

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE:

GRAND JURY PROCEEDINGS

Grand Jury Room No. 3  
United States District Court  
for the District of Columbia  
3rd & Constitution, N.W.  
Washington, D.C. 20001

Tuesday, August 4, 1998

The testimony of LANNY ARTHUR BREUER was taken in the presence of a full quorum of Grand Jury 97-2, impaneled on September 19, 1997, commencing at 12:01 p.m., before:

JACKIE M. BENNETT, JR.  
Deputy Independent Counsel  
MARY ANNE WIRTH  
EDWARD J. PAGE  
JAY APPERSON  
BRETT KAVANAUGH  
JOSEPH DITKOFF  
Associate Independent Counsel  
Office of Independent Counsel  
1001 Pennsylvania Avenue, N.W.  
Suite 490 North  
Washington, D.C. 20004

1 A I understand that.  
2 Q You have a right to be represented by counsel.  
3 Do you have counsel with you today?  
4 A I have a counsel outside. I do.  
5 Q And who is that, for the record?  
6 A My former partner, Mark Lynch.  
7 Q At the firm?  
8 A The firm of Covington & Burling.  
9 Q All right. If you need to consult with your  
10 attorney at any time, just make that known and we'll permit  
11 you the opportunity to do that.  
12 A I will do that, Mr. Bennett. And I understand my  
13 status is that of a witness.  
14 Q That's correct. You met Mr. Apperson a few moments  
15 ago?  
16 A I did.  
17 MR. BENNETT: Mr. Apperson will begin the  
18 questioning.  
19 THE WITNESS: Thank you.  
20 MR. APPERSON: And, Mr. Breuer, you asked if you  
21 could have some water here and I told you you could, so if  
22 you need that, we'll take a break.  
23 THE WITNESS: Whenever. That would be great.  
24 MR. APPERSON: So just --  
25 THE FOREPERSON: Well, I can get you some water.

PROCEEDINGS

1 Whereupon,  
2  
3 LANNY ARTHUR BREUER  
4 was called as a witness and, after having been first duly  
5 sworn by the Foreperson of the Grand Jury, was examined and  
6 testified as follows:

EXAMINATION

8 BY MR. BENNETT:

9 Q Good afternoon, sir.  
10 A Good afternoon.  
11 Q Would you state your full name and spell your last  
12 name for the court reporter, please?  
13 A My name is Lanny Arthur Breuer, B-r-e-u-e-r.  
14 Q Mr. Breuer, you are appearing today pursuant to a  
15 subpoena. Is that correct?  
16 A That is correct, Mr. Bennett.  
17 Q All right. Before we begin, I'd like to briefly  
18 advise you of your rights. You have a right to refuse  
19 to answer any question the truthful answer to which  
20 might tend to incriminate you personally. Do you understand  
21 that?  
22 A I do.  
23 Q If you do choose to answer questions, your answers  
24 might be used against you in any future proceeding. Do you  
25 understand that?

1 THE WITNESS: Oh, thank you very much. I  
2 appreciate that.  
3 (Pause.)  
4 MR. APPERSON: Okay. While they're doing that,  
5 we'll go ahead and start.  
6 THE WITNESS: Okay. that's fine.  
7 BY MR. APPERSON:  
8 Q Tell us, please, your position at the White House.  
9 A I am the special counsel to the President.  
10 Q Okay. And how long have you occupied that  
11 position?  
12 A Since mid February of 1997.  
13 Q Okay. And what are your duties in that capacity,  
14 please?  
15 A I report to Charles Ruff, the counsel to the  
16 President, and to at times the deputy counsels to the  
17 President. And I'm involved, for the most part, in the  
18 investigations involving the President. Much of my time has  
19 been spent in the past on the campaign finance investigation  
20 that was conducted by the Department of Justice and by  
21 various committees on the Hill.  
22 I've been involved in various aspects relating to a  
23 number of the Independent Counsel investigations currently  
24 that the administration faces. And my responsibilities can  
25 encompass everything from subpoena compliance -- I have a

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1 number of lawyers who work with me so we try to comply with  
2 the subpoenas through documents.

3 Obviously, White House employees often come to me  
4 or the lawyers who work for me seeking advice. A typical  
5 scenario might be if such a witness has been contacted by an  
6 agent or a congressional investigator and they may ask me for  
7 advice. And also the various legal issues that we confront  
8 in these investigations. I try to handle and work with  
9 Mr. Ruff and others. And I give advice to a number of the  
10 advisors, legal advice to a number of the advisors at the  
11 White House.

12 Q All right. If I can direct your attention first  
13 to approximately the end of January, early February of  
14 this year, do you recall receiving a call from Mr. Peter  
15 McGrath?

16 A I recall receiving a call from a Mr. McGrath  
17 who was in New England. I believe his name was Peter,  
18 but I certainly remember getting a call from a Mr. McGrath.  
19 Yes.

20 Q Okay. And what is your best recollection on when  
21 you received that telephone call?

22 A I would say probably late January, maybe early  
23 February.

24 Q Okay. You don't recall any more specifically than  
25 that?

1 What I don't remember, Mr. Apperson, is whether we  
2 traded calls, Mr. McGrath and I, but at some point he and I  
3 spoke. And I didn't know him. And, if you want, I'll tell  
4 you the best I can --

5 Q That would be fine.

6 A What I remember of the conversation, what seemed a  
7 little odd to me was that Mr. McGrath said something to the  
8 effect that -- he had referred to, I think it was his  
9 brother, as "my guy."

10 He said, "My guy has been contacted, my guy may  
11 have information that -- " I think he suggested was  
12 consistent -- I think he used a summary like "consistent with  
13 information from a Mr. Bayani Nelvis," who is a steward at  
14 the White House.

15 I think Mr. McGrath said to me, you know, "My  
16 guy is loyal," or something like that and that, you know,  
17 depending on what he was asked, he would -- he might answer  
18 in a manner that was consistent with what Mr. Nelvis had  
19 said. But we didn't talk a lot about it at that point, I  
20 believe, and this may help in the timing, I believe there  
21 were already press accounts about Bayani Nelvis' testimony,  
22 about what the press reported he had seen.

23 And then Mr. McGrath said, "You guys," and I  
24 assumed that meant us at the White House or the lawyers,  
25 "Do you take care of the payment of lawyers?" Or, "Can

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1 A I don't. I know that at one point I executed a  
2 document and it may be in there, I haven't reviewed it  
3 particularly recently.

4 Q If that helps to review -- my recollection is that  
5 it was not referenced in there, but feel free to refer to  
6 that.

7 A Okay. Well, it may not have been because I don't  
8 think I thought of that as a privileged communication, so it  
9 may not be in there. I think late January or early February.

10 Q All right. Do you maintain telephone logs for  
11 incoming calls?

12 A I do not. No.

13 Q Do you maintain a calendar to note incoming calls  
14 or by any mechanism other than a telephone log?

15 A No, I do not. I don't maintain a telephone log at  
16 all.

17 Q Okay. Did you speak to Mr. McGrath after you  
18 received his telephone call?

19 A I did. I mean, I think what happened was  
20 Mr. McGrath, as I recall reached out, I think, to  
21 Bruce Lindsey and perhaps, I'm not certain, to another  
22 member of the counsel's office, but to Mr. Lindsey and  
23 I was asked, either by Mr. Lindsey or by Ms. Mills, to  
24 return Mr. McGrath's phone call, who I didn't know. So  
25 I did do that.

1 you take care of us?" Or something to that effect.

2 And I said, "No, I'm not sure what you're referring  
3 to, unless you're referring to the Justice Department  
4 program," and there's a program at the Justice Department  
5 that if you fit under right criteria and you're a government  
6 employee and you need counsel, your counsel can get  
7 compensated at the rate of \$99 an hour. And I clearly  
8 referenced that obliquely. And then I just sort of thought  
9 that was a strange comment from him.

10 He may have said, but I'm not positive,  
11 Mr. Apperson, that he was also -- he thought that there were  
12 reporters or reporters who would pay who might be interested  
13 in his -- as he would say, "my guy's" but I took it to be his  
14 brother's story.

15 And that is, right now, the best I recall about  
16 that conversation, which I think probably lasted roughly five  
17 minutes or so.

18 Q I appreciate that. Let me back you up.

19 A Sure.

20 Q As I understand it, your recollection is that you  
21 first heard of a Mr. McGrath having made a phone call to  
22 either Mr. Lindsey or to Ms. Mills in the counsel's office.

23 A Yes. I'm fairly certain the call was to  
24 Mr. Lindsey and I believe Mr. Lindsey asked me to return the  
25 call, but it may have been Ms. Mills who asked me to return

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<p>1 the call, but I think the original call, as best I remember.  2 I may be wrong, was to Mr. Lindsey.  3 Q Okay. Regardless of whether you spoke to  4 Mr. Lindsey or Ms. Mills --  5 A Right.  6 Q -- and their asking you to return the call, what  7 did they tell you as to who Mr. McGrath was and who he  8 represented or his connection with what he later described as  9 this guy or his guy?  10 A I'm not sure. They may -- and I just -- they may  11 have said he represents a former steward or military guy at  12 the White House. I just -- they may very well have said  13 that. I just don't recall definitively.  14 Q Did you understand when you returned the phone call  15 that the Mr. McGrath who was calling was functioning in a  16 legal representation capacity for another person?  17 A Yes. I clearly was under the impression I was  18 calling a lawyer on behalf of someone else. That's right.  19 Q Okay. And at that time, you understood that the  20 someone else was -- was what? What was your understanding?  21 A I'm not sure. It's been a while ago. I don't  22 remember if at that point I understood that I was calling  23 someone who was representing a steward or former steward or a  24 military aide or a former military aide. But at some point,  25 I learned -- I think I learned that he was representing his</p>	<p>1 return -- I chose not to return any of his calls after that  2 one conversation we had.  3 Q Okay. Are you aware of who else he attempted to  4 call at the White House after that?  5 A He may -- again, and I just can't -- I'm not. I  6 think he may have tried to contact Mr. Lindsey or Ms. Mills,  7 but I'm certainly not certain of that. He may not have.  8 Q Okay. Before you return to the original phone call  9 when you had the conversation and your discussions with  10 either Mr. Lindsey or Ms. Mills, did either of them express  11 to you any sort of concern with respect to this person or the  12 conversation that they had with this person before asking you  13 to return the telephone call?  14 A I want to answer your question. What I want to  15 avoid, as you know, at some point today, there are certain  16 communications over which there will be a claim of privilege  17 and now you're asking me about a conversation with counsel,  18 so I don't want to be in a position of inadvertently waiving  19 anything.  20 Q Well, if you need to -- let's at least identify  21 what the conversation is and --  22 A I may have had --  23 Q I'm sorry. Let me finish --  24 A I will.  25 Q -- because the court reporter can't get both of us.</p>
<p>Page 10</p> <p>1 brother, who had worked at the White House. I think I  2 learned that during the conversation. There is a chance that  3 I had been told that before, but I don't think so.  4 Q Okay. And in your conversation with Mr. McGrath  5 on the telephone, was it clear to you or did you have an  6 understanding that his brother had been contacted with  7 respect to the Independent Counsel's investigation?  8 A It's the only conversation I had that I didn't --  9 in the entire time I've been here, that it just seemed  10 somewhat strange to me. I wasn't quite sure why I was being  11 contacted. I didn't like the reference to "my guy has a  12 mixed memory" or whatever he said to that effect.  13 I wasn't quite sure -- I left the conversation,  14 in all candor, what I was thinking was that there was someone  15 during the first days of the Monica Lewinsky situation who  16 might frankly be interested in selling his story.  17 I quite frankly didn't have a particularly good  18 feel about the communication and the next day or a day later  19 I had heard that Mr. McGrath was saying that the White House  20 had reached out to him, I think I had heard that he had said  21 a Mr. Brower had reached out to him. And so I didn't quite  22 have -- I guess what I'm saying is a very strong view was to  23 why Mr. McGrath had called.  24 And indeed he called me back a couple of times or  25 other people at the White House and I, frankly, chose not to</p>	<p>Page 12</p> <p>1 Let's go ahead and at least identify the  2 conversations and then you can assert --  3 A Right.  4 Q -- you know, what you need to for the record.  5 A I will. I don't think I need to on this one.  6 I do believe that at some point I had a conversation with  7 my colleagues in which I stated that I had sort of an  8 uncomfortable feeling about my conversation with Mr. McGrath.  9 And Mr. Lindsey may or Ms. Mills -- Mr. Lindsey, actually, I  10 don't think Ms. Mills, but Mr. Lindsey may have suggested  11 that the conversation seemed odd.  12 What I don't remember -- I don't believe  13 Mr. Lindsey spoke to Mr. McGrath directly, but I may be wrong  14 about that. And that's the extent of my conversation.  15 Q All right. That clearly references a conversation  16 you had with Mr. Lindsey --  17 A After.  18 Q -- after the conversation.  19 A Yes. Right.  20 Q Do you recall any conversation with either of them  21 before you had the conversation with Mr. McGrath?  22 A Yes, the conversation where I was asked to return  23 the call.  24 Q Okay. And that's what I'm inquiring about, were  25 there any --</p>

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<p>1 A Yes. I don't --</p> <p>2 Q I'm sorry. Let me finish. Was there any</p> <p>3 conversation beyond a simple. "Lanny, I received a call from</p> <p>4 Mr. McGrath, would you return the call and see what he</p> <p>5 wants?"</p> <p>6 A I don't remember any. I mean, to the best of my</p> <p>7 recollection, no. To the best of my recollection, in</p> <p>8 substance, that would have been the call, "Can you return</p> <p>9 this fellow's call?"</p> <p>10 Q Okay. Did you have the post-conversation</p> <p>11 discussions with Mr. Lindsey or Ms. Mills -- are those the</p> <p>12 only two that you likely have discussed this with?</p> <p>13 A And I probably would have said the same to Chuck</p> <p>14 Ruff, just because it seemed -- what he said to me seemed a</p> <p>15 little unusual. And knowing my practice, I usually speak</p> <p>16 with Chuck about a lot of matters, I probably would have just</p> <p>17 mentioned that to Chuck as well.</p> <p>18 Q Okay. How do you normally receive a phone message</p> <p>19 such as this, that someone is asking you to return the call?</p> <p>20 Is that on a little yellow slip in the office or is it sent</p> <p>21 by an e-mail communication?</p> <p>22 A No. Here, I believe I was handed either a pink</p> <p>23 slip or a yellow slip that Mr. Lindsey's assistant or</p> <p>24 secretary would have taken and I would have kept it, returned</p> <p>25 the call and then tossed it.</p>	<p>1 trying to sell his story."</p> <p>2 Q And do you remember who you talked to about that?</p> <p>3 A I remember that -- I don't, but I would surmise it</p> <p>4 would have been some combination of Ms. Mills, Mr. Lindsey</p> <p>5 and Chuck Ruff.</p> <p>6 I can't tell you, Mr. Apperson, if it was all</p> <p>7 three, but those would have been the people with whom I would</p> <p>8 have made that comment.</p> <p>9 Q Okay. Do you remember if during any of the</p> <p>10 discussions that you had about your conversation with</p> <p>11 Mr. McGrath on this incident that you just described whether</p> <p>12 or not any of the persons with whom you spoke made notes</p> <p>13 during your conversation?</p> <p>14 A I'm confident they did not.</p> <p>15 Q Was anyone else present during your conversation</p> <p>16 with Mr. McGrath, your telephone call, in your office?</p> <p>17 A No. I was in my office, at my desk. No, no one</p> <p>18 else would have been present.</p> <p>19 Q Okay. Let me direct your attention, please, to</p> <p>20 January 21, 1998, a Wednesday. Do you recall the news</p> <p>21 article in the Washington Post about the Monica Lewinsky</p> <p>22 matter that broke on that date? Is that a recollection to</p> <p>23 you?</p> <p>24 A Yes. I mean, I don't remember the words of the</p> <p>25 article, but I do remember -- I believe that was the first</p>
<p>Page 14</p> <p>1 Q Okay. It's your practice to dispose of those type</p> <p>2 of messages, phone messages, after you make the call?</p> <p>3 A Yes. Right. I don't really have a practice; I</p> <p>4 don't do it all that often; but, yes. I mean, here I was</p> <p>5 given a slip from Mr. Lindsey, returned the call and then</p> <p>6 I'm quite confident I just tossed it.</p> <p>7 Q Okay. And was that single discussion you had with</p> <p>8 Mr. McGrath -- you indicated you did not return several of</p> <p>9 his telephone calls. Was there ever a time thereafter when</p> <p>10 you again spoke with him?</p> <p>11 A I don't believe so. I don't believe so.</p> <p>12 Q Okay.</p> <p>13 A And, again, I want to be clear. I don't remember</p> <p>14 if he called me once or a couple of times, but I do remember</p> <p>15 him calling me again after the time he and I spoke.</p> <p>16 Q Okay. Other than the one conversation that</p> <p>17 you recall after your conversation with Mr. McGrath with</p> <p>18 Mr. Lindsey or Ms. Mills where you expressed the concern</p> <p>19 about the telephone call, did you have subsequent</p> <p>20 conversations with either of them about Mr. McGrath or his</p> <p>21 brother?</p> <p>22 A I think later on we learned or heard a rumor that</p> <p>23 Mr. McGrath was trying to sell his story to a tabloid</p> <p>24 magazine. And I may very well at that point mentioned that,</p> <p>25 "Look at this, the fellow who I spoke to or his client is</p>	<p>Page 16</p> <p>1 day that it hit the newspaper and then it was a big story.</p> <p>2 Q Okay. That's what I wanted to focus your attention</p> <p>3 on.</p> <p>4 A Yes. Okay.</p> <p>5 Q During that time period, first, do you know Sidney</p> <p>6 Blumenthal?</p> <p>7 A I do know Sidney Blumenthal.</p> <p>8 Q And he works at the White House. Is that correct?</p> <p>9 A That is correct.</p> <p>10 Q And what's his position there?</p> <p>11 A He is a senior advisor to the President. I'm not</p> <p>12 sure of Sidney's exact title. It may be counsellor to the</p> <p>13 President, but he's one of the President's senior advisors.</p> <p>14 Q Okay. What do you understand that he does at the</p> <p>15 White House in that capacity?</p> <p>16 A He advises the President, I think, on a whole host</p> <p>17 of issues; many of which, frankly, I don't deal with Sidney</p> <p>18 on. I think he deals a fair bit with issues dealing with</p> <p>19 England. I somehow remember he had a lot to do with Prime</p> <p>20 Minister Blair's visit here.</p> <p>21 He deals with a lot of communications and message</p> <p>22 related issues, but I just don't work with him on those</p> <p>23 issues, so I don't feel qualified to talk about sort of his</p> <p>24 portfolio.</p> <p>25 Q Okay. Is it fair to say -- I notice you shrugged</p>

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1 your shoulder when you began, before answering that question.  
 2 Is it fair to say that his duties are kind of fluid in what  
 3 he works on, his portfolio changes from time to time?  
 4 A I don't know if that's fair to say. I mean, I  
 5 would probably shrug my shoulders at what Gene Sperling,  
 6 who is the head of the NEC, does. if you were to ask me  
 7 about it.  
 8 I mean, I know people's titles, but it's often hard  
 9 at the White House to know actually what people do. I mean,  
 10 I sort of spend my time on the investigations, candidly, so  
 11 many other people can handle other issues. So it has nothing  
 12 to do with whether it's fluid or not, I just simply am not  
 13 that familiar with what Sidney does day to day.  
 14 Q Okay. Do you understand his duties, however, to be  
 15 fluid in nature?  
 16 A I don't have an understanding that they're fluid or  
 17 not fluid, candidly. I mean, I know he works sort of in the  
 18 overall communications message area, but I couldn't do a lot  
 19 better than that in describing them.  
 20 Q Okay. What do you understand his relationship to  
 21 be with the President?  
 22 A He's a senior advisor to the President.  
 23 Q Does his relationship extend beyond that of a  
 24 senior advisor to the President?  
 25 A You know, I don't know if I feel equipped to answer

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1 that. I don't know. I am not particularly close to Sidney  
 2 in the sense other than dealing with him professionally.  
 3 My sense is he has the confidence of the President,  
 4 but I've certainly not been around when they've been together  
 5 speaking other than in big groups, so I don't really feel I'm  
 6 able to elaborate on that.  
 7 Q Okay. Do you understand he's a personal friend of  
 8 the President, in addition to his position at the White  
 9 House?  
 10 A I have an understanding that Sidney did have a  
 11 relationship with the President of some sort, or at least the  
 12 President knew of Sidney before, but I don't know if they're  
 13 personal friends.  
 14 Q Okay. And what is the basis of that understanding?  
 15 A A Washington Post article that I read about the  
 16 time that Sidney was joining the administration. There was a  
 17 profile of him and I read it and in that Washington Post  
 18 article it was referenced that as a journalist, Blumenthal  
 19 had been a supporter of the President and the administration  
 20 and that was actually my -- that's what I base that on.  
 21 Q Okay. Is it based on anything that Mr. Blumenthal  
 22 has ever said to you or said in your presence with respect to  
 23 his relationship with the President?  
 24 A No. I mean, I do understand that he has a  
 25 relationship with the President and, as a senior advisor, he

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1 meets with him, but Sidney has never shared with me that he  
 2 is particularly -- he's never defined his relationship with  
 3 the President to me.  
 4 Q All right. What do you understand of  
 5 Mr. Blumenthal's relationship with the First Lady?  
 6 A Again, my understanding, which is somewhat  
 7 indirect, is that he does have a relationship with the First  
 8 Lady and that they're friendly. Again, I don't know if  
 9 they're personal friends or the extent of it, but as far as I  
 10 know, they have a relationship. Again, I've never personally  
 11 witnessed it.  
 12 Q All right. Do you recall -- and, again, I'll go  
 13 back to the time period we identified when the Washington  
 14 Post article appeared, January 1, 1998, do you recall  
 15 Mr. Blumenthal on or about that date revealing to you a  
 16 conversation that he had had with the President regarding  
 17 Monica Lewinsky?  
 18 A Whatever -- I'm aware of the conversation you're  
 19 referencing. The first part is it certainly wasn't on or  
 20 about the day of the 21st of January. It certainly was not  
 21 that. But as to the second part of that, I think that I  
 22 cannot answer that question under a claim of executive  
 23 privilege and governmental attorney-client privilege.  
 24 Q Okay. Let me back up and we'll get back to that.  
 25 A Okay.

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1 Q You said it was certainly not on or about January  
 2 21st. When do you recall the conversation?  
 3 A Well, it was a very -- it was certainly a very  
 4 brief conversation. Very brief. And so to define it, in  
 5 case we have to go in front of another court, I would say  
 6 that my entire conversation with Mr. Blumenthal was probably  
 7 on this matter no more than three minutes.  
 8 Mr. Apperson, it's hard for me to tell you exactly,  
 9 but it was -- it was probably -- you probably could help me  
 10 if you would tell me when Mr. Blumenthal testified here.  
 11 That would probably be a marker. It was before then, but I  
 12 don't think it was that much before then. And that would be  
 13 helpful to me in trying to figure out when I remember the  
 14 conversation.  
 15 Q So your best recollection is it was somewhat -- it  
 16 was before and somewhat close in time to his first appearance  
 17 before the grand jury?  
 18 A I probably should say I could be wildly off on my  
 19 estimates, and so I don't purport to know exactly, but my --  
 20 as I'm sitting here today, I would say maybe a couple of  
 21 weeks, a week before Mr. Blumenthal came in front of the  
 22 grand jury, whenever that was.  
 23 Q Let me attempt to do this.  
 24 A Sure.  
 25 Q You have brought with you a letter from your

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<p>1 attorney that was sent to the Independent Counsel's office 2 dated March 9th and an attached statement that you had 3 prepared dated March 9, 1998. Is that correct? 4 A That's right. This was my attempt back in March to 5 provide to you those conversations at the time that I had had 6 that we felt were potentially subject to privilege. 7 Q Okay. And let me in an attempt to try to get the 8 time period, to see if this helps -- 9 A Right. 10 Q If it doesn't, it doesn't. 11 A I don't think -- to short circuit it, I'm confident 12 I had my conversation with Mr. Blumenthal after I wrote this 13 document, so if that's where you're going, I'm quite 14 confident of that. 15 Q Okay. But let me -- 16 MR. BENNETT: That tells us that it would have been 17 after March 9th. 18 THE WITNESS: That's exactly right, Mr. Bennett. 19 It certainly was after March 9th. 20 MR. BENNETT: Okay. 21 BY MR. APPERSON: 22 Q Does that help in establishing how -- with that as 23 a guidepost, do you have a sense of how long after March 9th? 24 A Again, I could be wildly off, but, you know, 25 sitting here now, I would say within a couple of weeks of</p>	<p>1 A Again, I won't give you the substance of it because 2 I believe the conversation is privileged both on the basis of 3 executive privilege and attorney-client privilege. It would 4 probably, you know, have been related to this general matter 5 you're investigating, maybe something that had been, you 6 know, something from a news account. 7 Again, I -- what I feel more comfortable telling 8 you, Mr. Apperson, is I would suspect that I talked about 9 something else with him. I don't have a vivid memory of what 10 else that is. I do remember the conversation, though, that 11 you're referencing. 12 Q All right. At this point, without revealing what 13 the conversation was, it had to do with -- he recounted for 14 you, correct, a conversation which he had had, which he 15 informed you that he had had with the President, is that 16 correct? 17 A I, again, don't want to go into the substance of 18 it, but I think it's safe to say that I had assumed that in 19 your question and, yes, that would be my best recollection. 20 I don't feel comfortable saying much more about it at this 21 point. 22 Q Okay. The information he provided when you had 23 your conversation, was that the first you ever heard of that 24 account, that story or however you want to characterize it? 25 What he told you, was that the first time you ever heard that</p>
<p>Page 22</p> <p>1 Mr. Blumenthal testifying and, again, if you asked me when, 2 knowing I could be wildly off, if you said to give my best 3 guess, I'd say maybe he said this to me in early May. 4 Q Okay. 5 A And, again, Mr. Apperson, I want to be clear here, 6 I could be pretty far off on that time. 7 Q I appreciate that. What were the circumstances of 8 your having this conversation with Mr. Blumenthal? Where did 9 it take place? 10 A As I recall, it occurred in Mr. Blumenthal's 11 office. I had come by, which I don't do that often with 12 Mr. Blumenthal, but I had come by, I think in part just to 13 see how he was doing, which is frankly something I sometimes 14 do, just on an emotional level, to see how people are holding 15 up. And it was when I was in there in his office that we 16 would have had the conversation that you're referencing. 17 Q Okay. Did you talk about anything else other than 18 this? And I mean after -- if you had gone by his office to 19 ask how he was holding up, presumably you asked that and -- 20 A Right. I probably asked that. 21 Q Was anything else discussed other than responding 22 to "How are you holding up" and then moving on to this topic? 23 A Probably. Probably something else would have been 24 discussed. 25 Q Do you recall what that was?</p>	<p>Page 24</p> <p>1 from anybody? 2 A Yes. 3 Q All right. What did Mr. Blumenthal say was the 4 purpose of telling you this? 5 A I don't believe he did, but in general I believe 6 people give me information when they do because they see me 7 as a lawyer in the counsel's office who is involved in this 8 matter, a lawyer who tries to share information with 9 Mr. Ruff, and I think he understood, as do many, that there's 10 at least a potential of impeachment proceedings being brought 11 in this matter, that your office may provide a report to the 12 Congress, and that as White House counsel one of our 13 responsibilities is to represent and advise the President in 14 his official capacity and that providing whatever sketchy 15 level of facts he did would help enable me and my colleagues 16 to advise the President. That would be my understanding of 17 why he and others speak to me. 18 Q All right. Was your understanding based on 19 anything that he told you at the time? 20 A Mr. Apperson, I've been there since the beginning. 21 I think it's fair to say, and I think anyone in my position 22 knows, that at some point you get known in the White House, 23 when people come and speak with me and choose to speak to me 24 as opposed to a non-lawyer, that's why they're doing it, but 25 they don't necessarily begin every conversation by saying,</p>

Page 25

1 "Lanny, can I come in here now? I'm telling you this  
 2 because -- " but that is my understanding.  
 3 Q Okay. Well, you've certainly had conversations in  
 4 the White House where persons have begun a conversation as  
 5 "I'm telling you something because -- " correct?  
 6 A More often than not, people come in and say,  
 7 "I have -- " a typical conversation, someone will come in  
 8 and say, "Lanny, I've been contacted by someone, an agent  
 9 or the press or someone else, you know, what are my rights,  
 10 what can I do, here was my involvement."  
 11 They don't necessarily say, "Lanny, I'm coming to  
 12 you because you're the special counsel to the President," but  
 13 it's clear to me they're seeking my advice.  
 14 Q Okay. Let me go back to the original question.  
 15 A Sure.  
 16 Q When you had the discussion with Mr. Blumenthal on  
 17 that occasion when he related the conversation, and without  
 18 saying what the conversation was, did he tell you tell you  
 19 why he was relating that conversation to you?  
 20 A I don't recall if in that conversation he said  
 21 "I'm either seeking legal advice or imparting information."  
 22 or "Lanny, you know, you may want to know this information."  
 23 I candidly don't remember. Or if I said something like -- I  
 24 don't remember.  
 25 Q Okay. Do you recall if he said, "Lanny, I'm

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1 concerned about something and I want to pass it on to you?"  
 2 A I think I had an understanding in general and I am  
 3 not comfortable going into any further of the conversation  
 4 between Mr. Blumenthal and me.  
 5 Again, I had the understanding, whether it was  
 6 explicit or implicit, when Mr. Blumenthal was speaking to me  
 7 he was doing so because of my position. Mr. Blumenthal and I  
 8 are not friends. I would not be someone he would naturally  
 9 speak to.  
 10 Indeed, as you know, I don't know a lot about his  
 11 other responsibilities and so he and I don't sort of chat  
 12 daily about other issues other than this particular issue, so  
 13 I think he did it based on my position.  
 14 Q All right. Though, again, just to clarify, he  
 15 provided this information to you when you did an informal  
 16 drop by to say, "How are you doing," or "How are you holding  
 17 up."  
 18 A Right. I don't accept the characterization of just  
 19 an informal -- well, certainly, it was informal, but, you  
 20 know, as any lawyer in an institution does, occasionally you  
 21 go by and you visit with people, you see them or they grab  
 22 you in the hall. I don't sort of set up meetings with  
 23 people. So I'm not sure I agree with the characterization of  
 24 informal.  
 25 Q Okay. How then would you characterize it?

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1 A I would simply characterize it as I came by and  
 2 visited with Mr. Blumenthal for a couple of moments and I  
 3 don't recall if it was impromptu or if he had said, which he  
 4 may at times, and other people, "When you have a chance, can  
 5 you come by?"  
 6 I don't remember why I did it, but I would have  
 7 come by and would have done it candidly in conjunction with  
 8 my responsibilities.  
 9 MR. APPERSON: Okay. I think we're at the point  
 10 the grand jury needs to break for lunch, as is our practice  
 11 here, as I understand it. And so we would appreciate your  
 12 patience as we take a lunch break and then we'll return.  
 13 THE WITNESS: At what time?  
 14 THE FOREPERSON: We will return at 1:35.  
 15 THE WITNESS: Okay. Thank you.  
 16 THE FOREPERSON: You're welcome.  
 17 MR. APPERSON: Thank you.  
 18 THE WITNESS: Thank you, Mr. Apperson.  
 19 (Whereupon, at 12:35 p.m., a luncheon recess was  
 20 taken.)  
 21 \* \* \* \* \*

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1 AFTERNOON SESSION  
 2 (1:41 p.m.)  
 3 Whereupon,  
 4 LANNY ARTHUR BREUER  
 5 was recalled as a witness and, after having been previously  
 6 duly sworn by the Foreperson of the Grand Jury, was examined  
 7 and testified further as follows:  
 8 EXAMINATION (RESUMED)  
 9 THE FOREPERSON: Welcome back, Mr. Breuer.  
 10 I'd like to remind you that you are still under oath.  
 11 THE WITNESS: Thank you.  
 12 MR. APPERSON: And we have a quorum?  
 13 THE FOREPERSON: Yes, we do.  
 14 MR. APPERSON: And there are no unauthorized  
 15 persons present?  
 16 THE FOREPERSON: There are none.  
 17 BY MR. APPERSON:  
 18 Q Mr. Breuer, let me pick back up on our discussion  
 19 of the conversation that you had with Mr. Blumenthal. Did he  
 20 tell you when he had had the conversation with the President  
 21 that he related to you?  
 22 A I think that that would reveal the substance of my  
 23 conversation with Mr. Blumenthal, so I believe that that  
 24 information is protected by the attorney-client privilege and  
 25 executive privilege.

<p style="text-align: right;">Page 29</p> <p>1 Q So you're asserting the privileges even with 2 respect to when Mr. Blumenthal had the discussion with the 3 President? 4 A Well, what I'm trying to do, frankly, is assert it 5 over the conversation because I don't want to provide 6 information and then have an argument that I have waived the 7 substance of it, so I'm trying to caveat the entire 8 conversation and it seems to me, unless I'm wrong, I should 9 tell you the best I can when I had the conversation, the 10 length of when I had the conversation, the location of where 11 I had the conversation, who was present at the conversation, 12 but at that point, I think I probably ought not, unless I get 13 more direction, ought not to provide any of the substance of 14 what Mr. Blumenthal said because as a matter of law I don't 15 want to waive the contents of that. I hope you understand. 16 Q I understand your position. What did you do as a 17 result of your conversation with Mr. Blumenthal? 18 A I don't believe I did anything as a result of my 19 conversation with Mr. Blumenthal. 20 Q Okay. Did you have discussions with anyone else 21 after that conversation where you relayed any portion of that 22 conversation to another person? 23 A I believe I would have had a conversation 24 referencing my conversation with Mr. Blumenthal, a brief 25 conversation with Mr. Ruff.</p>	<p style="text-align: right;">Page 31</p> <p>1 A I don't recall doing that. I don't recall that. 2 Q Okay. Did you make any efforts to -- again, the 3 conversation with Mr. Blumenthal concerned a conversation he 4 had had with the President and including, I'm assuming, 5 information the President told him, correct? 6 A Other than saying that Mr. Blumenthal in our 7 conversation would have related a conversation or a part of a 8 conversation, I don't want to go more into the substance than 9 that. 10 Q All right. Did you make any effort to verify the 11 information that Mr. Blumenthal provided you? 12 A No, I did not. 13 Q You did not ask the President whether in fact what 14 Mr. Blumenthal said he said was in fact what he said? 15 A I did not ask the President. 16 Q Did Mr. Blumenthal on that occasion or any other 17 occasion relate to you a conversation he had had with the 18 First Lady with respect to Monica Lewinsky? 19 A I do not believe he did. He may have said that he 20 had had such a conversation, though I'm not even certain of 21 that, but I have no recollection of him telling me the 22 substance of that conversation. 23 Q Okay. Is your recollection of his referencing that 24 during the same conversation that we've been talking about, 25 the three-minute conversation?</p>
<p style="text-align: right;">Page 30</p> <p>1 Q Okay. And how long after your conversation with 2 Mr. Blumenthal do you recall having such a conversation with 3 Mr. Ruff? 4 A Oh, that same day, maybe -- my best estimate, it 5 would have been a window of approximately two hours. And, 6 again, that's a very rough estimate, Mr. Apperson. 7 Q As far as the time, that day? 8 A Yes. As far as the time. I thought your question 9 was when did I speak to Mr. Ruff and my memory would be it 10 was within a couple of hours of the time I spoke with 11 Mr. Blumenthal. 12 Q Okay. So clearly that day, at some point. 13 A I don't want to say "clearly." My memory today 14 would be that, yes, I believe it was that same day. To the 15 best of my memory. 16 Q All right. First of all, was anyone else present 17 when Mr. Blumenthal related this conversation with the 18 President to you? 19 A No. 20 Q When you had the subsequent conversation with 21 Mr. Ruff, was anyone else present when you relayed this? 22 A No. No. 23 Q All right. Other than Mr. Ruff, do you recall 24 having conveyed any portion of your conversation with 25 Mr. Blumenthal to anyone else?</p>	<p style="text-align: right;">Page 32</p> <p>1 A I'm not even sure he did do it. And, no, I don't 2 have a memory that it was in the same conversation. 3 Q Now, with respect to the assertion of privilege on 4 this conversation, has the President directed you to assert 5 executive privilege with respect to this conversation? 6 A I have received authority from Mr. Ruff to assert 7 executive privilege over this conversation or over such 8 conversations. 9 Q All right. When you say you received authority 10 from Mr. Ruff, do you understand -- what is your 11 understanding with respect to the President's having 12 instructed Mr. Ruff to instruct you? 13 A Well, my understanding is that the President of the 14 United States has authorized Mr. Ruff to assert executive 15 privilege and then Mr. Ruff instructs me depending on the 16 application and the specifics of conversations whether or not 17 to assert that privilege. But my conversation was with 18 Mr. Ruff. 19 Q All right. You're familiar, are you not, with the 20 previous assertion of executive privilege by Mr. Lindsey in 21 connection with this grand jury investigation? 22 A I'm somewhat familiar with that. 23 Q Okay. You're aware, are you not, that the 24 President determined not to proceed with the invocation of 25 executive privilege with respect to Mr. Lindsey in recent</p>



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<p>1 litigation?</p> <p>2 A I'm aware that we made a determination not to</p> <p>3 appeal a decision by the district court with respect to</p> <p>4 executive privilege.</p> <p>5 Q Had you appealed that, this issue would have been</p> <p>6 previously litigated and disposed of by now, correct?</p> <p>7 A Mr. Apperson, I don't -- maybe I'm incorrect but I</p> <p>8 don't think in the grand jury we ought to be arguing a point</p> <p>9 of law. I think that that's probably more germane for the</p> <p>10 chief judge and so I don't feel equipped nor do I think this</p> <p>11 is the proper forum for us to be arguing law. And I'm</p> <p>12 actually not -- I'm not sure that that's correct.</p> <p>13 Q Tell me your views of why you don't think it's</p> <p>14 correct.</p> <p>15 A I just don't think it's appropriate for me here to</p> <p>16 argue the law. I think what is appropriate is as a</p> <p>17 stakeholder, it is the President's privilege, of course.</p> <p>18 If I'm instructed by the counsel to the President</p> <p>19 to assert privilege over a communication that I was a part</p> <p>20 of, it's obviously my duty to do that. And I think to the</p> <p>21 same degree that you have argued that I am not a party of the</p> <p>22 Lindsey matter and I come before you now, this is the first</p> <p>23 time you've asked me about this conversation, and I think I'm</p> <p>24 duty bound to follow through on the directions I've received</p> <p>25 from the counsel to the President.</p>	<p>1 Q Okay. So let me get back to my question. Are you</p> <p>2 familiar with Mr. McCurry's statement to the press that the</p> <p>3 President has instructed Mr. Kendall to work with Mr. Starr's</p> <p>4 office in assuring that the grand jury gets the information</p> <p>5 it needs?</p> <p>6 A I am, Mr. Apperson. I'm familiar with the respect</p> <p>7 that the President is making the extraordinary step of making</p> <p>8 himself available to this grand jury and I'm sure you can ask</p> <p>9 the President of the United States if you choose to about his</p> <p>10 conversation with Mr. Blumenthal. And, indeed, I suspect</p> <p>11 that you can ask or could have asked Mr. Blumenthal about</p> <p>12 that very same conversation.</p> <p>13 So the mere fact that we are crafting some role</p> <p>14 for lawyers to give advice and to try to protect that I</p> <p>15 don't believe is inconsistent with any proclamations that</p> <p>16 Mr. McCurry has made. Indeed, I think that the President</p> <p>17 making himself available to your office speaks volumes about</p> <p>18 the fact that he in fact is doing exactly what Mr. McCurry</p> <p>19 stated he would do.</p> <p>20 Q So it's your understanding that Mr. McCurry's</p> <p>21 statement is limited to the President's willingness to</p> <p>22 testify before the grand jury and nothing further?</p> <p>23 A No, I don't think that's accurate. Indeed, I</p> <p>24 believe that even prior to coming to there grand jury today</p> <p>25 we informed you that I was prepared to speak about a whole</p>
<p>1 Q Okay. You're familiar, are you not, with</p> <p>2 Mr. McCurry's statements to the press at a recent press</p> <p>3 conference wherein he indicated the President had instructed</p> <p>4 Mr. Kendall to work with Mr. Starr's office to assure that</p> <p>5 the grand jury gets the information it needs?</p> <p>6 A I am familiar with that. I'm also familiar,</p> <p>7 Mr. Apperson, that in the decision that you just prevailed in</p> <p>8 with Judge Randolph that Judge Randolph has now given</p> <p>9 direction as to the circuit court's position as to what we</p> <p>10 should do, the attorneys should do, in the event that we</p> <p>11 believe at the White House that we have communications that</p> <p>12 are rightfully subject to privilege, given that we do have a</p> <p>13 constitutional obligation to advise the President in his</p> <p>14 official capacity.</p> <p>15 It's my understanding and, again, I don't profess</p> <p>16 to be expert in this, that Judge Randolph has directed us</p> <p>17 that in the event that we have such a concern that the proper</p> <p>18 vehicle for that is executive privilege. What I am</p> <p>19 attempting to do here is to follow Judge Randolph's direction</p> <p>20 in the decision and that's what I am doing.</p> <p>21 Q Okay. You work for the President, not Judge</p> <p>22 Randolph, correct?</p> <p>23 A Is that a real question?</p> <p>24 Q Yes, sir.</p> <p>25 A I do not work for Judge Randolph. That is correct.</p>	<p>1 host of communications that I think we rightfully could claim</p> <p>2 were privileged. I think we're doing that.</p> <p>3 In fact, most of this document contains</p> <p>4 communications that we previously claimed were privileged</p> <p>5 that I am now prepared to tell this grand jury about. But</p> <p>6 there must be, in my view, since you're asking my opinion, at</p> <p>7 least a narrow group of conversations that in these</p> <p>8 remarkable times a lawyer can have, a White House lawyer can</p> <p>9 have, either with the President or the most senior staff.</p> <p>10 And it's an attempt to both cooperate with this office as</p> <p>11 much as we can, your office, but also craft the most narrow</p> <p>12 area where we can at least continue to advise the President</p> <p>13 and his advisors, that we're seeking to do.</p> <p>14 So, frankly, Mr. Apperson, I do think we're trying</p> <p>15 to be as cooperative as we can without completely abandoning</p> <p>16 what I think are our very important responsibilities.</p> <p>17 BY MR. BENNETT:</p> <p>18 Q Mr. Breuer, Mr. Apperson asked you about whether</p> <p>19 you were aware that the White House had decided to drop</p> <p>20 executive privilege claims in earlier litigation. Is that</p> <p>21 correct?</p> <p>22 A He asked me -- that's correct, Mr. Bennett. In the</p> <p>23 Bruce Lindsey litigation, a decision was made not to appeal</p> <p>24 the executive privilege decision of Judge Johnson.</p> <p>25 Q All right. And when was that decision made in</p>

<p style="text-align: right;">Page 37</p> <p>1 connection -- where was it in the litigation when that 2 decision was made?</p> <p>3 A I believe -- you probably know the answer better 4 than I, but I believe it was after Judge Johnson made her 5 decision. After Judge Johnson made her decision. After 6 Judge Johnson had made her decision, but prior to the time 7 that, obviously, we had to file briefs in the Court of 8 Appeals. That's the best of my memory.</p> <p>9 Q All right. And is it not correct that that issue 10 was dropped on appeal at the same time consideration was 11 being given whether to expedite the matter to the Supreme 12 Court and effectively skip the Court of Appeals as a panel 13 which would consider this?</p> <p>14 A Well, I don't think we ever anticipated skipping 15 the Court of Appeals. I think -- I think you all filed a 16 petition for certiorari before judgment, so it was our view, 17 and I speak generally, our view that we thought that the 18 Court of Appeals should address all the issues.</p> <p>19 So I'm not familiar when you made your decision. 20 but obviously at the same time you were making your decision 21 about skipping the Court of Appeals, we obviously were making 22 decisions as well.</p> <p>23 Q Were you aware that the effect of dropping 24 the executive privilege claim that you were asserting in 25 the litigation would have the additional benefit from</p>	<p style="text-align: right;">Page 39</p> <p>1 Ruff, the lawyer with whom I work. I think I try to deal 2 with my adversaries and my colleagues in a good faith manner. 3 I believe I have so here.</p> <p>4 I do think, Mr. Bennett, that as opposed to sort of 5 challenging that that there is a very real issue. I think 6 Judge Randolph in his decision claimed that executive 7 privilege is now the proper vehicle.</p> <p>8 Obviously, at the time you made your decision to 9 move for certiorari before judgment and we made our decision 10 not to pursue executive privilege in the context of Bruce 11 Lindsey, prior to that none of us had the benefit -- at least 12 we in our decision, obviously, did not have the benefit, nor 13 did you at the time, of Judge Randolph's decision.</p> <p>14 I think Judge Randolph says that there is an area 15 out there for us to explore. I think that the counsel to the 16 President has decided that that's a very important thing to 17 do so that we can have direction. So, frankly, that future 18 presidents and future counsels to the President will know 19 exactly what they are and not permitted to do.</p> <p>20 And I assure you that, you know, this is a very 21 good faith attempt and at the right moment, obviously, you 22 will make your arguments and we will make our arguments in 23 front of the chief judge.</p> <p>24 Q Well, you're not suggesting that you were totally 25 bereft of judicial authority on the question of executive</p>
<p style="text-align: right;">Page 38</p> <p>1 your perspective, if you will, of making it less likely 2 that the Supreme Court would accept the matter expedited 3 treatment?</p> <p>4 A I'm not sure I was aware of that. I also want to 5 be very careful that you're not asking me about internal 6 lawyer discussions within the White House about our strategy, 7 about our appellate strategy or our appeals. I mean, to the 8 degree I or my colleagues discussed this would be discussions 9 among lawyers and, frankly, Mr. Bennett, I'm not sure it 10 would be factually relevant to this grand jury. It's the 11 discussion of lawyers.</p> <p>12 Q I'm not really asking about your strategy. What 13 I'm really asking about is your good faith, the good faith of 14 you and your colleagues, in pursuing a matter, asserting 15 privileges through the district court and at such time as we 16 were in a posture where the matter could be taken straight to 17 the Supreme Court, you and your colleagues chose to drop one 18 of those claims, the very matter that you're now reasserting.</p> <p>19 A I'm --</p> <p>20 Q So this is really designed to assess your good 21 faith because I think that's something the court would want 22 to know about.</p> <p>23 A Well, I'm happy to address it. I'd like to say, 24 given that you've raised that, that I'm very proud of my 25 reputation and my good faith and I'm very proud of Chuck</p>	<p style="text-align: right;">Page 40</p> <p>1 privilege. You've got the Nixon case and In Re Sealed Case, 2 and the commentary by Judge Randolph expanded on that, 3 correct?</p> <p>4 A Mr. Bennett, I mean, I don't -- this is your grand 5 jury, not mine. I mean, I was a prosecutor, too, and I never 6 argued legal issues in front of a grand jury. There are 7 opinions, there are many opinions, frankly, that asserted 8 that there is a governmental attorney-client privilege.</p> <p>9 All I can tell you sincerely is that I believe, 10 Mr. Ruff believes, and there are many who believe, both in 11 the public sector and within the White House, that there must 12 be an area when your office is going to provide a report to 13 the Congress, a report that can be used for potential 14 impeachment proceedings, that the President of the United 15 States, like anyone else, is entitled to advice and that that 16 advice in an impeachment proceeding which is an official 17 proceeding ought to come from his official lawyers; that we 18 must do that, that we have a responsibility to do that. And 19 in attempting to do that, we are trying to carve out an area 20 where we can provide that kind of advice to the President.</p> <p>21 I don't think anyone objectively can say that I 22 don't come here today willing to tell you about conversations 23 that lawyers typically never talk about, but we are 24 attempting to figure out an area where we can protect and the 25 conversation Mr. Apperson asked me about is such a one and I</p>

<p style="text-align: right;">Page 41</p> <p>1 I am claiming the privilege on behalf of the President in good 2 faith.</p> <p>3 Q What I'm asking you, sir, is why did your office 4 opt to assert the privilege, drop it when the effect of 5 leaving it as an active matter would permit expedited 6 treatment by the Supreme Court, the ruling on the remaining 7 part of that, that is, the attorney-client privilege, led to 8 a judicial ruling, and now you come back in and assert 9 executive privilege again?</p> <p>10 A Without characterizing -- again, with my 11 understanding that I don't think that this is the proper 12 forum for this inquiry and without in any way purporting 13 that my answer should replace the briefing that I think 14 is the proper means by which you should make your 15 arguments and we should make our arguments, I would suggest 16 that the most salient difference is that Judge Randolph has 17 explicitly stated in his opinion that -- we thought 18 attorney-client privilege, and continue to believe, is the 19 right -- that attorney-client privilege exists in this 20 setting.</p> <p>21 Judge Randolph has suggested, it seems to me, if 22 I have read the opinion correctly, that attorney-client 23 privilege for these very conversations is not necessarily -- 24 or is not the correct privilege, but rather it is executive 25 privilege.</p>	<p style="text-align: right;">Page 43</p> <p>1 general description is correct. Yes.</p> <p>2 Q All right. And at the time when you filed the 3 statement, you were then asserting the privilege similar to 4 what you're doing today in the grand jury, correct?</p> <p>5 A Well, I think at that time, and I still believe, 6 candidly, these conversations are subject to privilege, we 7 have just decided, I think, with respect to some of these, in 8 a gesture to show our willingness to provide information that 9 I was discussing, but, yes.</p> <p>10 The idea here was for me to provide to you all the 11 conversations at that time that I could remember in a good 12 faith attempt so that we would realize that we had a legal 13 issue at stake, but that factually you sort of had -- sort of 14 an outline of the kinds of communications that I had had.</p> <p>15 Q Okay. I appreciate that. And let me just confirm 16 on the record, have you confirm on the record, you informed 17 me before coming in here and your attorney, I don't know if 18 he had told me or you did directly --</p> <p>19 A I think we both did.</p> <p>20 Q Okay. But essentially with respect to those 21 conversations, that is, conversations with attorneys for the 22 witnesses as you set out in this document, that despite the 23 previous assertion of privilege, you were no longer asserting 24 the privilege with respect to those conversations and that 25 you would be prepared to answer questions with respect to</p>
<p style="text-align: right;">Page 42</p> <p>1 I come to you today knowing full well that the 2 President of the United States is going to testify before 3 you; that we have made the senior advisors to the President 4 available to you; and that I as a lawyer and my colleagues 5 are trying to craft that very narrow area. And so with 6 respect to these areas, it seems to me, given Judge 7 Randolph's decision, the appropriate response for us is to 8 assert executive privilege and, as I think the opinion of the 9 court yesterday suggested, attorney-client as well.</p> <p>10 BY MR. APPERSON:</p> <p>11 Q Let me follow up. We made reference earlier in 12 your testimony to the March 9, 1998 statement and you 13 characterized that previously as a written attempt to set 14 forth conversations and contacts that you had had with a 15 number of persons about which you were at that time asserting 16 executive privilege and attorney-client privilege and other 17 privileges as set out in that document, correct?</p> <p>18 A Yes. Essentially, that's correct.</p> <p>19 Q All right. And many of those, a number of those 20 conversations or contacts over which you were then asserting 21 privilege concerned contacts you had with attorneys for 22 witnesses who had been called or appeared before the grand 23 jury in this investigation, correct?</p> <p>24 A Yes. Or else witnesses who may have been contacted 25 and interviewed or just witnesses in general. But your</p>	<p style="text-align: right;">Page 44</p> <p>1 them, correct?</p> <p>2 A Right. That's correct. I told you that if you 3 were to ask me questions about these conversations today, in 4 an effort to move this forward, I would answer those 5 questions.</p> <p>6 Q Okay. So clearly the ability to not assert a 7 privilege is a discretionary one with the President with 8 respect to all the conversations that you set out in this 9 document and, indeed, the conversation that we talked about 10 today, correct?</p> <p>11 A Yes. I think what we've attempted to do is to 12 provide you as much information as we can without totally 13 destroying any role for White House counsel.</p> <p>14 In doing that, we've made a determination that we 15 would provide conversations that I or other lawyers may 16 have had with lawyers for third parties, but that the 17 most core thing a lawyer can do is to help advise the 18 people who work at the institution that he represents, and 19 so that I would not disclose today conversations I had 20 with White House employees, conversations that I had with my 21 colleagues in the counsel's office or conversations with the 22 President of the United States, but if you take those away, I 23 was prepared to answer any questions you had about any other 24 conversations.</p> <p>25 And so that is the goal and why I and my lawyer</p>

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1 made that representation to you prior to my walking into the  
2 grand jury today.

3 MR. APPERSON: Okay.

4 MR. KAVANAUGH: Could I clarify one point?

5 THE WITNESS: Sure.

6 BY MR. KAVANAUGH:

7 Q The President's private lawyers, where do they fit  
8 in?

9 A I will not -- conversations that I had with the  
10 President's personal lawyers, I will claim privilege over.

11 Q Both privileges?

12 A Both privileges.

13 BY MR. APPERSON:

14 Q You're aware, Mr. Breuer, of previous presidents  
15 not asserting executive privilege though they may have done  
16 so?

17 A I am not a presidential historian. I think there's  
18 been a lot of, frankly, misrepresentation, not necessarily  
19 intentionally, about what other presidents have done. Some  
20 presidents have provided materials, others haven't.

21 In many contexts, not to be self-serving, this  
22 administration has provided records to your office,  
23 Mr. Apperson, and to others that I'm not aware any  
24 administration ever provided to any other prosecutors  
25 before.

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1 So I want to be clear that when you ask me that  
2 question there isn't some sort of suggestion that we are  
3 taking an unreasonable position. I actually believe we've  
4 provided a remarkable amount of information to you.

5 Q Well, what I'm trying to -- I was following up,  
6 frankly, on your statement that you're attempting not to --  
7 by the invocation of the privilege, you are attempting not to  
8 destroy any role of the counsel's office and its relationship  
9 to the President and what I wanted to ask you about is are  
10 you aware of previous times by this president or other  
11 presidents when in fact a privilege might have been asserted,  
12 in fact, could properly have been asserted, and yet was not.  
13 And that did not destroy the relationship with counsel.

14 A You know, I'm not -- I mean, I know in the Nixon  
15 era that the Watergate prosecutor did not ask any questions  
16 of the lawyers, as far as I know. And, again, I don't  
17 profess to be a historian and I'm not quite sure that this,  
18 again, an appropriate discussion for the grand jury, but you  
19 can ask what you want.

20 I think that under, for instance, in the Nixon era,  
21 that the Watergate prosecutor did not ask questions of the  
22 lawyers and the White House counsel, did not call them in,  
23 did not try to get the privileged communications. In fact,  
24 I'm fairly confident of that given from what I have read and  
25 from some of my conversations. And I'm aware that probably

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1 in some cases that did occur.

2 I'm aware also, Mr. Apperson, that in the Bush  
3 administration the counsel to President Bush decided not to  
4 turn over diaries that President Bush had.

5 So it's not so clear to me, the answer to your  
6 question.

7 Q All right. Let's move on. Are you aware of  
8 efforts by the White House counsel's office to meet, talk and  
9 debrief witnesses after their testimony before the grand jury  
10 in this investigation?

11 A I'm aware that, for instance, in my case, that  
12 though I have rarely done it in the last months, very rarely,  
13 that I have spoken, for instance, in my case, to a number of  
14 lawyers, the vast majority of which, virtually all of which,  
15 are incorporated in this document you've had since March,  
16 where for the most part if I were to generalize I've had what  
17 I'd call fairly brief discussions with the lawyers about what  
18 their clients either said in the grand jury or their client's  
19 involvement in the grand jury. So I actually don't want to  
20 subscribe to the term "debrief."

21 I was in private practice and there if one is a  
22 lawyer in private practice often you really take very  
23 detailed notes or really ask many, many questions of another  
24 lawyer, as you may know. Certainly I have not done that. I  
25 have clearly talked with lawyers but I haven't extensively

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1 debriefed.

2 And I'm not aware -- I'm aware of other lawyers who  
3 have talked to people, but candidly I'm not aware of the  
4 extent to which their conversations have gone with those  
5 lawyers.

6 Q Okay. I had asked you about witnesses, though I  
7 appreciate your --

8 A Oh, I'm sorry. I apologize.

9 Q That's all right. I appreciate your -- I'll get  
10 you back to it. It's all right.

11 A All right.

12 Q I appreciate your answer with respect to lawyers.  
13 Let's stick to that for a minute.

14 A Okay.

15 Q What has been the practice of persons in the White  
16 House counsel's office in contacting lawyers or talking with  
17 lawyers who represent witnesses in this investigation, the  
18 grand jury investigation?

19 A I wouldn't say there was a practice. Can I speak  
20 about me since I know about me the best?

21 Q Well, let's start with that. That's fine.

22 A Because that is really what -- I mean, what I have  
23 done is a combination of things. More often than not, what  
24 would happen is I will get a phone call from a lawyer saying  
25 "I represent Ms. Jones or Mr. Smith, a White House person."

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<p>1 That's one scenario.</p> <p>2 And "Ms. Jones or Mr. Smith has been contacted by</p> <p>3 the Office of the Independent Counsel, is testifying or has</p> <p>4 testified already," that would be one scenario.</p> <p>5 Another scenario could be that Ms. Smith or</p> <p>6 Mr. Jones came to me and said, "Lanny, I've been contacted or</p> <p>7 an FBI agent called me, you know, what are my rights, can you</p> <p>8 help me find a lawyer, do I need a lawyer," some scenario</p> <p>9 like that.</p> <p>10 And then either I would make a call to a lawyer or</p> <p>11 I would somehow help that person find a lawyer and then more</p> <p>12 often than not that lawyer would naturally give me a call and</p> <p>13 then we would have a comparable conversation to the first one</p> <p>14 I had.</p> <p>15 On rare occasions, but I can't exclude it, I would</p> <p>16 see on CNN or learn that a witness has testified or is about</p> <p>17 to testify and if it's a White House person, I might call up</p> <p>18 that person and discuss things with them.</p> <p>19 Again, it would be more often than not, pretty</p> <p>20 brief, and more often than not it would be talking generally,</p> <p>21 sort of -- maybe an outline of what the person -- whatever</p> <p>22 the person knows about this matter. It would be rare, if</p> <p>23 ever, that I've had, you know, sort of a full debriefing.</p> <p>24 That's my experience, with candidly the proviso</p> <p>25 that I think is very important, that since I provided this</p>	<p>1 come to you and say "I need a lawyer, can you help me get a</p> <p>2 lawyer." Were there ever times when you approached persons</p> <p>3 in the White House and said, "I think you need a lawyer." or</p> <p>4 something to the effect that "If you need a lawyer, come see</p> <p>5 me"?</p> <p>6 A First of all, I think that would be entirely</p> <p>7 appropriate. I want to begin. I don't remember such times.</p> <p>8 I'm not saying it didn't happen, but sitting here -- if you</p> <p>9 want, I can try to look through this document. I don't think</p> <p>10 that occurred.</p> <p>11 I guess the only thing I did do, and it's reflected</p> <p>12 here, is early on, without giving you the substance, I was</p> <p>13 asked by the head of the Legislative Affairs office where</p> <p>14 Ms. Lewinsky worked that the young people in that office were</p> <p>15 very upset and nervous and were being called by the press and</p> <p>16 others and I was asked by the head of the legislative office</p> <p>17 if I could come and speak for a couple of minutes to her</p> <p>18 office. And early on, maybe in late January, I did that.</p> <p>19 I spoke to those people, it was at the request of</p> <p>20 the head of the Legislative Affairs office, but it wasn't as</p> <p>21 if those individual members of the Legislative Affairs office</p> <p>22 had contacted me first. I essentially went there and spoke</p> <p>23 to them, sort of in a large group. And I think that that's</p> <p>24 actually maybe referenced here, though.</p> <p>25 Q Okay. I won't hold you to that.</p>
<p>Page 50</p> <p>1 document to you and I assumed that one day I would be here,</p> <p>2 I've done far less of that. I've done it very rarely.</p> <p>3 So I'd say since the beginning of March, I</p> <p>4 personally have had very few such conversations.</p> <p>5 Q All right. And that's based on a conscious</p> <p>6 decision not to do it? Is that correct?</p> <p>7 A Yes. It's based on what I think is a very</p> <p>8 unfortunate turn of events because what it has done is it has</p> <p>9 provided me -- it has been very difficult for me to advise</p> <p>10 people at the White House for whom, as I hope you can</p> <p>11 imagine, being contacted by an agent or coming to the grand</p> <p>12 jury can be a very traumatic experience.</p> <p>13 It has sort of handicapped my ability in the first</p> <p>14 instance to talk to them because I have thought that I might</p> <p>15 have to tell them whatever I told these people and usually --</p> <p>16 that I would have to relay that to you and I think most</p> <p>17 people want to have a privileged communication with a lawyer,</p> <p>18 and so it has been a somewhat conscious decision.</p> <p>19 And also, candidly, events have so in this case</p> <p>20 gotten -- well, I won't say out of hand, there would be no</p> <p>21 way that one person could keep a handle on it and the news</p> <p>22 was so way ahead that if I just watch CNN or read the</p> <p>23 newspapers I was able to follow it well enough.</p> <p>24 Q Okay. Let me ask you about -- you mentioned that</p> <p>25 there would be times when persons in the White House would</p>	<p>Page 52</p> <p>1 A Okay.</p> <p>2 Q But you're asserting the privilege with respect to</p> <p>3 what you told that group of employees?</p> <p>4 A I am. I am. Because of the category it falls</p> <p>5 into. Again, that would be -- I would have provided to those</p> <p>6 people legal advice and so I would make a claim of executive</p> <p>7 privilege and attorney-client privilege as to the</p> <p>8 conversation I had with the members of the Legislative</p> <p>9 Affairs office.</p> <p>10 Q All right. The persons that would come to you in</p> <p>11 the instance that you first described, where they would come</p> <p>12 to you and say, "Lanny, I need a lawyer, can you help me or</p> <p>13 refer me to somebody," in that context, what would you</p> <p>14 normally do?</p> <p>15 A Well, without telling you the substance, I would do</p> <p>16 a combination of probably telling people what are their</p> <p>17 rights under such a circumstance.</p> <p>18 Q I don't mean to cut you off, but, I'm sorry, when</p> <p>19 you say you would tell them their rights, I thought -- I was</p> <p>20 asking you about the circumstance where they would come to</p> <p>21 you and say, "Lanny, I need a lawyer, can you help me get</p> <p>22 one."</p> <p>23 A Well, I mean, your scenario, I mean, more often</p> <p>24 than not, someone might say, "I need a lawyer, can you help</p> <p>25 me get one; do I need a lawyer; can you, Lanny, represent</p>

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1 me." I mean, there's sort of -- most people have sort  
 2 of amalgam, a combination of questions in that situation.  
 3 You know, a young person might come and say,  
 4 "I've been contacted," "My mother has recommended this  
 5 lawyer, do you know this lawyer?" Or, "Lanny, can you  
 6 represent me in this situation?" Or, you know, "Should  
 7 I get a lawyer?" Any combination of those kinds of  
 8 questions.  
 9 Q Okay. In those circumstances, when persons would  
 10 ask you, "Can you represent me," what do you tell them?  
 11 A I say that I think I -- well, in the generic,  
 12 without revealing -- well, in general, my view of this is,  
 13 without talking about any particular conversation, is that I  
 14 think -- and I think I've said this to your office, I think I  
 15 ought to be able to help them and I think I ought to  
 16 represent them, because I don't think people in the White  
 17 House should have to incur the expense or the trauma of  
 18 getting their own lawyers.  
 19 I probably say that I wish I could represent them  
 20 in this capacity, but that your office has taken a position  
 21 that the White House counsel's office can't represent them in  
 22 these matters and so as a practical matter I cannot represent  
 23 them. And I -- in their individual capacity.  
 24 BY MR. KAVANAUGH:  
 25 Q Even if you were a corporate counsel, you couldn't

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1 represent the corporation in their individual capacity, isn't  
 2 that right?  
 3 A No, but in many corporate settings what I would be  
 4 able to do if I were the in-house counsel is represent them  
 5 as a member of the corporation if I didn't think that they  
 6 had a conflicting interest, I could represent them in an  
 7 initial series of interviews and often in corporate  
 8 investigations by prosecutors corporate counsel is able to  
 9 represent the employees because many prosecutors' offices, I  
 10 think, recognize that it is an extraordinary burden on  
 11 calling on people to hire their own lawyers.  
 12 So even though I wouldn't necessarily represent  
 13 them in their individual capacity, but mere witnesses I might  
 14 be able to do that. At least as a practical matter --  
 15 Q Of course, in that situation, the individual has no  
 16 control over the assertion of privilege, right? So the  
 17 information is given without an assurance of confidentiality,  
 18 the same as here, isn't that right?  
 19 A But it's also true that in many of those  
 20 situations, the vast majority of those, prosecutors won't  
 21 push the issue, will understand the reality of it and so  
 22 won't -- in the same way that most prosecutors wouldn't ask  
 23 the kinds of questions you're asking of me, they wouldn't ask  
 24 those kinds of questions, so as a practical matter it works  
 25 out.

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1 But you're absolutely right, the holder of the  
 2 privilege ultimately in that setting, again, is the  
 3 corporation or the control group of the corporation.  
 4 But much of this is done, as you may know, based on  
 5 a practicality of how you put things. And one of the things  
 6 I try to do in my job, candidly, is try to at least give some  
 7 people some level of comfort, given that for most people  
 8 being contacted or being a subject or being involved in this  
 9 kind of an investigation is very new and intimidating.  
 10 BY MR. APPERSON:  
 11 Q Those persons who sought a referral a lawyer or  
 12 obtaining a lawyer, what would be your practice with respect  
 13 to contacting a lawyer or identifying a lawyer? You tell me  
 14 what you normally do.  
 15 A In general, what I do, I was just thinking, I want  
 16 to make sure I'm not inadvertently waiving anything. In  
 17 general, what I will do is a combination.  
 18 Again, Mr. Apperson, it takes every form. It takes  
 19 every form from someone will come to me with a list of  
 20 lawyers, maybe I've heard of one, maybe I haven't.  
 21 Maybe I'll -- or a person will have no lawyer and  
 22 it may be either I'll call a lawyer to see if they're  
 23 interested. I mean, in a case as high profile as this,  
 24 something that often happens is lawyers will call up and will  
 25 say to me or other of my colleagues, "You know, if you need"

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1 help, please feel free to give me a call. I'd like to get  
 2 involved."  
 3 Frankly, they might say something like that. They  
 4 might say, candidly, that they think what your office is  
 5 doing is dreadful and they want to help as much as they can  
 6 and can they represent someone and to keep them in mind.  
 7 And I sort of in the back of my mind know a number  
 8 of the lawyers in Washington who are involved in these kinds  
 9 of matters. I had done some of this work when I was at my  
 10 prior law firm. And so I do a combination of calling them up  
 11 and seeing if -- calling the lawyers up and seeing if they  
 12 would be interested in representing a White House person.  
 13 Q Okay. You maintain a list of the lawyers that  
 14 would call you and say "Get me on the list," or "Keep me in  
 15 mind"?  
 16 A No, I don't keep a list. I do have -- I mean, what  
 17 I do keep usually so that I don't look silly is sort of a  
 18 list of some -- I handle a lot of investigations. I handle  
 19 the congressional investigations, I handle a number of the  
 20 other independent counsels, and so what I often do is I will  
 21 know or will write down a lawyer and maybe have his or her  
 22 client's name next to it. If that made any sense.  
 23 Does that make sense? Do you understand what I'm  
 24 saying? I have like a piece of paper, but it wouldn't just  
 25 be this case, it would be, you know, John Smith and it will

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1 say, you know, Jane Doe represents him. Something like that.	1 A I do know Wendy White.
2 Q Okay. I guess I'm asking about before you even got	2 Q Okay. Who is Wendy White?
3 to the assignment or the matching up of the client to the	3 A She is a former colleague of mine, actually.
4 lawyer.	4 When I first joined the White House counsel's office, she
5 A No, I don't have an existing list of lawyers that I	5 was a member of the counsel's office. She's now a lawyer
6 choose from. I don't have that.	6 at a Washington, D.C. law firm and represents Ashley Raines.
7 Q All right. But is it fair to say that the lawyers	7 Q Okay. Do you know how Ms. White came to represent
8 who have called you, as you indicated, and said what this	8 Ms. Raines?
9 office is doing is horrendous and if I can represent	9 A I do know the answer to that.
10 someone --	10 Q Can you tell us how that came about?
11 A That's -- I'm not saying --	11 A Well, I don't believe I can because I think to do
12 Q I understand.	12 that would force me to reveal a conversation that I've had
13 A Okay.	13 with Ms. Raines. Since Ms. Raines is a White House employee
14 Q Okay. Are those among those persons that you would	14 and I would have had a conversation with her in my capacity
15 call when a witness said, "I need a lawyer"?	15 as special counsel, I think my discussion with Ms. Raines
16 A Right. If you were in private practice and you	16 would be protected, given that she was seeking advice, it
17 called me and said you would like to represent someone next	17 would be protected by both the attorney-client privilege and
18 time and I had some sense that this is the kind -- either --	18 executive privilege.
19 you're a capable lawyer, I would remember that, and that if	19 Q Okay. Let's at least identify, if we can, the
20 someone in three weeks or six weeks came by and said, "Can	20 conversation to which you're referring.
21 you recommend a lawyer?" and I had a sense that you had the	21 A Right. Well, I assume -- I'm sorry --
22 right sensitivity, that you could handle this and you weren't	22 Q With respect to your discussion with Ms. Raines of
23 maybe just a tax lawyer and had no sense of how to handle	23 legal representation, when did you have such conversation?
24 this case, I would probably call you up and say, "Jay, you	24 Or first have such conversation, if there are a number?
25 know, Mary Smith has just asked -- has been contacted, would	25 A Right. I think that -- I probably, just so we can

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1 you consider speaking with her?"	1 define them, had two or three conversations with Ms. Raines
2 If you said yes, I would probably then call Mary	2 in the late part of January, some time after -- I remember it
3 Smith, I'd say to Mary Smith that Jay Apperson is interested	3 as being fairly early on after this case became public, so
4 in representing people, you may want to give Jay Apperson a	4 maybe the week after the 21st, which I think was the day that
5 phone call and more likely than not she would call you or you	5 this matter became public. So still in January, late
6 would call her. And that's basically how it's done.	6 January.
7 Q All right. You're aware the D.C. Bar has a lawyer	7 Q Okay. And what were the circumstances of your
8 referral service, correct?	8 having the conversation at that time with her?
9 A I am very vaguely aware of that. I have never used	9 A Well, I had -- I -- well, what I will tell you
10 it.	10 is -- when you say "circumstances," I will tell you sort of
11 Q Okay.	11 where I was and how long to define it, but I won't go into
12 A I'm not sure I know anyone who has ever used it in	12 the substance, of course.
13 any of the work I've done since coming to Washington in 1989,	13 I had either one or two phone conversations with
14 but you may be right that they have one.	14 Ms. Raines initially.
15 Q I'm sorry, what bars are you a member of?	15 Q Let me stop you. I'm sorry.
16 A New York and Washington. I don't know, but I don't	16 A Sure.
17 think very many lawyers practically, day to day, when they're	17 Q Did she call you or did you call her?
18 asked for recommendations, use the D.C. Bar referral service,	18 A I called her. I called her. I was given a
19 but I could be wrong.	19 request -- she called the counsel's office, as I remember,
20 Q Do you know Ashley Raines?	20 for advice.
21 A I do know Ashley Raines.	21 Q Do you know who in the counsel's office she called?
22 Q Okay. Who is Ashley Raines?	22 A I don't know. I don't know if it was Ms. Mills, it
23 A She is a young woman in the White House, I believe	23 may have been.
24 she now works in the Office of Administration.	24 Q All right, sir.
25 Q And do you know Wendy White?	25 A It may have been Ms. Mills. I think I was asked

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<p>1 to call her back. I called her, it was in the evening.  2 I spoke to her, I think, twice that evening. The first  3 conversation -- these are very rough estimates. I think two  4 times, maybe only once, Mr. Apperson. And I don't know if  5 it's in there.  6 Q And "there," you're talking about the statement we  7 were referring to before.  8 A Yes. Do you have it here? Because that would be  9 helpful, if you could tell me the page you're on. If it's  10 here.  11 Q Which do you want, the Ashley Raines or --  12 A Yes. The one that -- well, you're asking me about  13 Ashley Raines.  14 Q Page 8.  15 A Yes. This is -- I think I'm right. That's --  16 that's -- okay. So I -- I think I had two brief  17 conversations with Ms. Raines on a particular evening.  18 I don't think they lasted particularly long, maybe ten  19 minutes and five minutes. Those are rough estimates. And  20 then I believe -- and she and I were the only ones on the  21 conversation. And then I believe the next day she came to my  22 office.  23 I think the next day she came to my office and I  24 think we had one subsequent -- we had a conversation in my  25 office, also maybe ten or fifteen minutes. I don't want to</p>	<p>1 Ms. White had informed me that she had already met with Ms.  2 Raines.  3 And then, Mr. Apperson. I think I may have had a  4 couple of conversations with Ms. White and they all meld  5 together, so I could try to give you the substance, but what  6 I can't do particularly well is tell you what Ms. White would  7 have told me on any particular day. And if I could ask you  8 to tell me what page you're looking at?  9 Q I'm sorry. Yes. Page 13.  10 A Okay. Thanks. Right. Okay. I don't remember all  11 of these different conversations, but I think in general I  12 can remember what Ms. White has told me, without telling  13 which order of the conversation it occurred, if that makes  14 sense.  15 Q Yes, sir.  16 A Do you want me to try to do that?  17 Q If you would.  18 A Okay. I recall Ms. White telling me that  19 Ms. Raines and she had met; that Ashley Raines, who I didn't  20 know, and Monica Lewinsky had been friendly; that at the time  21 that Monica Lewinsky was here, here meaning at the White  22 House, they had, you know, been friendly and maybe had  23 exchanged e-mails and that their relationship had continued.  24 And by that point, there had been a lot of news  25 articles. I think Ms. White told me that Ms. Raines had been</p>
<p>Page 62</p> <p>1 just read what this says, but that would be my rough  2 estimate.  3 Q Okay.  4 A Which I think is about what I would have said in  5 March.  6 Q All right. Did you thereafter -- after your first  7 conversation -- let me ask this. Thereafter, did you have a  8 conversation with Wendy White concerning Ms. Raines?  9 A I certainly didn't have a conversation -- I  10 certainly would not have had a conversation with Ms. White  11 about this matter until after Ms. Raines came to my office.  12 So not after the phone conversations.  13 The first conversation I would have had with  14 Ms. White, and I don't really remember when that was. I don't  15 think it was that day, in a couple of days, I think it was  16 after Ms. Raines came to my office.  17 Q Okay. And what's your best recollection of how  18 soon after she came to your office, Ms. Raines, did you have  19 the conversation with Ms. White?  20 A A couple of days later.  21 Q All right, sir. And what was your conversation  22 with Ms. White?  23 A Ms. White -- and that's the kind of conversation I  24 will disclose. Ms. White, I think, told me that Ms. Raines  25 had gotten her name from someone; that I believe by that time</p>	<p>Page 64</p> <p>1 in -- that what Ms. Raines -- I'm trying to think of how she  2 said it because she didn't say it directly, but she said  3 something to the effect that I understood to mean that Monica  4 Lewinsky had told Ashley Raines that Monica Lewinsky had had  5 a relationship with the President, but I think the way she  6 said it was more like what she'll say is consistent with what  7 you've read in the newspaper about the relationship, that she  8 had heard from Monica -- what she heard from Monica was  9 consistent with what you've read in the newspaper.  10 Q Okay. Let me ask you this. All of your  11 conversations with Ms. White were telephone conversations?  12 A Yes. They were all telephone conversations.  13 Q All right. Did she call you or did you call her?  14 Ms. White. On these occasions.  15 A I don't remember. I suspect a combination of the  16 two. I'm often not at my desk, so I may have called her, she  17 may have called me and I may have called her back. I'm sure  18 I would have called her at least in some of them, I suspect  19 she would have called me. I think we're talking about four  20 calls, about, three or four calls total. And I think  21 probably I made a couple and she made a couple.  22 Q Okay. You indicated --  23 A Again, to the best of my memory.  24 Q Okay. You indicated that during at least one of  25 the conversations and it sounds as though it was likely the</p>



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1 first conversation that she mentioned to you, Ms. White  
 2 mentioned to you, that someone had given her name to  
 3 Ms. Raines.  
 4 A Yes.  
 5 Q Right? Did you give her name to Ms. Raines?  
 6 A Well, I can't -- I mean, only by indirection, I  
 7 can't -- oh, did I give Wendy White -- I did not give Wendy  
 8 White Ms. Raines' name. I did not do that. I can tell you  
 9 by my conversation with Wendy White, I did not give Wendy  
 10 White Ashley Raines' name.  
 11 Q Okay. I guess I'm asking you if you gave  
 12 Ms. Raines Wendy White's --  
 13 A Right. And I guess I can't answer that, given that  
 14 I'm trying to preserve the substance of conversation, so I  
 15 think you might make a natural conclusion of that, but I  
 16 really, truly believe that I'm going to try as best I can to  
 17 preserve the communications I have with White House employees  
 18 and over the substance of them assert the attorney-client  
 19 privilege and executive privilege. I don't think I can  
 20 answer that specific question.  
 21 Q Did Ms. White indicate to you in your first  
 22 telephone call who had given Ms. Raines Ms. White's name?  
 23 A I don't remember that she did.  
 24 Q Was Wendy White on your list of persons who had  
 25 called and asked to be considered for referrals?

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1 A I don't have a list of those people. I just sort  
 2 of remember. The only list I have is once Ashley Raines is  
 3 represented by Wendy White. I might have on a piece of paper  
 4 so that I remember when I get phone calls Wendy White and  
 5 Ashley's name is next to it, but I don't have a list of  
 6 people who have called me.  
 7 Wendy White had, though, I should say, represented  
 8 people in other investigations involving the White House. I  
 9 think she represented people, for instance, in the campaign  
 10 finance inquiry, so it didn't surprise me that Wendy White  
 11 would be one of those people in Washington who would be  
 12 willing to represent somebody in this investigation.  
 13 Q All right. The conversations that you had with  
 14 Ms. White as you've outlined here, is that information that  
 15 you had asked her to provide you?  
 16 A You know, it's -- again, these are conversations.  
 17 You know, I -- they would have been a combination of me sort  
 18 of asking and Wendy White offering. I mean, I think in most  
 19 contexts, lawyers will often call whether it's the corporate  
 20 counsel, in this case the White House counsel, when they have  
 21 someone who works at the White House or someone who is  
 22 related in some way to the people at the White House, to say,  
 23 "Look, my client and I met and, you know, here's what he or  
 24 she has to say about this matter."  
 25 And I don't remember if I asked -- I may very well

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1 have, or if Wendy White just in the conversation said.  
 2 "Here's the story."  
 3 Again, she said relatively little. I want to be  
 4 clear about that. She did not give me a full debriefing. I  
 5 think I've already -- when I described to you what she said,  
 6 that's sort of my most salient memory of it.  
 7 Q Okay. Why did she provide this information to you?  
 8 A I don't know why she provided it to me, other than  
 9 I think she thought that given that I was one of the lawyers  
 10 working on this matter, given that on the first or second day  
 11 the articles were already saying that this was a possible  
 12 issue for impeachment, given that most lawyers in town assume  
 13 that in a matter like that that the White House counsel has a  
 14 role, and that obviously one of the ways you advise your  
 15 client is by having facts, I can only conclude that that  
 16 would be the reason, or one of the major reasons, she would  
 17 provide me with that information.  
 18 Q Okay. Did you disabuse her of any of that?  
 19 A Well, first of all --  
 20 Q Her assumptions --  
 21 A First of all, she and I never had this  
 22 conversation. You've asked me to go into her mind, which I  
 23 can't, so we didn't have this conversation. I'm surmising  
 24 based on your question. Not only would I not disabuse her of  
 25 it, it's the view I hold today.

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1 Q Did you ever thereafter talk to Ms. Raines  
 2 directly?  
 3 A No, other than to say hello. I think her office is  
 4 in the Old Executive Office Building near mine and I've said  
 5 hello, but I never had a substantive conversation with her  
 6 again.  
 7 Q Okay. Did you seek to do so at any time?  
 8 A No.  
 9 Q Are you aware of whether anyone in the White House  
 10 counsel's office sought to do so?  
 11 A I'm unaware of that.  
 12 Q After your conversations with Ms. White where she  
 13 provided the information as you've testified, did you  
 14 thereafter pass on that information to anyone else in the  
 15 White House, including persons in the White House counsel's  
 16 office?  
 17 A I am not at liberty, I don't think, to tell you  
 18 about conversations that I've had with other members.  
 19 Q Okay. We'll get there, but let me just establish  
 20 if there is such a conversation --  
 21 A About this issue --  
 22 Q -- and you can, you know, put on the record for  
 23 your purposes what privilege you want to assert over it. And  
 24 I'm asking you now --  
 25 A Right. I'm just trying to make sure I'm not

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<p>1 waiving by even answering that question. I'm just trying 2 to -- 3 Q Okay. While you're thinking of doing that, I would 4 respectfully suggest that's the only way we can have a record 5 that allows the judge to deal with this in any proper 6 fashion. 7 A Can I just take one moment and step outside? 8 MR. APPERSON: Surely. 9 THE WITNESS: It will take literally one minute. 10 MR. APPERSON: Surely. 11 THE WITNESS: I just want to -- 12 THE FOREPERSON: Actually, why don't we incorporate 13 this into a 15-minute break, returning at ten minutes before 14 three. 15 THE WITNESS: Okay. 16 (Witness excused. Witness recalled.) 17 THE FOREPERSON: Mr. Breuer, I'd like to remind you 18 that you are still under oath. 19 THE WITNESS: I remember. Thank you. 20 MR. BENNETT: We have a quorum and there are no 21 unauthorized persons present? 22 THE FOREPERSON: That is correct. 23 BY MR. KAVANAUGH: 24 Q Mr. Breuer, as you know, we are conducting a 25 factual investigation and one of the roles you performed in</p>	<p>1 I was in the room with Bruce Lindsey, and I'm 2 referring to the document I've prepared because, candidly, I 3 think my memory back in March is probably a little bit better 4 than my memory today. I believe Paul Begala, Mike McCurry, 5 Sidney Blumenthal, Mark Neshus, and Rahm Emanuel, I think 6 attended. And Ann Lewis attended that particular meeting. 7 So it would have been a meeting with lawyers and the most 8 senior advisors to the President in the Oval Office. 9 I suspect, though I don't know, that some of those 10 senior advisors have testified and could have testified about 11 the substance of this meeting and presumably you're going to 12 call the President of the United States and he, too, can, but 13 I will assert executive privilege and attorney-client 14 privilege over the substance of the meeting from my 15 perspective and to the degree -- well, I'm going to do that. 16 With respect to that communication. 17 Q When was your next communication with the 18 President? 19 A Approximately -- well, I have the order -- I may 20 have the order of which went first but I can probably 21 remember -- 22 Q Just for the record, that's because the order on 23 your document is out of order? 24 A Right. And I'm not quite sure why anymore. That's 25 right. I did have a very brief discussion with the President</p>
<p>Page 70</p> <p>1 the White House was to gather facts about events that we are 2 investigating. As you know, if you have knowledge of facts, 3 of involvement or knowledge of witnesses to this 4 investigation, that, of course, could be critical to this 5 investigation. 6 And so I'm going to ask you, with that in mind, 7 I'm going to ask you a few questions about your conversations 8 with possible witnesses in this investigation about the 9 events we're investigating. 10 I want to begin by asking about your conversations 11 with people about the nature of the relationship between 12 President Clinton and Monica Lewinsky. 13 Have you ever discussed that relationship with the 14 President? 15 A I have had perhaps four to six conversations with 16 the President of the United States about what I'll call in 17 general the issue of Monica Lewinsky since January 21, 1998. 18 Approximately that number of communications. 19 Q Can you tell us the circumstances of those 20 conversations? 21 A I can. I remember -- I had one conversation with 22 the President with a group of people with me in the Oval 23 Office on or about January 31st or February 1st. It was a 24 meeting in anticipation of the President meeting with Prime 25 Minister Blair of England.</p>	<p>Page 72</p> <p>1 of the United States on the evening after the state of the 2 union address. The President addressed the nation on the 3 state of the union soon after this event. The document 4 reflects January 27th and I have no reason to think that's 5 the wrong date. 6 And after his address to the nation, I saw him up 7 in his residence where there was sort of party in his honor. 8 And at some point in that evening, I spoke to him for maybe 9 two or three minutes. 10 Q What did he say during that conversation? 11 A I won't reveal that on the basis that I'm the 12 special counsel to the President and he would speak to me in 13 my capacity as counsel and I'll assert both the 14 attorney-client privilege and executive privilege over the 15 substance of that two or three-minute conversation between me 16 and the President. 17 Q And that communication was in furtherance of your 18 official duties at the White House? 19 A It would be. It would have been in connection 20 with my official duties at the White House, in that, 21 Mr. Kavanaugh, the President of the United States has no 22 independent relationship with me other than as the special 23 counsel at the White House. 24 Q When was your next communication with the President 25 about the Lewinsky matter?</p>

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<p>1 A Immediately prior to the time, I think, that the 2 President had a press conference with Prime Minister Blair, 3 I and other members of the counsel's office joined the 4 President in the cabinet room, where a number of his 5 advisors, I think, were present and obviously the part of the 6 meeting that I attended would have been with respect to 7 issues that could arise with respect to this event and 8 obviously we were aware that your office was investigating 9 the President with respect to the Monica Lewinsky affair, we 10 knew that there was already talk of impeachment proceedings, 11 obviously one of the factors in impeachment proceedings is 12 public opinion, the merits, and we were speaking to the 13 President about what were the questions, what issues might 14 arise, given the frenzied nature of the press inquiries at 15 that point.</p> <p>16 And it would have been in that capacity that I and 17 Chuck Ruff, the counsel to the President, and I believe 18 Cheryl Mills would have met with the President at that time.</p> <p>19 Q What did the President say during that meeting 20 about the nature of his relationship with Monica Lewinsky, if 21 anything?</p> <p>22 A I am -- and I'm glad you said "if anything," but 23 I'm not going to answer the substance of that communication 24 between the President and the counsel's office based on the 25 attorney-client privilege and executive privilege.</p>	<p>1 A I am not going to answer the substance of anything 2 that was discussed in that conversation which was -- the 3 point of which was to give the President advice as to whether 4 or not he should assert executive privilege and what his 5 determination would be on that. I'm going to claim 6 executive privilege and attorney-client privilege as to the 7 substance of that discussion with the President.</p> <p>8 Q As to the -- moving back to the January 27th 9 communication in the residence, did you repeat the substance 10 of your conversation with the President to anyone else?</p> <p>11 A I did not.</p> <p>12 Q As to the January 31 or February 1 meeting in the 13 Oval Office, did you repeat the substance of that 14 conversation to anyone else, to your knowledge?</p> <p>15 A I did not. To the best of my recollection, which 16 is -- I should say for all of these answers, to the best of 17 my recollection, I did not.</p> <p>18 Q And each of these communications that you've 19 described were part of your official functions at the White 20 House? Is that correct?</p> <p>21 A That's correct. They all -- I mean, I was in each 22 of those settings because I'm the special counsel to the 23 President. I would not have been in any of those meetings 24 nor would I have had any conversations with the President nor 25 had I ever met the President prior to the time that I became</p>
<p>Page 74</p> <p>1 Again, our goal is to carve out what we can so we 2 can provide counsel to the President, given the possibility 3 of impeachment hearings and given that the President of the 4 United States will make himself available, you've called 5 senior advisors already, it seems there are other ways that 6 if you need to you can find out this information, but through 7 me at this point, I won't provide that information and will 8 claim executive privilege and attorney-client privilege.</p> <p>9 Q As to that meeting, did you repeat the substance of 10 the conversation to anyone else?</p> <p>11 A I did not.</p> <p>12 Q When was your next communication with the President 13 about the Lewinsky matter?</p> <p>14 A We met in the residence, "we" being Chuck Ruff, 15 Cheryl Mills, Bruce Lindsey and Neil Eggleston, who is the 16 lawyer who is representing the Office of the President in the 17 privilege litigation that we have had with your office. And 18 that was in the residence of the President on February 18, 19 1998. And that -- the general issue there was whether or not 20 we should assert executive privilege and whether the 21 President of the United States would authorize us to assert 22 executive privilege. And that was a discussion only among 23 lawyers and the President.</p> <p>24 Q In that conversation, what did the President say 25 about the nature of his relationship with Monica Lewinsky?</p>	<p>Page 76</p> <p>1 special counsel.</p> <p>2 Q As to all four of those communications, you're 3 claiming executive privilege and attorney-client privilege? 4 Is that correct?</p> <p>5 A That's correct, Mr. Kavanaugh.</p> <p>6 Q And have you had any communications with the 7 President since then in which the nature of the relationship 8 with Monica Lewinsky might have been discussed?</p> <p>9 A Well, just so the record is clear, I am at 10 least -- so that I'm not parsing it, I am assuming you're 11 talking about the Lewinsky matter in general, without any 12 understanding that any relationship would have been 13 discussed, but obviously there are many manifestations given 14 the level of press and congressional and interest by you.</p> <p>15 I've had -- I've probably -- one or -- probably one 16 other conversation in which -- I think one other, I may have 17 forgotten. I believe only one other conversation dealing 18 with the Monica Lewinsky affair.</p> <p>19 Q When was that?</p> <p>20 A I don't know exactly. I think it was probably -- 21 and this is a very rough estimate. I think it was probably 22 late May, early June.</p> <p>23 Q Who else was present for that conversation?</p> <p>24 A The President and I, Paul Begala, I think Doug 25 Sosnik. I believe that's everyone who was present.</p>

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<p>1 Q And what was the purpose of that meeting?</p> <p>2 A It was for me to speak with the President briefly</p> <p>3 about the matter, in part given that the President was going</p> <p>4 to be going to a public event later that day and for me to</p> <p>5 sort of apprise him of what new issues had arisen in the</p> <p>6 public or had arisen that he might be confronted in one way</p> <p>7 or another with.</p> <p>8 Q What public event?</p> <p>9 A I don't remember. The President has public events</p> <p>10 every single day and, candidly --</p> <p>11 Q Okay. It sounded like there was some kind of</p> <p>12 specific one you had in mind.</p> <p>13 A No. I mean, it would have been whatever event was</p> <p>14 occurring later that day or the next day.</p> <p>15 Q And what developments were you describing to the</p> <p>16 President?</p> <p>17 A I don't -- well, I mean, I can't answer that</p> <p>18 because that would reveal the substance of my communication</p> <p>19 with the President and I would assert attorney-client</p> <p>20 privilege and principally executive privilege on that</p> <p>21 communication as I believe the Court of Appeals has directed.</p> <p>22 Q And to sum up, has the President ever described the</p> <p>23 nature of his relationship with Monica Lewinsky to you?</p> <p>24 A And I guess to sum up, not to be flip, but just so</p> <p>25 it's clear, whether he has or he hasn't, I will not reveal</p>	<p>1 Q As a general matter, in preparing for what you</p> <p>2 might say today, is there any communication that would be</p> <p>3 attorney-client privileged but not executive privileged?</p> <p>4 A Well, as of today, as I go to you, and, again, it's</p> <p>5 a vacuum, so I think the best way for us and, as you know,</p> <p>6 from what I said to you outside, I would welcome the</p> <p>7 opportunity to answer as many questions as I can of you today</p> <p>8 and then again if you would like tomorrow so we can bring</p> <p>9 this to closure and I can tell you everything I can, I think</p> <p>10 that based on the decision of the Court of Appeals, any</p> <p>11 communication that I would have thought protected previously</p> <p>12 by attorney-client privilege that the appropriate privilege</p> <p>13 to claim is executive privilege and so I'm doing that.</p> <p>14 I think based on the rulings of yesterday by the</p> <p>15 court in sort of directing the procedure that we should</p> <p>16 follow today, I also am claiming attorney-client privilege as</p> <p>17 to those. So that's a long winded answer saying I think in</p> <p>18 the abstract I'm claiming both as to communications.</p> <p>19 Q Have you ever discussed with Mr. Kendall the</p> <p>20 relationship between the President and Monica Lewinsky?</p> <p>21 A Without saying whether I have or not, I am not</p> <p>22 going to reveal my communications with Mr. Kendall based on</p> <p>23 executive privilege and attorney-client privilege.</p> <p>24 Q And for the record, my understanding, and you can</p> <p>25 correct me if I'm wrong, is that you talk with Mr. Kendall on</p>
<p>Page 78</p> <p>1 the substance of my communications with the President of the</p> <p>2 United States, in that any conversation I had with the</p> <p>3 President was in my capacity as special counsel and I believe</p> <p>4 I have an ethical and legal duty not to disclose those</p> <p>5 communications in light of the impending impeachment</p> <p>6 proceedings that are possibly going to occur and will claim</p> <p>7 executive privilege and attorney-client privilege over those</p> <p>8 communications.</p> <p>9 Q Has your office made a determination whether you</p> <p>10 would represent the President in impeachment proceedings?</p> <p>11 A I won't reveal what deliberations we have or</p> <p>12 haven't made in the eventuality that that would occur.</p> <p>13 Q What is your understanding of whether your</p> <p>14 conversations with the President would be privileged in</p> <p>15 congressional proceedings?</p> <p>16 A I think for me to reveal that would be to reveal my</p> <p>17 attorney-client work product and I don't think that it would</p> <p>18 be appropriate for me to disclose in the grand jury the legal</p> <p>19 conclusions that I and my colleagues may or may not have</p> <p>20 drawn with respect to that. I think that's an issue of law,</p> <p>21 not an issue of fact.</p> <p>22 I don't think this would be the proper forum to</p> <p>23 discuss that, so I would claim executive privilege,</p> <p>24 attorney-client privilege and, indeed, with respect to this</p> <p>25 question, attorney work product.</p>	<p>Page 80</p> <p>1 a regular basis.</p> <p>2 A Yes. I do. Again, when I say "I," it's typically</p> <p>3 in a larger group of lawyers, but in helping to assist the</p> <p>4 President in this affair and to represent him in his official</p> <p>5 capacity, there are communications between Mr. Kendall and</p> <p>6 Ms. Seligman, who is a colleague of Mr. Kendall's, and</p> <p>7 members of the counsel's office.</p> <p>8 Q Now, are those communications in your official</p> <p>9 capacity at the White House?</p> <p>10 A They are. I wouldn't be a part of them if I were</p> <p>11 not the special counsel to the President and I'm exclusively</p> <p>12 a part of it in my official capacity.</p> <p>13 Q Have you ever discussed with Ms. Seligman, who is</p> <p>14 another of the President's private lawyers, the relationship</p> <p>15 between the President and Monica Lewinsky?</p> <p>16 A Without saying whether I have or not, I believe</p> <p>17 that that communication is privileged based on executive</p> <p>18 privilege and attorney-client privilege and particularly in</p> <p>19 light of the fact that the President of the United States is</p> <p>20 making himself available, which I think is fairly</p> <p>21 extraordinary, and this senior advisors have been made</p> <p>22 available, I think there are many ways for you to determine</p> <p>23 what relationship, if any, the President had with</p> <p>24 Ms. Lewinsky without intruding on what I would think is the</p> <p>25 most sacrosanct and important conversations which are those</p>

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<p>1 among the President's lawyers in anticipation of possible 2 impeachment proceedings.</p> <p>3 Q Just to follow up on that, hypothetically if a 4 witness testified one way in the grand jury and told you, 5 described the facts to you another way, would you admit that 6 that's relevant information to the grand jury?</p> <p>7 A I am unaware of any -- yes. I am unaware -- well, 8 let me back up for a minute. I am unaware of any wrongdoing. 9 I don't want to answer a hypothetical question about what 10 would or would not be relevant.</p> <p>11 I think given the extent of the communications I'm 12 willing to testify about, I think it's a little ironic that 13 we're spending more of our session today talking about the 14 conversations I'm not willing to tell you about as opposed 15 to the fact that I'm willing to tell you about all the 16 conversations here and, as you know, what I would like to 17 do is make the record clear that there are many things 18 I've done, the majority of which I'm more than willing to 19 tell you about and would like to tell you about and I 20 would wish that we don't spend the whole day talking about 21 the few things I'm not willing to tell you about based on 22 privilege.</p> <p>23 Again, I'd like to tell you what I can and the we 24 can see how narrow the few conversations are that I won't 25 tell you about based on privilege.</p>	<p>1 investigation you've ever heard of or been involved in?</p> <p>2 A Well, that's a very different issue, Mr. Kavanaugh.</p> <p>3 Q Yes or no would be --</p> <p>4 A Well, I can't answer it -- I'm happy to answer 5 it -- first of all, if we're going to answer, for the benefit 6 of the grand jurors, issues of law which, again, I have 7 never, candidly, been a part of in any grand jury that I've 8 been in --</p> <p>9 Q Just -- when you're giving speeches, I want to 10 challenge some of the legal conclusions that you're making 11 because I don't think your experience is consistent with the 12 legal conclusions that you're making.</p> <p>13 A Well, I am --</p> <p>14 Q And I want to question that.</p> <p>15 A Well, to the degree I'm giving speeches, I 16 apologize; but to the degree you're asking me about these 17 legal issues, at least -- and obviously you're able to frame 18 the questions to build the record you want, obviously I can't 19 ask you questions.</p> <p>20 The only ability that I have to create the record 21 here that I would like so that a judge or someone can see our 22 point of view is for me obviously not only to answer your 23 question but to try to put it in context. I think you know 24 that.</p> <p>25 Q I understand. I understand. But I'm just trying</p>
<p style="text-align: right;">Page 82</p> <p>1 Q In your experience as a prosecutor, if you were 2 investigating a conversation that two people had that was 3 relevant, would you accept one person's version of the 4 conversation without questioning the other?</p> <p>5 A I have never in my experience as a prosecutor -- 6 I'd like to think I was a fairly thorough prosecutor. I 7 never in my experience as a prosecutor ever asked a lawyer, 8 either an official lawyer or personal lawyer, to reveal their 9 communications with their client. Never. I never asked 10 about that at all.</p> <p>11 Q The question was whether if two people were 12 involved in a conversation and one of them testified to it, 13 would it be relevant to question the other person?</p> <p>14 A Right. And if their senior advisors or 15 non-lawyers, I would say, even though I think you could claim 16 privilege, the answer is there were many cases I had where 17 presumably the witnesses or targets of my investigations may 18 have said things to their lawyers.</p> <p>19 I never once -- and I don't pretend to have had a 20 case like this case which is, obviously, an unprecedented 21 case given the media attention, I never once asked a lawyer 22 to reveal a communication that he or she had with his or her 23 client, whether or not I thought that that communication 24 might be relevant. And I certainly never --</p> <p>25 Q Did a corporation ever waive privilege in any</p>	<p style="text-align: right;">Page 84</p> <p>1 to question your experience. Why don't we move back to the 2 facts.</p> <p>3 Have you ever discussed, again, with Mr. Kantor the 4 relationship between the President and Monica Lewinsky?</p> <p>5 A Without disclosing whether I have or not, the 6 conversations that I have had with Mr. Kantor, who is one of 7 the personal lawyers of the President, I believe are 8 privileged and my communications with Mr. Kantor I believe 9 are protected by executive privilege and by attorney-client 10 privilege.</p> <p>11 Q Have you ever discussed with Mr. Ruff the nature of 12 the relationship between the President and Monica Lewinsky?</p> <p>13 A Without disclosing whether I have or not, obviously 14 I have discussed the Monica Lewinsky affair with Mr. Ruff in 15 its broadest context, but I won't disclose my communications 16 with Mr. Ruff about that based on executive privilege and 17 attorney-client privilege.</p> <p>18 Q Have you discussed with Cheryl Mills the nature of 19 the relationship between the President and Monica Lewinsky?</p> <p>20 A And with respect, again, with Ms. Mills, without 21 stating whether I have or not, obviously in the broadest 22 way of talking about Monica Lewinsky, we've been present 23 at the same meetings, I won't disclose my communications 24 with Ms. Mills as well based on executive privilege and 25 attorney-client privilege.</p>

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1 Q Maybe I can short circuit your answers with a few  
2 of the remaining people on the list but --

3 A And I'm happy to give you the category of the  
4 people that I'm asserting the privilege over because I think  
5 you know it, and basically --

6 Q Okay. Let me go through specifics.

7 A Sure. Okay.

8 Q And then we'll summarize with categories. With  
9 Bruce Lindsey?

10 A Same thing. Bruce Lindsey's the deputy counsel and  
11 to the degree such conversations occurred -- and, again, a  
12 lot of this is a very abstract discussion in the way we're  
13 doing it, but I would not disclose communications that I've  
14 had with Bruce Lindsey about the Monica Lewinsky affair --  
15 and by "affair" I mean that --

16 Q Have you had such communications with Bruce  
17 Lindsey?

18 A Well, he has obviously participated in those  
19 conference calls and matters like that, so obviously this  
20 matter has arisen. With respect to this matter, I would  
21 assert executive privilege and attorney-client privilege.  
22 And I know I'm being a little nervous here but when I refer  
23 to "the Monica Lewinsky affair," what I really mean is  
24 "Monica Lewinsky matter." I just want to be clear in my use  
25 of the word.

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1 Q Have you ever communicated with Betty Currie about  
2 her role or knowledge of the Monica Lewinsky matter?

3 A I have not.

4 Q Have you ever communicated with her personal  
5 attorney?

6 A I have.

7 Q Can you tell us about those conversations?

8 A I think there's been one conversation. I think  
9 early on, Larry Wechsler, and I'm fairly confident it will be  
10 in this document, came to the White House and met with Cheryl  
11 Mills, Chuck Ruff and me. I don't recall Bruce Lindsey being  
12 there.

13 It's somewhere in here, I can't find it. You may  
14 want to direct me to it.

15 MR. BENNETT: Page 11.

16 THE WITNESS: Thank you. Thanks, Mr. Bennett.

17 Right. And he described, as best as I recall, that  
18 Betty Currie remembered -- obviously remembered knowing  
19 Monica Lewinsky; that she remembered that after the  
20 President's deposition that the President had contacted her;  
21 had asked her to come in; had made certain -- and he wasn't  
22 very specific, as I remember, made certain conclusory  
23 statements, the President had, to Betty Currie, questions,  
24 what I would call almost leading questions where you almost  
25 are expecting a yes or a no answer.

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1 I don't know if I've read -- one of the real  
2 problems I now have. Mr. Kavanaugh, is that it's a little  
3 hard for me now to separate what I've read in the newspapers  
4 from my conversation that Larry Wechsler had.

5 He may have said at the time or I may have since  
6 read it that the President had said something to Betty Currie  
7 such as, you know, "When Monica was here, you were with us,"  
8 or "We weren't alone," or something to that effect. And,  
9 again, I think he said it, but I'm really genuinely not  
10 positive whether he said that or whether I read it.

11 That Betty Currie, to whatever those questions  
12 were, the few, said yes, agreed with the President, but then  
13 Wechsler offered that -- but that Betty was not -- even  
14 though she said yes, she really remembered it differently.

15 BY MR. KAVANAUGH:

16 Q Did Wechsler say what Betty Currie had said about  
17 how she understood -- what she understood to be the  
18 President's intent?

19 A No, he did not. As far as I recall, he did not say  
20 and she understood the President's intent to be such, as best  
21 I can remember.

22 Q Did Wechsler say what Betty Currie's reaction to  
23 this conversation had been?

24 A Again, it's hard to remember. I don't -- he may  
25 have said, and I want to stress may, that she was -- that it

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1 was a stressful conversation for her.

2 Q Why was it stressful?

3 A I think it was stressful. I mean, he didn't say,  
4 so I would be guessing. I took it -- and, again, I'm very  
5 nervous about my answers because it's very hard for me to  
6 divorce what I've read, because there's been so much written,  
7 from what he said.

8 I took it that -- I remember leaving with the clear  
9 impression that Wechsler believed that Betty Currie agreed  
10 with certain statements and voiced agreement, but was  
11 thinking that the answers really were different than what she  
12 was saying.

13 Q Did Wechsler say why she had voiced agreement?

14 A I don't recall him saying that. No.

15 Q Did Wechsler say whether Mrs. Currie had talked to  
16 the President again after that about those questions and  
17 answers?

18 A I don't remember. I don't believe he did, at least  
19 not -- I mean, I don't believe he did. At least while I was  
20 there and I think I was there the whole time he was there.

21 Q Did you communicate the substance of this meeting  
22 with Mr. Wechsler to anyone else?

23 A No, I did not.

24 BY MR. BENNETT:

25 Q You've indicated at page 11 of your statement that

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<p>1 you believe the meeting occurred, this meeting involving 2 Larry Wechsler, Cheryl Mills, Chuck Ruff and yourself, during 3 the last week of January or the first week of February and 4 lasted about 20 minutes. Is that correct? 5 A That is correct. 6 Q Is that simply your best recollection? Is there 7 any other way to pinpoint that day? 8 A There isn't from me. I mean, as you know, one way 9 you could do it conceivably is you could arguably get the 10 WAVE records and figure out when Larry Wechsler came and that 11 would be the best way to determine it. 12 This would have been -- when I did this exercise in 13 early March, I think I based it on my best memory. I 14 certainly did not go back to WAVE records or anything like 15 that. That would probably be the best way to know if I have 16 the right date or not. 17 Q You indicated that it's harder for you to 18 distinguish now between what you recall and what you've since 19 read. 20 A Right. 21 Q Do you recall whether at the time you had the 22 meeting with Mr. Wechsler that you're referring to in 23 paragraph I on page 11 whether Betty Currie had already 24 appeared before the grand jury at that time or not? 25 A I don't. You know, I don't. I was about to say I</p>	<p>1 I would not have noticed that because I'm not around the Oval 2 Office that much except when I'm meeting with the President, 3 so I remember hearing that she had been away, but I 4 personally didn't -- I didn't have a personal knowledge of 5 that. And I don't know -- I don't know if my meeting was 6 before or after she was away. 7 Q So if this meeting occurred while she was away, you 8 have no present recollection of that? 9 A Not only do I not have a present recollection, but 10 I'm not sure I would have known that, because I'm not sure I 11 was aware that she was present. I remember hearing or 12 news -- we were getting press requests, is Betty Currie away, 13 and I think at some point I learned, though to this day I'm 14 not positive of it, that there was a period of time she was 15 away. 16 In other words, it could be, though I doubt it, 17 that she was away during that time and came in. But she 18 wasn't in that meeting, frankly, as I think of it, so I don't 19 even know if she was at work that day. 20 BY MR. KAVANAUGH: 21 Q Did Mr. Wechsler discuss gifts that had been 22 exchanged between the President and Monica Lewinsky? 23 A Briefly. Briefly. He said, as I recall, and, 24 again, it's getting very hard to divorce what I've read in 25 the press from what he said, that Lewinsky had given certain</p>
<p>Page 90</p> <p>1 don't think so, but I'm not -- I simply have lost track of 2 when witnesses first started appearing before you. I'm 3 not -- I still don't think she appeared before your grand 4 jury, but I'm not certain of that. 5 Q So that if we had a date and suggested to you that 6 her first appearance would have been in the last week of 7 January, that would tell you that rather than early February, 8 it would have been in the last week of January, if that were 9 correct? 10 A If it were correct, but I'm not -- I would say to 11 you that the very best way to do it is to find out when Larry 12 Wechsler was here because I genuinely -- though I -- for some 13 reason, I did say, you know, I'm slightly -- I slightly 14 believe it was before she testified. I'm genuinely not sure 15 of it. 16 And so I don't feel comfortable -- unlike when we 17 talked about Blumenthal earlier, knowing when Betty Currie 18 testified isn't doing a lot for helping me figure out if it 19 was the last week of January or the first week of February, 20 or even if those two weeks might be a little off. 21 Q All right. Do you recall there being a period of 22 time in which Mrs. Currie was away from her job at the White 23 House? 24 A I had heard that. I don't have a lot of day-to-day 25 contact with Betty Currie, so I do remember hearing that, but</p>	<p>Page 92</p> <p>1 gifts to Betty Currie. 2 Q That's all he said? 3 A I'm sure he said more. 4 Q Do you remember anything else he said? 5 A I don't, actually. I mean, I don't. I mean, I -- 6 I don't know if he said which gifts. 7 Q Did you ask how this had come about? 8 A I didn't ask any questions, I don't think. I just 9 listened, frankly. I don't remember a lot of questions being 10 asked at all. I certainly didn't ask how this had come 11 about. I was just listening to what Wechsler had to say. 12 Q Just on a legal position and maybe your answer will 13 be that this is a legal argument, but why with Mr. Wechsler 14 do you testify as to what you told you and not with Mr. 15 Kendall? 16 A Because -- well, it is a legal issue. I mean, it 17 is a legal issue, so I don't -- I want to let, obviously, 18 Mr. Eggleston make the legal argument. I think the reality 19 is that in the climate we're in, what I said earlier is 20 really true. We're trying to carve out what we can to 21 preserve some ability for the White House counsel to have 22 privileged communications with the President and those 23 closest with the President like his counsel in anticipation 24 of impeachment proceedings and for the future. 25 On the other hand, we're very sensitive that this</p>

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1 is an investigation that is trying to get to the bottom of  
 2 various matters and in one of the very difficult choices that  
 3 was made, we're providing you this information.  
 4 Q Does Mrs. Currie know that you're testifying as to  
 5 what her lawyer told you?  
 6 A I have no idea. I mean, I -- my conversation has  
 7 been -- I have not spoken to Ms. Currie about this matter at  
 8 all substantively and I have no idea whether she's aware of  
 9 it. If she is, it's not through me.  
 10 Q Is it your policy to check with the witnesses  
 11 before you disclose the communications that you've received  
 12 from their lawyers?  
 13 A Well, it depends. I have never before disclosed  
 14 such communications. We have not been a part of the joint  
 15 defense agreement with any of the lawyers for any of the  
 16 parties.  
 17 Q So you don't check. I guess. Is that the answer?  
 18 A I haven't today. That's correct.  
 19 Q In general, have you checked?  
 20 A I haven't ever before confronted a situation by any  
 21 prosecutor or any office that has asked me to do what I'm  
 22 doing right now, so I don't have a policy.  
 23 Q Do you check with witnesses before disclosing their  
 24 communications? Does your office check with witnesses before  
 25 disclosing their communications?

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1 A Again, I'm not sure I have ever had to do this --  
 2 well --  
 3 Q The question is does your office check.  
 4 A Well, if we've ever done it before, we would not  
 5 have checked because --  
 6 Q Well, the White House has done it dozens of times  
 7 over the last couple years with lawyers testifying as to what  
 8 witnesses told them and my question is --  
 9 A I don't think we have -- I don't think there is an  
 10 absolute policy.  
 11 Q Okay. Have you communicated with Mr. Jordan,  
 12 Vernon Jordan, about the relationship between the President  
 13 and Monica Lewinsky?  
 14 A No, I have not.  
 15 Q Have you communicated with his private lawyers?  
 16 A I have spoken with his private lawyers a couple of  
 17 times.  
 18 Q Have they told you -- well, why don't you describe  
 19 those conversations first.  
 20 A They have been very brief. I've talked to Bill  
 21 Hundley early on a couple of times. To the best of my  
 22 recollection --  
 23 Q Page 10, I believe.  
 24 A Yes. I mean, this sort of corroborates that. I  
 25 mean, I had two, I guess, very brief discussions, as best I

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1 can remember, from Bill Hundley. And I think Hundley  
 2 essentially would have told me something like when his client  
 3 was testifying before the grand jury. He may have said son  
 4 summary comment like, you know -- he may have -- I mean,  
 5 again, it's hard to divorce what he told me and what I read.  
 6 He may have said something to the effect that what  
 7 Vernon Jordan did was nothing more than -- for Monica  
 8 Lewinsky in helping her find a job was no more than what  
 9 Vernon does for a lot of people. But I don't remember really  
 10 anything other than maybe a comment like that about Vernon  
 11 Jordan's knowledge or participation in any of this.  
 12 Q Did he call you in both instances?  
 13 A I think it probably was a combination of him  
 14 calling me and me calling him back. I think I may have  
 15 called him back and forth. I think it was more, candidly,  
 16 Hundley thinking that I or someone in the White House  
 17 should know that his client was going to testify in the  
 18 grand jury.  
 19 Q Have you communicated with Mr. Bennett, Bob  
 20 Bennett, about the Lewinsky matter?  
 21 A Bob Bennett participates in some of those calls, so  
 22 yes, I have.  
 23 Q And has he described to you the nature of the  
 24 relationship between the President and Monica Lewinsky?  
 25 A And given Bob Bennett's position as personal

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1 counsel to the lawyer, I'm trying to narrow it but still  
 2 preserve something, I would claim executive privilege and  
 3 attorney-client privilege as to conversations with Bob  
 4 Bennett.  
 5 Q Have you communicated with Mrs. Clinton about this  
 6 matter at all?  
 7 A Never.  
 8 Q Never have at all about anything or just about this  
 9 matter?  
 10 A I've never spoken to Mrs. Clinton about anything  
 11 related to the Monica Lewinsky affair.  
 12 Q With respect to the questions I asked you about the  
 13 people you've dealt with, the people who I listed, does the  
 14 same answer apply with respect to the subject matter of the  
 15 gifts that might have been exchanged between the President  
 16 and Monica Lewinsky?  
 17 A If anything with respect to gifts had come up at  
 18 all, I mean, I guess -- my answer is I won't reveal the  
 19 substance of those conversations, regardless of whether gifts  
 20 were or were not discussed.  
 21 Q So beyond describing it as the Lewinsky matter,  
 22 you're not going to parse out whether gifts were raised in a  
 23 particular conversation?  
 24 A If you're asking me about conversations that I've  
 25 had with the President, with the President's personal



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1 lawyers, with members of the counsel's office, or the most  
 2 senior advisors, I won't parse out the substance of those  
 3 communications.  
 4 Q Just to, for the record, ask a further question,  
 5 have you talked to the group of people I have previously  
 6 listed about the President's conversation with Mrs. Currie on  
 7 January 18th? Just for the record, you described the  
 8 conversation you had with Mr. Wechsler. I'm talking about  
 9 the other people.  
 10 A Yes. I did not discuss -- when Chuck Ruff, Cheryl  
 11 Mills and I heard what Larry Wechsler had to say, I have  
 12 never shared that with anyone.  
 13 Q Have you ever discussed the subject matter of the  
 14 President's conversation with Mrs. Currie on January 18th  
 15 with the President?  
 16 A I'm sorry, can you repeat that?  
 17 Q Have you discussed the substance of the President's  
 18 conversation with Mrs. Currie on January 18th with anyone?  
 19 With the President.  
 20 A The one thing I should say, without going into the  
 21 substance, I may have mentioned this issue to either Chuck  
 22 Ruff or one of my colleagues, Cheryl Mills, either Chuck Ruff  
 23 or Cheryl Mills. I may have done that. I'm really not sure.  
 24 I can't exclude that possibility. I'm not really remembering  
 25 it, but that may have come up in a conversation over the last

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1 six months.  
 2 Q Have you discussed the circumstances of  
 3 Ms. Lewinsky's affidavit with Mr. Bennett?  
 4 A Can I take literally one minute? I will run in and  
 5 run out so no one has to -- let me just check something.  
 6 (The witness was excused to confer with counsel.)  
 7 MR. BENNETT: We're back on the record and we have  
 8 no unauthorized persons present.  
 9 THE FOREPERSON: Yes.  
 10 MR. BENNETT: And we have a quorum.  
 11 THE FOREPERSON: And we have a quorum.  
 12 Mr. Breuer, you are still under oath.  
 13 THE WITNESS: Okay. Thank you.  
 14 Can you repeat your last question, Mr. Kavanaugh?  
 15 I think it was about -- was it Bob Bennett and the talking  
 16 points? Is that --  
 17 MR. KAVANAUGH: Ms. Lewinsky's affidavit.  
 18 THE WITNESS: Okay. I do not -- I want the record  
 19 to be as clear as we can and I'm not trying to waive anything  
 20 and it's very difficult here trying to figure out what I can  
 21 say and cannot say.  
 22 Virtually all of the conversations that I have had,  
 23 whether it's with personal counsel or the Office of the  
 24 President counsel, have been more either legal strategy or  
 25 sort of talking more strategic issues and they have actually

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1 been relatively little factually based.  
 2 I can't exclude over six months having -- I don't  
 3 remember speaking with Bob Bennett about the Lewinsky  
 4 affidavit. I don't remember doing that. I can't exclude it.  
 5 I want to be clear and I don't want to waive conversations by  
 6 saying it.  
 7 Similarly, even previously when you asked me about  
 8 the gifts, I mean, most of the conversations I have are not  
 9 that fact-based. I'm not saying I didn't, but I don't have  
 10 any clear recollections of that. So to the degree you're  
 11 sort of trolling, and I don't mean that in a pejorative sense  
 12 for really a lot of factual issues here, I don't think it's  
 13 going to be so fact-based, if that's of any help to you.  
 14 BY MR. KAVANAUGH:  
 15 Q Just so you understand where we're coming from,  
 16 we're conducting a factual investigation.  
 17 A I understand.  
 18 Q And obviously what would be most relevant are the  
 19 factual nuggets that you may have gathered from witnesses or  
 20 their attorneys.  
 21 A I guess what I'm saying is you'd be shocked at how  
 22 little factual information I truly have. I guess that's what  
 23 I'm trying to convey.  
 24 Q Well, that's helpful to know and, in fact, if  
 25 that's true, then perhaps the privilege assertions are

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1 unnecessary.  
 2 A But that's exactly why we have to at least be able  
 3 to talk some -- I have to have some ability to talk to  
 4 Mr. Ruff and others strategically about things and that's why  
 5 I think we're trying to give you lots of ways of figuring out  
 6 the facts from lots of different witnesses.  
 7 Q Just to continue, the strategy is interesting but  
 8 not what this grand jury is particularly focused on. We are  
 9 focused on trying to get to the facts from people like  
 10 yourself and other lawyers who may have gathered facts and  
 11 you never know who might have a critical conversation with a  
 12 key witness.  
 13 A I guess I'm trying to represent to you in good  
 14 faith that the overwhelming majority of the communications  
 15 i'm talking to you about that I don't want to discuss are not  
 16 factually based or have very little in the way of facts and  
 17 are over issues like strategy that you say the grand jury is  
 18 less interested in.  
 19 Q Have you ever discussed the President's deposition,  
 20 his civil deposition in the Jones case, with the President?  
 21 A Never.  
 22 Q Have you discussed that deposition with  
 23 Mr. Bennett?  
 24 A Well, first, I should say I had absolutely nothing  
 25 to do with the Paula Jones case at all until January 21, when

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1 the Lewinsky matter occurred. I may have had -- I don't  
2 remember.

3 I may have had brief conversations with Bob Bennett  
4 on some level about the deposition after the Lewinsky matter  
5 occurred, talking a little bit about it, but I'm not certain  
6 of that. I can't exclude that possibility.

7 Q What did he say about it?

8 A I have no -- I don't have a distinct memory of such  
9 conversations. I'm just not comfortable excluding that  
10 possibility. If it occurred it would have been very minor,  
11 very brief conversations. And, candidly, fairly superficial.

12 Q Did he ever discuss with you that something said in  
13 the deposition in the Jones case was troubling to him or  
14 bothersome to him?

15 A I don't want to waive anything here, but I'm not  
16 aware of anything like that, of Bob ever saying anything like  
17 that to me.

18 Q Have you discussed with the President's personal  
19 attorneys, meaning Mr. Kendall, Ms. Seligman, Mr. Bennett or  
20 any of his associates or partners --

21 A Or Mickey Kantor.

22 Q -- or Mickey Kantor how Ms. Lewinsky came to  
23 receive or search for jobs at Revlon?

24 A Without waiving anything, I have no memory of that  
25 at all, other than maybe when it was in the press, in the

1 argument.

2 Q You understand, and I gather Mr. Ruff understands,  
3 that the assertion of privilege can prevent the disclosure of  
4 exculpatory information as well as inculpatory information.  
5 Is that correct?

6 A I understand that any privilege can prevent some  
7 relevant information to an inquiry from going forward. Here  
8 I think because -- in virtually every setting, I think there  
9 are both for you alternate means of getting it and by  
10 providing you that information it corrodes the ability of  
11 lawyers to talk with the President and help represent him in  
12 his official capacity. We have to draw some line and that's  
13 what I'm trying to do.

14 Q You said earlier that you wanted to summarize the  
15 categories for which you would assert privilege today. Maybe  
16 it would be helpful if you did that.

17 A Although I've already probably answered more than I  
18 want to on some of these, I basically said that I would  
19 testify to all of my involvement here, my role as special  
20 counsel in this matter, but I would not testify as to  
21 conversations with the President of the United States,  
22 conversations with the personal attorneys for the President  
23 of the United States, conversations with my colleagues in the  
24 counsel's office of the President, conversations with senior  
25 advisors.

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1 public press, somebody may have commented on the article. I  
2 remember no substantive discussion dealing with that issue.

3 Q Did any of those persons ever indicate what the  
4 President's knowledge of Ms. Lewinsky's job search was?

5 A I know it won't do me any good, I see we're  
6 breaking at 4:15, it was my hope that we could tell Judge  
7 Johnson that I was prepared to answer a lot of your questions  
8 about the issues I was, but I see we're going to spend all  
9 day talking about the few categories of questions that I  
10 won't answer.

11 Your question was about the job search generally.  
12 I'm really getting nervous by you going through this litany,  
13 you will sort of by negative inference sort of get into the  
14 entire substance of our conversations. I'm not sure how to  
15 both suggest to you that a lot of these things haven't  
16 occurred without giving you the full substance of what I'm  
17 trying to protect.

18 So without -- so we don't have too many negative  
19 fragments here, I'm going to not answer any more about the  
20 job search or about the conversations in general so we can  
21 preserve it and claim executive privilege and attorney-client  
22 privilege, but I would ask you to understand, not to put any  
23 undue importance about that with respect to this particular  
24 question but just as you and I are sitting here trying to  
25 protect the record so that I'm not waiving this entire

1 I think that's all the categories that I suggested  
2 prior. I think that that summarizes it. And, again, I would  
3 welcome the opportunity so we could move this forward if  
4 there are other questions you have other than building a  
5 record on privilege. I'm happy to address them if you want.

6 Q Your conversations with White House employees, what  
7 is the position on that?

8 A Oh, that's another one. That's exactly right.  
9 For instance, Ashley Raines, which you asked me about before.  
10 On a White House employee seeking advice, I have made a claim  
11 of privilege with respect to that. That's exactly right.  
12 Thank you.

13 BY MR. APPERSON:

14 Q May I follow up just very briefly on your  
15 suggestion to counsel that your frustration at being asked  
16 about the privileged matters which you are not prepared to  
17 testify about, to the exclusion of getting to those areas  
18 where you are prepared to testify? Do you recall your  
19 testimony?

20 A I do.

21 Q You recognize, don't you, the awkward nature of  
22 inquiring about an event? For example, we went through  
23 before the break the sequence of events regarding Ashley  
24 Raines and her attorney, Ms. White, and it makes it  
25 difficult, you recognize, do you not, for you to be able to

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1 provide essentially half that story that you're willing to  
 2 provide and yet not provide the other half of the story, and  
 3 so it takes it out of sequence, both for the grand jurors and  
 4 for us? Do you recognize the awkward nature of that?  
 5 A I recognize that I've provided you now with what  
 6 Ashley Raines' lawyer told me. I recognize that you have an  
 7 opportunity to call Ashley Raines. I recognize that you  
 8 issue subpoenas to the White House all the time and I am  
 9 responsible with other members of the counsel's office to  
 10 provide this grand jury that information.  
 11 You look to me to be a lawyer when you want that  
 12 information and I try as best as I can to provide all the  
 13 documents and materials to you.  
 14 I recognize that and I'm attempting to give you  
 15 information, but I wish you would try to recognize that there  
 16 is something left to the counsel's office where we're trying  
 17 to perform our duty and so instead of just simply saying,  
 18 "Lanny Breuer, give us all the documents you have, talk to  
 19 people at the White House and come on in and tell us every  
 20 fact about everything you know, whether it's a lot or a  
 21 little, even if there are other ways to get that  
 22 information," I wish you could try to also appreciate the  
 23 quandary that I'm in.  
 24 I think on some level you know I'm very sincerely  
 25 sort of trying to deal with -- we're trying to deal with

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1 that. And a little bit of this, I think, has become -- since  
 2 you've asked my opinion here in this exercise as we sort of  
 3 eat up time --  
 4 Q I've asked you if you recognized the awkward --  
 5 A I --  
 6 Q Excuse me. I'm sorry.  
 7 A I apologize.  
 8 Q I've asked you and I'm happy for you to say what  
 9 you've said --  
 10 A I apologize.  
 11 Q I think you've said it a number of times and I  
 12 think the grand jurors understand and appreciate your  
 13 position, as do we, but my question really is do you  
 14 appreciate, do you recognize the awkward nature of taking  
 15 testimony when you are only willing to provide essentially  
 16 little snippets of events and not willing to provide other  
 17 snippets of events of which you are aware of?  
 18 A You know, I just don't accept that  
 19 characterization. I think my conversation with Ashley  
 20 Raines, and this document reflects it was very short, we're  
 21 talking a period of minutes, I think you could probably from  
 22 your own experience make a determination deep down about  
 23 how remarkably valuable to your investigation my brief  
 24 conversation with a young woman who works in the White House,  
 25 how really valuable that would be for a few minutes and weigh

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1 that against what it does to the institution of the counsel's  
 2 office by forcing me to disclose it.  
 3 It's purely an institutional concern. I don't  
 4 believe I'm giving you snippets. I don't believe that the  
 5 information that I'm not giving you is going to really make a  
 6 material difference to your investigation and I think I'm  
 7 simply in a good faith manner, as the counsel's office,  
 8 attempting to bridge our obligations and needs with yours.  
 9 Q And so I assume the answer is no to my question.  
 10 A Right. The answer is no.  
 11 BY MR. KAVANAUGH:  
 12 Q You're aware, are you, that Ms. Sherburne who  
 13 preceded you as special counsel provided notes of her  
 14 interviews with dozens of White House witnesses to the grand  
 15 jury? Are you aware of that?  
 16 A I hold all of you in deep regard. I really think  
 17 that this inquiry in front of this grand jury is remarkably a  
 18 absurd, that we are having an inquiry over what my  
 19 predecessors have done in a prior investigation. I'm aware  
 20 that there is a lot of litigation about what to turn over or  
 21 not to turn over.  
 22 We have -- in prior instances, certain information  
 23 was turned over. That's correct. Other information wasn't  
 24 and I'm also aware that Ms. Sherburne was strongly against  
 25 doing that. I think you are as well.

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1 Q Just on the characterization of absurd, we just  
 2 asked you questions that could be remarkably helpful --  
 3 A I don't mean that --  
 4 Q -- to the people in the room, which is did you  
 5 discuss with the President the nature of his relationship  
 6 with Monica Lewinsky and if you answer that question, maybe  
 7 we wouldn't need to ask all these other questions.  
 8 A But presumably --  
 9 Q But you won't answer that question, so for you to  
 10 characterize this as absurd is somewhat unfair.  
 11 A I apologize.  
 12 Q So I'll state that for the record.  
 13 A It's warm and I'm getting tired. I did not mean to  
 14 be rude by calling it absurd. I don't believe, Mr.  
 15 Kavanaugh, that you would particularly want people to know  
 16 about the communications you and Mr. Bennett have in your  
 17 office.  
 18 I think you would find it difficult if people are  
 19 trying to get that information from you. All I'm simply  
 20 trying to do is to identify certain narrow communications  
 21 that I think are privileged and, moreover, I'm aware that you  
 22 will have an opportunity in less than two weeks to inquire of  
 23 the President of the United States. You could call 40 or 50  
 24 or 60 witnesses to attest to this, I'm simply saying with  
 25 respect to the lawyers in this matter, that you ought to at

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1 least acknowledge that there is a narrow area that you should  
2 not inquire into.

3 BY MR. APPERSON:

4 Q To your knowledge, who asked for the meeting with  
5 Mr. Wechsler in Ms. Mills' office?

6 A I don't know the answer to that. I did not. I was  
7 told that Larry Wechsler was at Cheryl Mills' office, would I  
8 like to come over. So I don't know how that meeting was set  
9 up. I had nothing to do with setting it up.

10 MR. BENNETT: I think we should -- we had a break  
11 planned for now and I think we're going to --

12 THE FOREPERSON: Well, I think if we could excuse  
13 you for a minute, because the grand jurors may have some  
14 questions.

15 MR. BENNETT: Okay.

16 (Witness excused. Witness recalled.)

17 MR. BENNETT: We're back on the record. We still  
18 have a quorum, the witness is still under oath and there are  
19 no unauthorized persons present.

20 THE FOREPERSON: That is correct.

21 BY MR. BENNETT:

22 Q Mr. Breuer, we had one question from a grand juror  
23 about who is that you regard in your capacity as counsel at  
24 the White House, who do you regard your client to be?

25 A The President in his official capacity and the

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1 Office of the President.

2 MR. BENNETT: I think that's all we have at this  
3 time. We'll meet you outside.

4 THE WITNESS: Okay. Thank you.

5 MR. BENNETT: Thank you.

6 THE FOREPERSON: Thank you.

7 (The witness was excused.)

8 (Whereupon, at 4:05 p.m., the taking of testimony  
9 in the presence of a full quorum of the Grand Jury was  
10 concluded.)

11 \* \* \* \* \*