsky’s pager records (Jan. 18, 1998) (Doc. No. 831-DC-000000008); Currie 5/7/98 GJ at 96-97; Currie 7/22/98 GJ at 156, 158.

<sup>108</sup> Currie 5/7/98 GJ at 99-100.

<sup>109</sup> Currie 7/22/98 GJ at 161-62; Presidential Call Log (Jan. 18, 1998) (Doc. No. 1248-DC-00000314).

<sup>110</sup> The pages said, in order of reference, “PLEASE CALL KAY AT HOME AT 8:00 THIS MORNING,” “PLEASE CALL KAY,” “PLEASE CALL KAY AT HOME,” “PLEASE CALL KAY AT HOME. IT’S A SOCIAL CALL. THANK YOU,” and “KAY IS AT HOME. PLEASE CALL.” Lewinsky’s pager records (Jan. 19, 1998) (Doc. No. 831-DC-000000009); Currie 5/7/98 GJ at 104-05; Currie 7/22/98 GJ at 160-62.

<sup>111</sup> Currie 7/22/98 GJ at 157-59, 164-66.

<sup>112</sup> Presidential Call Log (Jan. 19, 1998) (Doc. No. 1248-DC-00000318).

<sup>113</sup> Currie 7/22/98 GJ at 162-63. At 8:51 a.m., Currie paged Lewinsky again. Lewinsky’s pager records (Jan. 19, 1998) (Doc. No. 831-DC-000000009). The page read, “MSG. FROM KAY. PLEASE CALL. HAVE GOOD NEWS.” *Id.*

At 8:56 a.m., President Clinton also called Vernon Jordan’s residence, and spoke for nine minutes. Presidential Call Log (Jan. 19, 1998) (Doc. No. 1248-DC-00000318). At 10:29 a.m., a page was sent from Jordan’s office to Lewinsky. Akin, Gump, Strauss, Hauer & Feld call log (Jan. 19, 1998) (Doc. No. V004-DC-00000165); Lewinsky’s pager records (Jan. 19, 1998) (Doc. No. 831-DC-000000009) (“PLEASE CALL MR. JORDAN”). At 10:36 a.m., a call lasting just under four minutes was placed from Jordan’s office to the White House. Akin, Gump, Strauss, Hauer & Feld call log (Jan. 19, 1998) (Doc. No. V004-DC-00000165). At 10:53 a.m., a thirty-six second call was placed from Jordan’s office to Frank Carter’s office, who was Lewinsky’s attorney. Akin, Gump, Strauss, Hauer & Feld call log (Jan. 19, 1998) (Doc. No. V004-DC-00000165).

At 10:58 a.m., President Clinton called Jordan’s office. Presidential Call Log (Jan. 19, 1998) (Doc. No. 1248-DC-00000319). At 11:16 a.m., Jordan again paged Lewinsky. Lewinsky’s pager records (Jan. 19, 1998) (Doc. No. 831-DC-000000009) (“PLEASE CALL MR. JORDAN”). At 12:31 p.m., Jordan used his cell phone to have a three minute conversation with the White House. Bell Atlantic Mobile toll records (Jan. 19, 1998) (Doc. No. 1033-DC-00000035). At 1:45 p.m., President Clinton phoned Currie at her home, which lasted two minutes. Presidential Call Log (Jan. 19, 1998) (Doc. No. 1248-DC-00000319). At 2:29 p.m., Jordan placed a two minute call from his cell phone to the White House. Bell Atlantic Mobile toll records (Jan. 19, 1998) (Doc. No. 1033-DC-00000035). At 2:46 p.m., Carter paged Lewinsky. Lewinsky’s pager records (Jan. 19, 1998) (Doc. No. 831-DC-000000009) (“PLEASE CALL FRANK CARTER”).

Jordan’s attempts to reach Lewinsky were also unsuccessful, Jordan 6/9/98 GJ at 17, 21-23, and Carter told him that afternoon that Lewinsky had obtained new attorneys. Carter 6/18/98 GJ at 146.

## 6. President Clinton's Grand Jury Testimony.

[37]

The Independent Counsel's criminal investigation began on January 16, 1998.<sup>114</sup> Seven months later, on August 17, 1998,<sup>115</sup> President Clinton testified from the Map Room of the White House via live video transmitted to federal Grand Jury 97-2 empaneled in the District of Columbia.<sup>116</sup> At his grand jury appearance, President Clinton was asked, "Mr. President, were you physically intimate with Monica Lewinsky?"<sup>117</sup> He then asked for and received permission to read the following prepared statement:

[38]

When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters did not consist of sexual intercourse; they did not constitute "sexual relations" as I understood that term to be defined at my January 17, 1998, deposition; but they did involve inappropriate intimate contact. These inappropriate encounters ended, at my insistence, in early 1997. I also had occasional telephone conversations with Lewinsky that included inappropriate sexual banter. I regret that what began as a friendship came to include this conduct. I take full responsibility for my actions. While I will provide the grand jury whatever other information I can, because of privacy considerations affecting my family, myself, and others, and in an effort to preserve the dignity of the Office I hold, this is all I will say about the specifics of these particular matters. I will try to answer to the best of my ability other questions, including questions about my relationship with Lewinsky, questions about my understanding of the term "sexual relations" as I understood that term to be defined at my January 17, 1998, deposition, and questions concerning alleged subornation of perjury, obstruction of justice, and intimidation of witnesses.<sup>118</sup>

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<sup>114</sup> Fallon 1/27/98 GJ at 4.

<sup>115</sup> President Clinton's agreement to appear before the grand jury voluntarily on August 17 was reached not long after Lewinsky began cooperating with this Office on July 28, 1998, GJ 97-2 Exh. No. ML-2, and produced a blue dress she believed was stained with President Clinton's semen. Declaration of Robert J. Bittman, Deputy Independent Counsel (Aug. 3, 1998) (Doc. No. MLR-DC-00000001); Photograph of Blue Dress (Doc. No. DB Photos 0007); Lewinsky 8/20/98 GJ at 50-51; Lewinsky 8/6/98 GJ at 37-41. On July 30, 1998, the blue dress was sent to the FBI laboratory. Federal Bureau of Investigation Laboratory Report at 1-2 (Aug. 3, 1998). This Office notified President Clinton's attorney that it had a substantial predicate to request President Clinton's blood sample. Letter from Robert J. Bittman, Deputy Independent Counsel, to David E. Kendall, private counsel to President Clinton (July 31, 1998). On August 3, 1998, the FBI laboratory confirmed the stain was human semen. Federal Bureau of Investigation Laboratory Report at 1-2 (Aug. 3, 1998). On August 3, 1998, President Clinton provided a blood sample. FBI FD-302 8/3/98 at 1. A scientific comparison of President Clinton's blood with the semen on Lewinsky's blue dress showed the DNA matched. Federal Bureau of Investigation Laboratory Report at 1 (Aug. 17, 1998). Letter from Donald M. Kerr, Asst. Director, Laboratory Division, FBI to Kenneth W. Starr, Independent Counsel (Sept. 8, 1998).

<sup>116</sup> Clinton 8/17/98 GJ at 2-5.

<sup>117</sup> *Id.* at 8.

<sup>118</sup> *Id.* at 8-9; GJ 97-2 Exh. No. WJC-1 (after President Clinton read the statement, it was marked as an exhibit).



[39]

**a. Regarding President Clinton's Intent During the Jones v. Clinton Deposition.**

President Clinton testified before the grand jury about his state of mind during his January 17, 1998 *Jones v. Clinton* deposition when responding to questions about Monica Lewinsky:<sup>119</sup>

[40]

I was doing my best to be truthful. I was not trying to be particularly helpful to them [Paula Jones's attorneys], and I didn't think I had an obligation to be particularly helpful to them to further a—when I knew that there was no evidence here of sexual harassment, and I knew what they wanted to do was to leak this, even though it was unlawful to do so.<sup>120</sup>

\* \* \*

And when I was asked about this [gifts exchanged with Lewinsky] in my deposition, even though I was not trying to be helpful particularly to these people that I thought were not well-motivated, or being honest or even lawful in their conduct vis-à-vis me, that is the Jones legal team, I did ask them specifically to enumerate the gifts. I asked them to help me because I couldn't remember the specifics.<sup>121</sup>

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<sup>119</sup> Also reflective of President Clinton's state of mind during the deposition were the statements he gave in the days immediately following his deposition. "False or inconsistent statements that a defendant makes in explanation or defense" may be considered by a jury as evidence "tending to prove the defendant's consciousness of guilt." Criminal Jury Instructions for the District of Columbia, Instr. 2.29, at 103-04 (4th ed. 1993).

On Wednesday morning, January 21, 1998, President Clinton told Jim Lehrer on *The NewsHour With Jim Lehrer* that "There is no improper relationship," and when asked to explain said, "Well, I think you know what it means. It means that there is not a sexual relationship, an improper sexual relationship, or any other kind of improper relationship." Interview by Jim Lehrer with President Clinton, PBS, *The NewsHour* (Jan. 21, 1998).

Also that afternoon, the Capitol Hill newspaper *Roll Call* interviewed President Clinton and asked, "You said in a statement today that you had no improper relationship with this intern. What exactly was the nature of your relationship with her?" Excerpts of Telephone Interview of the President by Roll Call, U.S. Newswire, Jan. 21, 1998. He answered saying, "Well, let me say, the relationship was not improper..." *Id.* The *Roll Call* reporter then asked, "Was it in any way sexual?", and President Clinton answered, "The relationship was not sexual. And I know what you mean, and the answer is no." *Id.*

Later that afternoon, President Clinton was interviewed on the National Public Radio program *All Things Considered*. He was asked, "Is there any truth to the allegation of an affair between you and the young woman?" He responded, "No. That's not true either. And I have told people that I would cooperate in the investigation, and I expect to cooperate with it. I don't know any more about it than I've told you, and any more about it, really, than you do. But I will cooperate. The charges are not true. And I haven't asked anybody to lie." *All Things Considered*: Interview of President Clinton (NPR radio broadcast, Jan. 21, 1998).

Then on January 26, 1998, President Clinton added the following at the conclusion of a news conference:

But I want to say one thing to the American people. I want you to listen to me. I'm going to say this again: I did not have sexual relations with that woman, Miss Lewinsky. I never told anybody to lie, not a single time. Never. These allegations are false.

Remarks on the After School/Child Care Initiative by President Clinton (Jan. 26, 1998), in *Public Papers of the Presidents of the United States: William J. Clinton 1998 Book I* (Jan. 1 to June 30, 1998) at 110-11 (1999).

<sup>120</sup> Clinton 8/17/98 GJ at 28.

<sup>121</sup> *Id.* at 45.



In the face of that, I knew that in the face of their [the Jones lawyers] illegal activity [leaks of information revealed in discovery] I still had to behave lawfully. But I wanted to be legal without being particularly helpful. I thought that was, that was what I was trying to do.<sup>122</sup>

\* \* \*

Now, so I will admit to this, sir. My goal in this deposition was to be truthful, but not particularly helpful. I did not wish to do the work of the Jones lawyers. I deplored what they were doing. I deplored the innocent people they were tormenting and traumatizing. I deplored their illegal leaking. I deplored the fact that they knew, once they knew our evidence, that this was a bogus lawsuit, and that because of the funding they had from my political enemies, they were putting [sic] ahead. I deplored it. But I was determined to walk through the mine field of this deposition without violating the law, and I believe I did.<sup>123</sup>

In his January 19, 2001 statement, however, President Clinton acknowledged, “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.”<sup>124</sup> President Clinton admitted in the Agreed Order of Discipline that he “knowingly gave evasive and misleading answers, in violation of Judge Wright’s discovery orders, concerning his relationship with Ms. Lewinsky,” and “[t]hat by knowingly giving evasive and misleading answers, in violation of Judge Wright’s discovery orders, he engaged in conduct that [was] prejudicial to the administration of justice[.]”<sup>125</sup> Judge Wright’s April 12, 1999 ruling also recognized that:

[41]

[t]he record demonstrates by clear and convincing evidence that the President responded to plaintiff’s questions by giving false, misleading and evasive answers that were designed to obstruct the judicial process.<sup>126</sup>

#### **b. Regarding Sexual Relations.**

President Clinton further testified before the grand jury regarding sexual relations with Monica Lewinsky as follows:

- Q. [I]f Monica Lewinsky says that while you were in the Oval Office area you touched her breasts, would she be lying?
- A. That is not my recollection.<sup>127</sup>

[42]

\* \* \*

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<sup>122</sup> *Id.* at 78.

<sup>123</sup> *Id.* at 80. After he made this statement, President Clinton was asked, “You didn’t think you had a free shot to say, ‘I don’t know’, or ‘I don’t recall’, but when you really did know and you did recall, and it was just up to them, even if you weren’t telling the truth, to do a follow-up and to catch you?” President Clinton answered, “No, sir, I’m not saying that.” *Id.* at 81.

<sup>124</sup> Statement on Resolution of Legal Issues, Weekly Comp. Pres. Doc. 194 (Jan. 19, 2001) (*see also* Appendix A-1).

<sup>125</sup> Agreed Order of Discipline at 3-4, *Neal v. Clinton*, No. Civ. 2000-5677 (Cir. Ct. of Pulaski Co., Ark. Jan. 19, 2001) (signed by William J. Clinton as “ACCEPTED AND ACKNOWLEDGED”).

<sup>126</sup> *Jones v. Clinton*, 36 F. Supp. 2d 1118, 1127 (E.D. Ark. 1999).

<sup>127</sup> Clinton 8/17/98 GJ at 109; *but see* Lewinsky 8/26/98 Depo. at 7, 11, 16, 18, 20, 24, 29-31, 36-37, 39-40, 44, 46, 49-50; Lewinsky 8/20/98 GJ at 31-32 (contradicting President Clinton on this point).

Q. So, you didn't do any of those three things . . . touching her breast, kissing her breast, or touching her genitalia?

A. That's correct.<sup>128</sup>

**c. Regarding President Clinton's Statements to Betty Currie.**

President Clinton further testified regarding his statements to Betty Currie:

Q. So, if Ms. Currie testified that you approached her on the 18th [of January 1998], or you spoke with her and you said, you were always there when she was there, she wasn't, was she?

A. . . . I wanted to know what Betty's memory was about what she heard, what she could hear. And what I did not know was—I did not know that. And I was trying to figure out, and I was trying to figure out in a hurry because I knew something was up.

Q. So, you wanted—

A. After that deposition.

Q. —to check her memory for what she remembered, and that is—

A. That's correct. . . . [W]hat I was trying to determine was whether my recollection was right and that she was always in the office complex when Monica was there, and whether she thought she could hear any conversations we had, or did she hear any. . . . I was trying to understand what the facts were.<sup>129</sup>

[43]

**d. Regarding President Clinton's Statements to Monica Lewinsky.**

President Clinton further testified regarding his statements to Monica Lewinsky:

\* \* \*

Q. Did you say anything like [you can always say that you were coming to see Betty or bringing me letters] once you knew or thought she might be a witness in the Jones case? Did you repeat that statement, or something like it to Monica Lewinsky?

A. . . . I can tell you this: In the context of whether she could be a witness, I have a recollection that she asked me, well, what do I do if I get called as a witness, and I said, you have to get a lawyer. And that's all I said.<sup>130</sup>

<sup>128</sup> Clinton 8/17/98 GJ at 95; *but see* Lewinsky 8/26/98 Depo. at 7, 11, 16, 18, 20, 24, 29–31, 36–37, 39–40, 44, 46, 49–50; Lewinsky 8/20/98 GJ at 31–32 (contradicting President Clinton on this point).

<sup>129</sup> Clinton 8/17/98 GJ at 53–55.

<sup>130</sup> *Id.* at 118–19. Lewinsky testified that if President Clinton told her to get a lawyer she “would have started to think about how [she] was going to get a lawyer and who [she] should get, and [she] didn't do that.” Lewinsky 8/26/98 Depo. at 57. When asked if President Clinton told her that she should get a lawyer when they were discussing her name appearing on the witness list, she replied, “I don't believe so. No,” and that she was “99.9 percent certain” of that. Lewinsky 8/26/98 Depo. at 57.

**e. Regarding the Nature of President Clinton's Relationship with Monica Lewinsky.**

President Clinton further testified regarding the nature of his relationship with Monica Lewinsky:

Q. ... [W]hether or not Mr. Bennett knew of your relationship with Lewinsky, the statement that there was "no sex of any kind in any manner, shape or form, with President Clinton," was an utterly false statement. Is that correct?

A. It depends on what the meaning of the word "is" is... I mean that at the time of the deposition, it had been—that was well beyond any point of improper contact between me and Ms. Lewinsky. So that anyone generally speaking in the present tense, saying there is not an improper relationship, would be telling the truth if that person said there was not, in the present tense; the present tense encompassing many months.<sup>131</sup>

\* \* \*

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

[44]

A. No. The—let me say this. It's no secret to anybody that I hoped that this relationship would never become public. It's a matter of fact that it had been many, many months since there had been anything improper about it, in terms of improper contact.<sup>132</sup>

\* \* \*

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

A. ... When I was alone with Ms. Lewinsky on certain occasions in early 1996 and once in early 1997, I engaged in conduct that was wrong. These encounters... did involve inappropriate intimate contact.<sup>133</sup>

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<sup>131</sup> Clinton 8/17/98 GJ at 58, 60–61.

<sup>132</sup> *Id.* at 105.

<sup>133</sup> *Id.* at 8–9.

## **7. United States District Judge Susan Webber Wright Sanctioned President Clinton for His Conduct Relating to His *Jones v. Clinton* Deposition.**

Judge Wright found that President Clinton's "deposition testimony regarding whether he had ever been alone with Lewinsky was intentionally false, and his statements regarding whether he had ever engaged in sexual relations with Lewinsky likewise were intentionally false, notwithstanding tortured definitions and interpretations of the term 'sexual relations.'" <sup>134</sup> Judge Wright found President Clinton in civil contempt for this conduct.<sup>135</sup>

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<sup>134</sup> *Jones v. Clinton*, 36 F. Supp. 2d 1118, 1130 (E.D. Ark. 1999).

<sup>135</sup> *Id.* at 1131–32; *see also* Fed. R. Civ. P. 37(b) (2) (a court may hold a party in contempt for failure to obey its orders). Judge Wright observed that although she also had the authority to review President Clinton's conduct "pursuant to the criminal contempt provisions set forth in Fed. R. Crim. P. 42," she would not do so to avoid additional hearings, and, in view of this Office's ongoing investigation of President Clinton, "to prevent any potential double jeopardy issues from arising." *Jones v. Clinton*, 36 F. Supp. 2d at 1133.