

OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 1/29/98

KENNETH H. BACON, Assistant Secretary of Defense for Public Affairs, 1400 Defense Pentagon, Washington, D.C., telephone number [REDACTED], voluntarily appeared at the Office of the General Counsel, Pentagon, for the purpose of being interviewed by Office of the Independent Counsel (OIC) representatives, Special Agents (SAs) ERIC L. KARANDY and COURTNEY WEST. Also present was Attorney WILLIAM J. MURPHY, Murphy & Shaffer, Ninth Floor, 100 Light Street, Baltimore, Maryland 21202, telephone number [REDACTED] and Attorney BRADFORD WEIGMAN of the Pentagon Counsel's Office.

BACON advised that the position for his secretary, also referred to as confidential assistant, became available when GENE WHETZEL announced her intentions to resign. Her decision to transfer over to the National Security Council was based partially on a job which required less travel and irregular and long hours. WHETZEL is approximately [REDACTED] and a Schedule C employee.

A "two track" approach was taken to fill the vacated position, according to BACON. This entailed notifying the personnel apparatus within the Department of Defense (DOD), as well as the White House Liaison Office in the DOD, headed by CHARLIE DUNCAN. Based on the job description approximately three to four individuals were identified within DOD and only one, MONICA LEWINSKY, from the White House Liaison Office.

BACON advised that based on GENE WHETZEL'S recommendations that her replacement possess the requisite computer skills (familiarity with Internet) and have a high energy level, he selected MONICA LEWINSKY. The selection process also included a review of her resume, a one-half hour initial interview and a request to observe her typing skills. He stated that he was never contacted by anyone at the White House regarding his selection of Lewinsky and never had discussions with VERNON JORDAN.

BACON was never informed, nor did he ever discuss, LEWINSKY'S security clearance in regard to her employment. He assumed this would have been pre-screened as part of the job description. He would usually relegate one of his deputies,

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CLIFF BERNATH, to check references prior to hiring an employee, but he could not recall if he did this with MONICA LEWINSKY.

According to BACON, LEWINSKY'S job description was essentially that of an Executive Secretary, which required the basic skills of dictation, scheduling, appropriate telephone and people skills and flexibility. He stated that she fulfilled these requirements to his satisfaction and gave her an "exceeded expectations" in her annual performance review. MONICA LEWINSKY was satisfied with this evaluation, but she did tell BACON that she felt her responsibilities entitled her to a pay grade higher than the grade 9. BACON knew that she was asking other employees what salary they made and in one meeting told her that she would need more experience before he could recommend an increase in salary.

Following an overseas trip in April of 1997 to Japan and Seoul, Korea, BACON began to receive some complaints from several employees that LEWINSKY'S work was less than satisfactory. He counseled LEWINSKY in his office and she admitted that there had been extenuating circumstances for her poor performance, but agreed to do better. BACON stated that LEWINSKY felt she was hired as his personal secretary and had difficulties sometimes working with other employees in a team concept environment.

BACON recalls LEWINSKY mentioning that she was quite proud of her internship and opportunity to work for President BILL CLINTON. She bragged about a tie she had given the President as a gift and would bring this to his attention when he was wearing it on television. LEWINSKY never mentioned any other political connections she might have, but BACON knew her family were friends with WALTER KAYE, a southern California Democratic fundraiser.

BACON recalled one day in late November or December, 1997, when LEWINSKY became very upset and asked to leave work due to an emergency. His recollection was that it was a Friday, because his wife called her the following day (Saturday) and left a message on her home answering machine. Later LEWINSKY telephoned BACON'S wife, DARCY BACON, to express her appreciation for her concern. LEWINSKY never said why she was upset. BACON further advised that the telephone call from his wife to LEWINSKY

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was made from her automobile in the presence of BACON.

LEWINSKY did not have an extensive social relationship with BACON, but she went to lunch with DARCY BACON on several occasions in Washington, D.C. She knew and occasionally talked to BACON'S daughters on the telephone. She arranged to have BACON and his family attend one of CLINTON'S Saturday radio addresses from the Oval Office. When BACON received an invitation to attend the annual press party at the White House, LEWINSKY asked if she could go with the BACONS. She already had her own invitation and BACON was unsure whether she met President CLINTON at this event.

BACON has no recollection of any conversations either with MONICA LEWINSKY directly or with anyone else regarding her relationship with LINDA TRIPP or any other Pentagon employees. BACON did not have any conversations with LEWINSKY about her alleged sexual relationship with President CLINTON. LEWINSKY did not discuss any visits to the White House. She did not discuss the PAULA JONES' case, make comments or remark about her subpoena to testify at the PAULA JONES' deposition.

BACON advised that MONICA LEWINSKY never discussed any photos taken of her and the President, nor did he ever see or hear about mini-cassettes in her possession. He did ask her to send several VCR tapes to several cabinet members, but he did not know how they were sent or whether she delivered them in person. These tapes were copies of a 15-minute CBS, "60 Minutes" television program regarding a successful New York welfare project, which BACON thought could serve as useful public relations. BACON provided an extra copy for the White House after LEWINSKY suggested that the President would also appreciate a copy.

BACON provided the following background information:

Home address:



Home telephone:



Work telephone:



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OFFICE OF THE INDEPENDENT COUNSEL

Date of transcription 3/3/98

KENNETH H. BACON, Assistant Secretary of Defense for Public Affairs, was re-interviewed at the Pentagon in the presence of his attorney, WILLIAM MURPHY. BRADLEY WIEGMANN, Pentagon Deputy General Counsel, was also present during the interview. BACON was advised as to the identity of the interviewing Agents and the nature of the interview. He provided the following information:

BACON advised that he had no conversations with any White House personnel prior to hiring MONICA LEWINSKY as his confidential assistant. BACON's normal practice is to ask his chief deputy, CLIFF BERNATH, to check references of potential employees. BERNATH did not have any record of checking LEWINSKY's references. BACON advised that he did not have any conversation with CHARLES DUNCAN, the Pentagon White House Liaison, prior to hiring LEWINSKY. BACON interviewed four people for the position of his confidential assistant. No one person was the perfect fit for the job. BACON talked with JEANNE WETZEL about the job requirements of a confidential assistant and she recommended a younger, energetic person for the job.

BACON stated that he had no knowledge that LEWINSKY may have been known as a "stalker" at the White House. BACON had no indication of any problems with LEWINSKY at the White House. He stated that he would have wanted to have known this information if it was available. BACON stated that he hired her for clear reasons. BACON viewed JEANNE WETZEL's promotion to the White House National Security Staff and the hiring of MONICA LEWINSKY as separate events. WETZEL wanted to be promoted to a GS-12 at the White House. WETZEL was happy when she left because she was getting promoted. WETZEL had grown tired of the travel required as a confidential assistant and she was eager to leave the job. BACON wanted to move as quickly as possible to fill the vacancy. He hoped to have some overlap of WETZEL departing and LEWINSKY arriving, so that WETZEL could explain the office procedures. WETZEL was present when LEWINSKY was interviewed by BACON.

BACON stated that transcribing was an important part of the confidential assistant's job. LEWINSKY was not an "ace" transcriber. She had a problem and "dropped the ball" transcribing speeches on a trip to Asia. BACON counseled her

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by [REDACTED] Date dictated 3/3/98

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about her performance. Her performance improved after he counseled her. BACON was not aware that LEWINSKY was self-taught in typing.

BACON advised that, in a mid-year performance counseling meeting, LEWINSKY felt that the other assistants were being too hard on her and that she was required to work to a higher standard. BACON wanted the Public Affairs Office to work together as a team to get the job done. BACON advised that when problems arose, it was because the team was not working together. LEWINSKY was not highly organized in her work habits. BACON stated that he also was not organized. LEWINSKY had to be reminded that she was not just working for BACON. BACON stated that she worked cheerfully and well for him, but felt that she did not have to do anything else. BACON advised that in April 1997, BERNATH asked BACON whether LEWINSKY should be replaced because of her performance. BACON stated he did not want to replace LEWINSKY because, from his standpoint, she was doing a good job. BERNATH did not have a problem with BACON's decision not to replace LEWINSKY.

BACON was shown a photocopy of a "Performance Management System for General Schedule and Wage System Employees" form for MONICA LEWINSKY dated May 2, 1997. BACON stated that the form was completed by CLIFF BERNATH. LEWINSKY was rated "Exceeds Fully Successful." BACON signed the form as LEWINSKY's immediate supervisor on May 2, 1997. BACON advised that 75% of the personnel in Public Affairs are rated Outstanding, which is the highest overall rating. BACON and LEWINSKY did not see her "Exceeds Fully Successful" rating as a good grade. LEWINSKY knew what the rating conveyed and that there was room for improvement.

BACON advised that in September 1997, LEWINSKY wanted to be raised in her grade from a GS-9 to a GS-12. LEWINSKY stated that a number of confidential assistants at the Pentagon were GS-12s. BACON told her that she could not get an increase in her grade because her performance was not good enough and a grade promotion would create a salary compression problem with another employee in his office.

BACON advised that in April 1997, LEWINSKY expressed an interest in returning to a job at the White House. BACON called White House Spokesman MIKE McCURRY and mentioned that LEWINSKY

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would be a good employee for the Press Office. McCURRY told BACON to write a note to LORRIE McHUGH, a Deputy Assistant to the President, in McCURRY's office. BACON stated that, on or about April 28, 1997, he wrote a short note to McHUGH recommending LEWINSKY for a position in the Press Office or the Communications Office. In May 1997, BACON asked LEWINSKY about the White House job and she stated that she had not heard anything from the White House.

BACON advised that in late-October or early-November 1997, LEWINSKY told him that she wanted to leave the Pentagon to seek employment in New York City. LEWINSKY stated that her mother was moving to New York and that she wanted to work in Public Relations in New York City. BACON advised that in November 1997, he had a conversation with HOWARD PASTER, the Chairman and Chief Executive Officer of HILL & KNOWLTON, INC., about LEWINSKY seeking employment in Public Relations. PASTER advised that CONNIE CHUNG may be looking for a researcher. On or about November 24, 1997, BACON wrote a letter to PASTER enclosing a copy of LEWINSKY's resume and thanking PASTER for his offer to talk to CONNIE CHUNG on behalf of LEWINSKY. BACON does not know whether PASTER forwarded the resume to CHUNG. BACON stated that he mentioned the conversation with PASTER to LEWINSKY.

BACON advised that in October and November of 1997, he had other conversations with LEWINSKY about her job seeking employment in New York. LEWINSKY told BACON that she was offered a job with the U.S. Mission to the United Nations. LEWINSKY stated that she had until January to accept or reject the job. BACON asked LEWINSKY how she got the job. She stated that she was put in contact with Ambassador RICHARDSON through a mutual friend. LEWINSKY did not mention the mutual friend's name. BACON does not recall any conversations with his wife about LEWINSKY's job seeking in New York. BACON did not write LEWINSKY's resume or any reference letters to any prospective employers. BACON did not receive any telephone calls requesting reference information about LEWINSKY from any employers.

BACON stated that on Friday afternoon, December 19, 1997, LEWINSKY left the office very upset. BACON had just returned to his office and LEWINSKY was in the process of leaving. LEWINSKY stated that she had a problem and there was nothing BACON could do for her. LEWINSKY did not mention the

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nature of the problem. BACON initially focused on a potential health problem. On Saturday, December 20, 1997, BACON asked his wife to call LEWINSKY from their car phone. LEWINSKY did not answer the phone, and DARCY BACON left a message on her machine. BACON stated that his wife, DARCY BACON, had a previously-scheduled lunch engagement with LEWINSKY on Monday. BACON does not recall any conversations with his wife following the lunch engagement.

BACON advised that he has not talked to anybody at the White House about LEWINSKY. He has not been interviewed by anyone at the White House or any attorneys employed by President CLINTON. BACON stated that he has been on conference calls with White House Spokesman MIKE McCURRY and his assistant, P. J. CROWLEY, when LEWINSKY's name may have been briefly mentioned. BACON stated that he recently had a dinner with HAROLD ICKES and STEVE COHEN, a law professor at Georgetown University, and that the group talked in general terms about LEWINSKY.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

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UNITED STATES OF AMERICA :
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VS. : Grand Jury Number 97-4
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JOHN DOE :
:
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U.S. Courthouse
401 Courthouse Square
Alexandria, Virginia

July 15, 1998

The testimony of KENNETH BACON was taken in
the presence of a full quorum of the Grand Jury
beginning at 10:05 a.m.

BEFORE:

JIM CRANE
Associate Independent Counsel

1 P R O C E E D I N G S

2 Whereupon,

3 KENNETH BACON

4 was called as a witness and, after first being duly
5 sworn by the Foreperson of the Grand Jury, was examined
6 and testified as follows:

7 EXAMINATION

8 BY MR. CRANE:

9 Q Good morning, Mr. Bacon.

10 A Good morning.

11 Q You can have a seat here. My name is Jim
12 Crane. I just met you. I believe that was the first
13 time I've ever met you. I'm with the Office of the
14 Independent Counsel, as you probably know.

15 A Right.

16 Q And this is the Grand Jury. Just to put some
17 preliminary matters on the record, I know that another
18 Grand Juror is coming in the courtroom, and let me just
19 ask the Foreperson --20 MR. CRANE: It appears that we are properly
21 quorumed. That is, we have 16 or more individuals?

22 FOREPERSON: Yes.

23 MR. CRANE: And there are no, and there are
24 no unauthorized persons in the Grand Jury room. Is
25 that correct?

1 FOREPERSON: No.

2 MR. CRANE: All right. We're here then to
3 hear the testimony of Mr. Bacon and I will put some of
4 the preliminary matters on the record.

5 BY MR. CRANE:

6 Q This is the Grand Jury. I'm an attorney for
7 the government. The court reporter sits opposite with
8 you, opposite the third table there at the end with the
9 recording devices, and the Grand Jurors are, are all
10 the other persons sitting around the table. To your
11 left is the Foreperson of the Grand Jury who has just
12 sworn you in. And another Grand Juror is just
13 entering.

14 This is a, a Grand Jury proceeding and let me
15 go over your rights and responsibilities. I'm sure
16 your attorney has gone over some of these and you're
17 probably familiar with them, so I'll do it fairly
18 quickly. But if you would like me to do it in more
19 detail, just let me -- just ask me to slow down, sir.

20 You have a Fifth Amendment right not to
21 incriminate yourself. That means you don't have to
22 answer any question which you believe would tend to
23 incriminate you. Is that clear to you?

24 A Yes, it is.

25 Q All right. You have the right to consult an

1 attorney if you choose, including you can take
2 reasonable breaks during the course of the proceedings
3 and -- is that clear?

4 A Yes, it is.

5 Q And you do have an attorney here today. Is
6 that right?

7 A Yes, I do.

8 Q And his name, for the record, is?

9 A Thomas Murphy.

10 Q All right.

11 A I'm sorry, William, William Murphy.

12 Q William Murphy. And he's outside. You can
13 take a reasonable number of breaks, but not after each
14 question or something that would end up disrupting the
15 procedures.

16 Now, your status before the Grand Jury is
17 that in a broad category called a subject and a
18 witness. You are not a target of the Grand Jury
19 investigation. A subject is defined by the Department
20 of Justice manual as a very broad category, witnesses
21 whose conduct comes within the scope of the Grand Jury
22 investigation. Is that more or less clear to you?

23 A Yes, it is.

24 Q All right. It's a very broad category and I
25 explain for witnesses who appear before the Grand Jury

1 | that even a bank teller in a bank robbery would often
2 | be considered to be a subject of the Grand Jury
3 | investigation until all the facts are absolutely clear
4 | as to what happened in the hypothetical bank robbery.

5 | This Grand Jury is looking -- has limited
6 | jurisdiction and we are looking into whether any person
7 | committed perjury, obstruction of justice, witness
8 | tampering or witness intimidation or false statements
9 | in relation to the civil lawsuit known as Paula Corbin
10 | Jones versus William Jefferson Clinton. Is the scope
11 | of our jurisdiction clear to you?

12 | A Could you repeat that one more time?

13 | Q Yes. The, the Office of the Independent
14 | Counsel stands in the shoes of the Attorney General,
15 | but unlike the Attorney General, the Department of
16 | Justice or the U.S. Attorney's Offices which can look
17 | into any violation of criminal law nationwide, any sort
18 | of violation, including, as I mentioned a moment ago,
19 | bank robbery, the Office of the Independent Counsel is
20 | given a list of statutes which it may investigate or
21 | must investigate by the Attorney General and by what is
22 | called a Special Division of the Court of Appeals of
23 | the D.C. Circuit. And the statutes and the area that,
24 | that the Office of the Independent Counsel has been
25 | asked to look into include whether any person has

1 committed perjury, obstruction of justice, witness
2 tampering, false statements in connection with the
3 civil lawsuit known as William -- excuse me,
4 Paula Corbin Jones versus William Jefferson Clinton.

5 Finally, Rule 6(e) provides that attorneys
6 for the government and the members of the Grand Jury
7 themselves, as well as the court reporter, cannot
8 disclose these matters to any other person outside.
9 You, on the other hand, as a witness, are free to
10 discuss your testimony, of course, with your own
11 attorney and with any other person, even with the
12 press, if you so choose. You are not subject to
13 secrecy.

14 All right. Is all, all of those preliminary
15 matters clear to you?

16 A Yes.

17 Q All right. Without further ado, let me start
18 asking you some basic factual questions and --
19 basically, about where you're employed and, and how
20 long you've been there. But before I do that, let me
21 ask you to state your full name and spell your last
22 name for the court reporter.

23 A My full name is Kenneth Hogate, H-O-G-A-T-E,
24 Bacon, B-A-C-O-N.

25 Q Where are you employed, sir?

1 A At the Department of Defense.

2 Q And could you just tell us what is your
3 position, how long have you been there, and what are
4 your basic day-to-day duties?

5 A My position is the Assistant Secretary of
6 Defense for Public Affairs. I've been there since
7 September 20th, 1994, and my basic duties are to advise
8 the Secretary of Defense on press matters and to run
9 the press operation at the Pentagon.

10 Q All right. Now, your position is a high
11 level position, is that correct, within the government?

12 A It's a Senate-confirmed position, yes.

13 Q All right. Nominated -- you were nominated
14 by the President?

15 A Yes, I was.

16 Q And confirmed by the Senate?

17 A Yes.

18 Q All right. What sort of dealings do you have
19 with the press on a day-to-day basis?

20 A Extensive dealings.

21 Q All right. Can you give us an overview of
22 some of the issues that you deal with on a day-to-day
23 basis?

24 A I certainly deal with deployments of troops
25 to places like Bosnia, Kosovo. I deal with foreign

1 policy matters that have an impact on the military.

2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 So, on a day-to-day basis, I, I basically
18 respond to requests from the press for information on a
19 whole variety of topics.

20 Q All right. Can you tell us where did you
21 work before you came to work at the Pentagon?

22 A I worked at the Wall Street Journal.

23 Q And how long were you there?

24 A Twenty-five years.

25 Q What were your positions at the Wall Street

1 Journal?

2 A I was both the reporter and an editor. I
3 sort of alternated between the two.

4 Q All right. What sort of issues did you
5 report on?

6 A I covered a wide range of issues, starting
7 with regulatory affairs. I covered economics,
8 education, the military, foreign affairs, international
9 finance, banking regulation.

10 Q And how did you come to be employed -- to be
11 appointed by the President?

12 A I was -- in the 1970s when I covered the
13 Pentagon, I got to know William Perry who was then the
14 Undersecretary of Defense for Research and Engineering,
15 basically weapons development. And when he became the
16 Secretary of Defense, somebody recommended me to him as
17 his press spokesman. I had an interview with him and
18 one other person in the Department and was hired for
19 the job.

20 Q All right. Now, can you just give us some
21 background? Generally, how was it that both Monica
22 Lewinsky and Linda Tripp came to work in your office?

23 A Well, I can't say very much about Linda Tripp
24 because she arrived a month before I did and I have no
25 firsthand or personal knowledge about how she got that

1 job. I've read accounts of it, as has everybody else,
2 but I don't have any firsthand evidence.

3 Monica Lewinsky was one of four people I
4 interviewed for the job. Three already worked at the
5 Pentagon; she did not. And I decided to hire her.

6 Q All right. And what was the position Monica
7 held while she worked for you?

8 A Well, her title was confidential assistant.
9 She essentially was a secretary.

10 Q Okay. What sort of things did she get to do?
11 Was she doing travel?

12 A She traveled -- Secretary Perry traveled
13 extensively, between a third and half the time, and
14 many of these trips were foreign. When the Secretary
15 travels abroad, I go and usually two or three people
16 travel with me from my office, and maybe as many as 10
17 or 15 press people. One of the things we do is
18 transcribe every comment that the Secretary makes to
19 the press, whether it was an interview on the airplane
20 or a press conference in Copenhagen or Bonn or London,
21 Riyadh, where we have to speak. Monica Lewinsky did
22 that transcribing.

23 The other thing she did on foreign trips was
24 to sort of handle the enormous flow of faxes that would
25 come in. There's -- it seems the farther one gets from

1 Washington, the greater the appetite is for news. And
2 so, we would have news summaries and wire service
3 stories and other things faxed over to us and she would
4 distribute those several times a day.

5 In the office, she answered the telephone,
6 and I probably got an average of 30 or 40 phone calls a
7 day. She would manage my appointments, my schedule,
8 and she would handle correspondence.

9 Q All right. And there was a number of
10 problems with Monica's job performance. Is that
11 accurate or inaccurate?

12 A I would say her performance, as far as I was
13 concerned, was, was, was competent. She was not a
14 great team player and the Pentagon is a building filled
15 with many teams, and she did not always get along well
16 with some of the other people in the office. Her
17 feeling from time to time was that she worked only for
18 me and not for other people in the office, so there
19 were some complaints about her performance vis a vis
20 other people in the office.

21 Q What about -- I've heard that her typing
22 skills were actually quite poor.

23 A They were certainly adequate for the amount
24 of typing that I had her do.

25 Q All right. Was there some discipline or some

1 counseling that she was undergoing for her job
2 performance?

3 A Not from me, but she was counseled by my
4 deputy at the time, Cliff Bernath.

5 Q And why was that?

6 A It was really --

7 GRAND JUROR: I'm sorry, excuse me.

8 Mr. Crane, where exactly are you going with these
9 questions about Monica Lewinsky and about work?

10 GRAND JUROR: Right. We don't understand.
11 Yeah, we don't understand with the background.

12 GRAND JUROR: Sort of -- I was losing track
13 there. It seems like we were talking more about her.

14 MR. CRANE: Right. We're almost done with
15 the background.

16 BY MR. CRANE:

17 Q What was the area that she was counseled on?

18 A It was -- there was one foreign trip to Asia
19 in which there had been tension between her and one of
20 the military assistants who had traveled with us on
21 that trip, and -- but it really came back to the
22 broader issue I mentioned earlier, of, of what her role
23 was on a broader team, beyond just working for me but
24 working with and for other people in the office.

25 Q All right. Now, why did you ask Mr. Bernath

1 | to release information from Linda Tripp's security
2 | files to the press?

3 | A Well, I didn't ask him to release information
4 | from Linda Tripp's file.

5 | Q What did you ask him to do?

6 | A It might be helpful if I explained what
7 | happened, and then you can ask me some questions about
8 | that.

9 | Q Sure, go ahead.

10 | A Late in the day, in the early evening -- I
11 | got a call from a reporter asking me a question about
12 | Linda Tripp. I was unable to answer that, to find the
13 | answer to that question on that evening, which was a
14 | Thursday evening. Either that evening or early the
15 | next morning, I can't remember which, Cliff Bernath,
16 | who had been out of town -- he was my deputy --
17 | returned and we were talking about what was going on.
18 | I told him that I had received a request from the
19 | reporter. I told him what the request was about. I
20 | told him I didn't know whether we would be able to find
21 | the information and, if we found it, whether we'd be
22 | able to release it. And then I was going to take up
23 | the matter in the morning and whether -- as I say, I
24 | can't recall whether I had this conversation with him
25 | on Thursday evening or early, say, 7:15 or 7:30 on

1 | Friday morning. He said he would take it over.

2 | Q All right. Let me just interrupt. Who was
3 | the reporter and what was your relationship to her?

4 | A The reporter was Jane Mayer of the New Yorker
5 | and we had worked maybe 10 years earlier as colleagues
6 | at the Wall Street Journal.

7 | Q All right. And had you stayed in touch with
8 | her over the years?

9 | A I had not.

10 | Q All right. Go ahead, if you want to continue
11 | essentially in narrative form.

12 | A So, Cliff Bernath took over the project and
13 | he basically handled it from there, although I was very
14 | aware of what he was doing because he checked back with
15 | me. I basically then left the office and reappeared
16 | every hour, every hour and a half for the rest of the
17 | day, sometimes for 5 minutes, sometimes for 15 minutes,
18 | and then would go off and do -- to another meeting
19 | essentially.

20 | Q Okay. What was it that Ms. Mayer asked you
21 | to find out about Linda Tripp?

22 | A She called me up and said that she had
23 | learned that Linda Tripp had been arrested and asked me
24 | if I was aware that she had been arrested, and I said
25 | no. I asked her the circumstances of the arrest and

1 she told me.

2 Q What did she tell you about the
3 circumstances?

4 A She told me that she had been arrested and
5 charged with grand larceny 19 -- when she was 19 years
6 old.

7 Q Okay. And how long ago was that?

8 A Well, I don't remember the exact date but I
9 think Linda Tripp is in her mid- to late forties now.

10 Q All right. What else did she tell you? What
11 else did Ms. Mayer tell you she had found out?

12 A That's all she told me.

13 Q And what did she want you, in turn, to find
14 out?

15 A She, she asked if it was possible for me to
16 find out if she had -- how she had answered the
17 question on a particular form which she identified as a
18 Form 398.

19 Q All right. And why did she want that
20 information?

21 A Well, she was writing an article for the New
22 Yorker in which she was going to mention this. She
23 didn't tell me what the article was -- what the theme
24 of the article was going to be but she said this was
25 going to be mentioned in the article, and she wondered

1 how she had answered the question on her security form.

2 She --

3 Q Okay. Go ahead.

4 A That's, that's all.

5 Q Okay. What was the particular question from
6 her security form that she wanted answered?

7 A She informed me -- I did not know about the
8 Form 398. She informed me -- although I have, I guess,
9 have filled one out myself but I didn't look at the
10 name of the form when I filled it out. She asked me --
11 she informed me that on that form there was a question:
12 Have you ever been arrested? And she asked me if I
13 could find out how she had answered that question.

14 Q All right. And it was your understanding
15 that she would write an article about what information
16 you provided her or --

17 A Well --

18 Q -- together with the other information she
19 had?

20 A I, I did not interrogate her about what the
21 article was going to say, whether this was the whole
22 article or a small part of the article. She asked me
23 for a specific piece of information.

24 Q All right. But is this a fair
25 characterization? That she was going to write that

1 Linda Tripp lied on her personnel form if that was the
2 way -- if she answered no, then that would be the
3 logical inference. And that's, in fact, what she did
4 write in her article?

5 A That is, in fact, what she wrote, yes.

6 Q Okay. Now, tell us again -- is this correct:
7 you essentially turned over the mechanics of it to
8 Mr. Bernath?

9 A That is correct.

10 Q Okay. And he does -- tell me also in summary
11 form so I can move along. He does some calling around
12 and talks to a few people and eventually gets a hold of
13 Linda Tripp's Form 398?

14 A Yes.

15 Q Okay. And a 398 is a form that a federal
16 employee fills out to get a security clearance. Is
17 that correct?

18 A Yes.

19 Q All right. And, in fact, Linda Tripp had a
20 top secret security clearance?

21 A That is correct.

22 Q Okay. Now, what led you to believe that
23 information from a top secret security clearance could
24 be disclosed to the media?

25 A Well, we had since this story broke disclosed

1 a wide range of personnel information about both Linda
2 Tripp and Monica Lewinsky to the press. At the time --
3 well, not at -- until late last year, my office
4 actually ran the Freedom of Information Act Section of
5 the Pentagon. On October 1st, it was moved from my
6 office to another office as part of a reorganization.

7 We have always taken the position that we
8 will try to answer reports' questions as quickly as
9 possible, when possible. And we've always taken the
10 position that we should be as open as possible. We
11 were relatively open with the information back in
12 January and I approached this question basically with
13 the same spirit we had in January.

14 Q All right. But back in January of this year,
15 1998, when the Lewinsky/Tripp story hit the papers, you
16 did not release any information from Ms. Tripp's 398 at
17 that time, did you?

18 A We did not.

19 Q Okay. And you did not release any
20 information from Ms. Lewinsky's 398 or the successor
21 form to that, which I believe is an SF-86, did you?

22 A We did not -- we were not asked to.

23 Q In fact, you were?

24 A I don't believe so.

25 Q You were asked for all releasable information

1 from their personnel files by handwritten Freedom of
2 Information Act requests.

3 A I don't think we were specifically asked for
4 anything on the 398. You are right that we were
5 asked --

6 Q For all releasable information?

7 A Yes, right.

8 Q All right. And one thing that you have to do
9 in dealing with public affairs is not simply to feed
10 the press but to protect the rights of your employees.
11 Isn't that also right?

12 A There, there is a balance between the Privacy
13 Act and the Freedom of Information Act.

14 Q Okay, what balancing did you undergo before
15 you told this reporter that you would go and get --
16 before you released the 398 information? What
17 balancing did you do?

18 A Well, in retrospect, probably not enough.
19 But when I initially got this request on Thursday
20 evening, I called a fellow named Doc Cooke who runs the
21 administrative side of the Pentagon. This was, I would
22 say, 5:30 or 6:00. And I said to him that I had a
23 gotten a call from a reporter. I described the
24 substance of the call, that it was about an arrest
25 record, and that she had asked a question about how

1 Linda Tripp had answered a question on her Form 398
2 about a public record, the arrest record, and would it
3 be possible to find out how she had answered this
4 question.

5 Now, at the time I knew that the New Yorker
6 was going to run this article and that it would appear
7 early next week. And I also knew that regardless of
8 whether we released the information then, we had to --
9 we were going to be asked the answer to the question.

10 Q Right, but that's an internal matter for the
11 Pentagon to --

12 A That's right.

13 Q And correct me if I'm wrong, but if an
14 employee lies on a 398 form or on another government
15 form, that's a matter of internal discipline. Is that
16 correct?

17 A Well, I didn't know that at the time. Since
18 then, I've learned that, yes.

19 Q You're saying you did not know at the time
20 that internal matters were not just released to the
21 press as a -- to feed the press?

22 A That's not what I said. You asked me a
23 different question.

24 Q What, what did you understand at the time as
25 to releasing information about internal investigations?

1 A Not much. What I said to Doc Cooke was that
2 I had told Jane Mayer that we -- I would look into this
3 matter and I didn't know whether I'd be able to release
4 the information but I would look into it. I told the
5 same thing to Doc Cooke, that I didn't know whether I'd
6 be able to release it. One, if we could find the
7 information, I didn't know. Two, I didn't know if we
8 could find it if we could release it. I believe I
9 mentioned to Doc the Privacy Act.

10 Q Did you also mention to Ms. Mayer the Privacy
11 Act?

12 A I believe I did mention that to her.

13 Q So, early on, the Privacy Act was at least
14 going around in your mind.

15 A That is correct.

16 Q Is that correct?

17 A Yes.

18 Q And you mentioned it to, to Doc Cooke and
19 possibly Ms. Mayer? Or was it the other way around,
20 Ms. Mayer and possibly Doc Cooke?

21 A I believe I mentioned it to both, but I think
22 what I did say to both was, one, I don't know whether
23 we have the information, if we can locate it; two, if
24 we locate it, I don't know whether we'll be able to
25 release it.

1 Q Okay. Let me ask you a question about that.
2 When you said that to Doc Cooke, I don't know if we
3 have it, if we can locate it, I don't know if we can
4 release it, you're saying you actually asked Doc Cooke
5 I don't know if we can release this --

6 A No.

7 Q --- meaning --

8 A No. I reported to Doc Cooke what I had said
9 to the reporter.

10 Q Okay.

11 A I didn't ask him a question. I didn't ask
12 him for any judgment. I said Doc -- Doc's called Doc
13 because his name is David O. Cooke and everybody calls
14 him Doc. He -- I said Doc, I just got a call from a
15 reporter who said -- who informed me that Linda Tripp
16 had been arrested and asked me how she had filled out a
17 line on the Form 398. I told her that I don't know
18 whether we can find this information and, if we find
19 it, I don't know whether we can release it.

20 Q Okay. When you say release it, who are you
21 talking about? Release it to whom?

22 A Release it to the reporter.

23 Q Okay.

24 A She had asked me for a specific piece of
25 information.

1 Q Okay. And in the context of your
2 conversation with Doc Cooke, was it clear that when you
3 say I don't know if we can release it that he
4 understood release it to the press as opposed to
5 release it for internal investigatory purposes?

6 A I do not know what he understood from that
7 conversation.

8 Q But that was your intent when you were
9 talking to him: Is there any way to find this out and,
10 if we can, can we release it, question mark, to
11 Dr. Cooke -- Doc Cooke?

12 A As I said to you, I was not asking him for
13 advice. I was merely reporting to him what I had told
14 the reporter.

15 Q But I'm looking now at your Inspector General
16 statement. I can show you a copy of it, but just let
17 me -- and it says on page 4 "I said the same thing to
18 Doc, essentially, 'Is there any way to find this out
19 and, if we can find it out, can we release it?'"

20 A That's what I said to Doc.

21 Q Okay. So, you were asking him a question?

22 A Yeah. I -- my recollection is that I
23 reported the conversation to Jane Mayer to Doc and that
24 I was not asking him for a legal opinion at that time.

25 Q All right. Let me show you a copy -- this is

1 | my mark-up copy of your Inspector General statement.
2 | On page 4, it's the top line and it -- what I wanted to
3 | ask you about particularly, the handwritten comments
4 | that say "can we release it." Now, explain to the
5 | Grand Jury how those came to be written in there, some
6 | typed comments, for the members of the Grand Jury, and
7 | then there are some handwritten ones.

8 | A Sure. I was -- I talked to the
9 | representative of the Inspector General in April, I
10 | believe, April 15th and they made a transcript. After
11 | the transcript was complete, they sent me a copy and
12 | also a copy to my attorney, Bill Murphy. We went over
13 | this transcript together over the telephone and we
14 | believe that there were some inaccuracies and some
15 | incomplete statements in the transcript. So, we then,
16 | together, wrote -- I think he probably had written in
17 | this before he called me and we went through. I had my
18 | own copy, which I believe you have also --

19 | Q Yes.

20 | A -- and I had written several things. The
21 | copy you have reflects both what I had written before I
22 | talked to Murphy and what I had written after I talked
23 | to Murphy. So, I assume that in my copy this is also
24 | written in.

25 | Q All right.

1 A I believe that what I sent back to the
2 Inspector General, the representative of the Inspector
3 General's office, was the one in which I had written in
4 remarks.

5 Q Okay. So, what I'm looking at here, the
6 words "can we release it," are your attorney's
7 handwritten comments which you later ratify or write --

8 A Yes.

9 Q -- write on your comments?

10 A Right. I don't dispute that.

11 Q Okay. And you believe that that is the more
12 accurate transcript than the way the court reporter
13 portrayed it?

14 A I do.

15 Q Okay. Okay, let me read to you the next
16 sentence of the IG statement. And again, you're
17 essentially testifying in the narrative form, so
18 there's no immediate question, but the sentence says,
19 "I mean obviously if this is going to run in a
20 magazine, we need to know what the facts are at some
21 point anyway. If we can find it out, I have no idea
22 whether this is the type of thing we can release or
23 not." Now, who is -- you're speaking if we can find it
24 out, who is the we that you're referring to there?

25 A That was essentially my office or it was

1 anybody I asked for the information. I mean, we, I
2 think, is more of a corporate we, right there.

3 Q Okay. And who are you speaking to when you
4 relate this statement to the Inspector General? "I
5 have no idea whether this is the type of thing we can
6 release or not."

7 A That's what I said to Jane Mayer, and it's
8 also essentially what I said to Doc Cooke.

9 Q Okay. What did Doc Cooke say to you when you
10 said, "I have no idea whether this is the type of thing
11 we can release or not"?

12 A I don't think he responded specifically to
13 that remark. My, my recollection is that Doc Cooke
14 said let me see what I can find out.

15 Q All right. Now, at some point Mr. Bernath
16 brings you Linda Tripp's 398. Is that correct?

17 A Yeah. He first brought me another form, a
18 371, which was not germane.

19 Q Okay.

20 A I mean a 171. It was not germane. It had a
21 question on it about arrests but it wasn't, it was not
22 the 398.

23 Q All right. And why was it that the 171 was
24 not germane?

25 A Because I believe it said have you ever been

1 convicted, have you been convicted of a crime in the
2 last 20 years.

3 Q Okay.

4 A That's my recollection of the, of the
5 statement he showed me.

6 Q Okay. So, there are two things that didn't
7 give Jane Mayer the information she wanted. One is
8 that it asks about convictions. Is that correct?

9 A Right. And it was within the last 10 years.

10 Q Okay. And neither of those would have
11 applied in the case of Linda Tripp, at least according
12 to the information she'd given you over the phone? She
13 being Jane Mayer.

14 A Well, Jane Mayer had asked me for something
15 very specific and what Cliff brought me on Friday
16 morning was not what Jane Mayer had asked for.

17 Q Okay. But it seems that it's pretty obvious
18 that Jane Mayer has an angle, that she wants to get
19 something fairly negative on Linda Tripp. I mean,
20 that's the way it came out in the article, whether you
21 knew that at the time -- and just let me finish. She
22 can't -- the question about has Linda Tripp ever been
23 convicted doesn't do her any good because, in fact,
24 Linda Tripp's never been convicted. And the fact that
25 the conviction has occurred within 10 years, that

1 doesn't do her any good because this thing happened 29
2 years ago. So, it seems to me that it's pretty obvious
3 at this point that Jane Mayer is digging back 29 years.

4 A That was obvious at the beginning. She said
5 that.

6 Q Okay.

7 A She told me that she had been arrested when
8 she was 19.

9 Q Okay. So, it was pretty obvious to you at
10 this point that Jane Mayer is now digging back 29 years
11 into Linda Tripp's past?

12 A Yes, I knew that Thursday night.

13 Q Okay. And it's pretty obvious at this point
14 that it's derogatory?

15 A Arrests usually are, yes.

16 Q Right. It's pretty obvious that Linda Tripp
17 has some sort of a criminal past and that's derogatory.
18 Is that correct?

19 A Well, I'm not sure it's fair to say that I
20 assume she had a criminal past because an arrest
21 doesn't necessarily mean a conviction, as you pointed
22 out.

23 Q Right. A criminal incident of some, of some
24 substance?

25 A She had a run in with the law.

1 Q Right. And then, perhaps more importantly,
2 that she had lied about it, and that was another
3 important angle that Ms. Meyer or Mayer was working on?

4 A That's what she asked me about, yes.

5 Q All right. So, it's pretty clear that she is
6 going to portray Linda Tripp as someone who has been
7 arrested and lied about it and you knew that?

8 A I did know that, yes.

9 Q Okay. And that is extremely derogatory, is
10 it not?

11 A It certainly is not one you would like to
12 have published about you.

13 Q Exactly. And Linda Tripp could possibly have
14 been fired for that, couldn't she?

15 A I did not know at the time what the outcome
16 would be, and the outcome was that she was not fired.

17 Q That's right. But rather than refer it to
18 the internal authorities for proper and confidential
19 investigation, you gave it to a reporter. Is that
20 correct?

21 A That is correct.

22 Q Why didn't you call up Defense Investigative
23 Service, Inspector General, and say I have something
24 highly confidential, highly embarrassing about
25 Ms. Tripp that needs to be confidentially investigated?

1 A Well, in retrospect, what I wish I had done
2 is just called the lawyer and said here's the
3 situation, please sort it out. But I did not do that.

4 Q All right. And you knew that these documents
5 were subject to a subpoena by the, by the Independent
6 Counsel, didn't you?

7 A I never -- well, I knew that the Independent
8 Counsel's Office had subpoenaed documents. I never
9 looked at the documents we turned over or even at a
10 long list of the documents that we turned over. So, I
11 suppose in a theoretical sense I knew that, but this
12 was not a factor in my thinking at the time.

13 Q And you knew that there had been -- and I
14 believe it's in your statement, either your IG
15 statement or your civil deposition to the Judicial
16 Watch group that it was a very broad, very long-length
17 list of documents which the government had subpoenaed?

18 A Yes.

19 Q You were generally aware of that?

20 A Yes. But as I said, this was not a factor in
21 my thinking at the time.

22 Q Had you simply forgotten that Office of the
23 Independent Counsel was looking into Ms. Tripp and
24 Ms. Lewinsky?

25 A No, I hadn't forgotten, but you're asking me

1 to recreate what was in my mind at the time and this
2 was not in my mind at the time.

3 Q All right.

4 A I don't know how to say it more clearly than
5 that. Maybe it should have been but it was not.

6 Q And, in fact, the General Counsel Office of
7 the Pentagon had written you all a memorandum saying do
8 not release anything that has been subpoenaed by the
9 Office of the Independent Counsel. Isn't that correct?

10 A I do not recall seeing that but it wouldn't
11 surprise me that they had done that.

12 Q You're saying you're unaware of that?

13 A Well, I do not recall seeing it.

14 Q And, in fact, you early on had been
15 interviewed by the FBI, you and your wife, both, isn't
16 that correct?

17 A Yes. I've been interviewed twice.

18 Q Okay. The first time, some point in January,
19 is that correct, or early February?

20 A I believe January 28th.

21 Q All right. And yet another time. Is that
22 correct?

23 A Right.

24 Q And a lot of that was these preliminary
25 matters that we were going over with the dates of

1 Lewinsky and Tripp's employment in your office?

2 A That is right.

3 Q Okay. So, you had a very heightened or you
4 had some heightened sense of the importance of this
5 because the FBI had come to you and interviewed you
6 twice. Is that correct?

7 A They have interviewed me twice.

8 Q Okay. And you were getting -- from
9 January 21 on, your office was virtually deluged with
10 inquiries about Tripp and Lewinsky. Is that correct?

11 A Yes.

12 Q And this all related to the fact that
13 Lewinsky and Tripp work in your office. You understood
14 that?

15 A Yes.

16 Q And they wanted lots and lots of information
17 out of these people?

18 A Yes.

19 Q Okay. But up until this point, up until
20 March 13th, you had essentially released on both of
21 these women, the dates of their employment. Is that
22 correct?

23 A Yes.

24 Q Their pay rates?

25 A Yes.

1 Q The amount they get paid?

2 A Right.

3 Q And other pretty basic, what I would call
4 generic information?

5 A And their security clearances.

6 Q And the status of their security clearance?

7 A Right.

8 Q Whether they had top secrets?

9 A Right.

10 Q And they both had top secrets, right?

11 A Yes, they did.

12 Q Okay. But then on March 13th you suddenly
13 decide to release this other extremely derogatory
14 information about Ms. Tripp.

15 A On March 13th, we responded to a reporter's
16 question --

17 Q All right.

18 A -- as you know we did.

19 Q Now, when was the previous occasion that you
20 had spoken with Ms. Mayer?

21 A She had called me once before to ask me a
22 question about Linda Tripp. I would say it was maybe
23 two or three weeks prior to this March 12th
24 conversation.

25 Q Okay. And what did she want on that

1 occasion?

2 A She asked me if I could tell her anything
3 more about Linda Tripp than what I had said publicly.

4 Q And what was your answer on that occasion?

5 A I said no.

6 Q And why did you say that then?

7 A Well, first of all, it was a very vague
8 question: can you tell me anything more about Linda
9 Tripp than you said publicly? And it was not a
10 specific question in any way, and that was the main
11 reason I said no. It was a question that I thought
12 called for sort of a stream of consciousness and it
13 didn't seem to be going anywhere.

14 Q Did you have any further conversations with
15 the reporter?

16 A No, I did not.

17 Q And the follow-up was done by Mr. Bernath.
18 Is that correct?

19 A Well, wait a minute. I think you might be
20 putting some things together.

21 Q Okay.

22 A Mayer called me, I would guess, sometime in
23 February. She asked me if I could tell her anything
24 more about Linda Tripp than I had said publicly, and I
25 said no. I didn't hear from her again until

1 March 12th. She called me on March 12th, asked me a
2 question. I believe I asked one of my military
3 assistants, LTC Bolts (phon. sp.) to call her back and
4 say that we could not get the answer to her question on
5 Thursday night, March 12th. At that point she said to
6 Bolts -- and I don't recall whether she said directly
7 to Bolts or then called me, but I learned that she was
8 going to extend the deadline of the story to see if we
9 could get this information in the morning. It was at
10 that point, either Thursday night or Friday morning,
11 that Cliff Bernath took over the project.

12 Q All right. Now, early on in the
13 investigation --

14 A And I did not speak to Jane Mayer after
15 March 12th.

16 Q Okay. Early on in the investigation, you got
17 your own attorney, Mr. Murphy. Is that correct?

18 A Yes, I did.

19 Q And about what date was that?

20 A Well, I would say it was sometime after
21 January 21st but before January 28th.

22 Q All right. And then shortly after that you
23 were interviewed by the FBI the first time?

24 A I was interviewed by them, I believe, on
25 January 28th.

1 Q Okay. And he has continued to represent
2 you --

3 A Yes, he has.

4 Q -- throughout? All right. And the -- so,
5 you have your own private attorney relatively early on,
6 certainly before this incident occurred?

7 A That's correct.

8 Q Okay. And there's also the office of the
9 General Counsel within the Pentagon?

10 A Right.

11 Q Okay. And you had told your deputies that
12 you wanted everything to be checked with the lawyers
13 before you released any information on Trip or
14 Lewinsky. Isn't that correct?

15 A I said that in January. When this broke, I
16 was in Korea. And --

17 Q Okay. What do you mean, when the story
18 initially broke?

19 A On January 21st when the story initially
20 broke that Tripp had taped Lewinsky and what the
21 subject of the tapes were --

22 Q Right.

23 A -- and what was on the tapes. I was in
24 Korea. We had began, back in Washington, getting
25 deluged for information, and I said just find out from

1 the lawyers what we can release and release it.

2 Q Okay. I'm looking at your Inspector General
3 statement and it said, "We kept getting requests. A
4 lot of information had been put out. I said I want to
5 make sure that we check everything with the lawyers."
6 And this is what you were referring to, you made this
7 statement early on?

8 A That's correct.

9 Q Okay. But you all continued to coordinate
10 with the lawyers, meaning the Office of General
11 Counsel, throughout -- in the ensuing months. Isn't
12 that correct?

13 A Not me personally but people in my office,
14 yes.

15 Q All right. But you were the one that gave
16 the order, check it with the lawyers?

17 A Right.

18 Q Okay. Why didn't you check it with the
19 lawyers this time? Did you just like forget?

20 A No. It was done -- as I said, this was done
21 quickly. In retrospect, I wish I had checked with the
22 lawyers, but I did not. I had turned this over to
23 Cliff. I had mentioned -- I clearly raised the
24 question of releasability with him and with Doc Cooke,
25 but I never -- and this, I think, was a supervisory

1 failure. When Cliff came back with the information, I
2 never said to him can we release this.

3 Q All right. But you had already said that to
4 Doc Cooke, right?

5 A I had mentioned it to Doc Cooke, yes, and I
6 think it was on Thursday night. But it wasn't Doc
7 Cooke that ultimately provided the information to
8 Cliff.

9 Q Right. Okay. And I'm looking at your
10 Inspector General statement. It also says -- it
11 doesn't give an exact time frame, but your answer is
12 "So, I asked Dick Bridges who runs the Director of
13 Defense Information, to check everything with the
14 lawyers before releasing anything." Now that
15 statement, that also is something, an order that you
16 gave relatively early on in this scandal?

17 A That was in January. I believe either
18 January 21st or 22nd.

19 Q All right. So, at least on two different
20 occasions you were telling people to check everything
21 with the lawyers?

22 A That is correct.

23 Q Okay. What effect did you think this would
24 have on Ms. Tripp, reading about this information about
25 an arrest she'd had when she was 19 years old, reading

1 | it in the New Yorker?

2 | A I did not think about that. I did not ask
3 | myself that question.

4 | Q You, you totally forgot that Ms. Tripp worked
5 | for you?

6 | A No. You asked me a specific question and I
7 | didn't -- that question didn't arise in my mind. I had
8 | assumed but -- I had never asked Jane Mayer but I
9 | assumed that Jane Mayer would have contacted Ms. Tripp
10 | or her attorney with this information for a comment.

11 | Q All right. But as her boss, why didn't you
12 | contact her and tell her Ms. Tripp, a reporter is
13 | asking questions, can I have your permission --

14 | A I, I, I have said publicly that in retrospect
15 | I regret that I didn't either contact her attorney or a
16 | Defense Department attorney about this.

17 | Q Nor your own personal attorney?

18 | A It never occurred to me to contact him. I
19 | didn't regard this as a personal issue, I regarded it
20 | as a, as an issue of releasability of information.

21 | Q Okay. In the -- is it 4½, going on 5 years
22 | you've been at the Pentagon?

23 | A It's 3½, going on 4.

24 | Q Three and a half, going on four. Have you
25 | ever released information concerning anyone else's

1 arrest record?

2 A I've never been asked a question like this
3 before.

4 Q Right. It was a -- in 3½, going on 4 years,
5 this had never occurred. Didn't that ring a warning
6 bell or wasn't that some kind of red flag that wait,
7 this has never happened to me before, this is not
8 routine?

9 A Yes, and that's one of the reasons I made the
10 statement I did to Doc Cooke and also to Cliff Bernath
11 about raising the issue of the releasability of the
12 information.

13 Q Okay. So you, you raised an issue of the
14 releasability with Doc Cooke?

15 A Yes.

16 Q Are you certain about that?

17 A I believe that I said -- what I believe I did
18 was report to Doc basically what I had said to Jane
19 Mayer. I'd be glad to run through that again. I also
20 believe that I reported -- when I first mentioned this
21 to Cliff Bernath, I basically did it in the format of
22 reporting to Cliff my conversation with Jane Mayer.

23 Q All right. But let me get this straight.
24 Asking about someone's criminal arrest record had never
25 happened to you while you worked at the Pentagon?

1 A Almost every day I get asked questions that
2 I've never been asked before. There are 1.4 million
3 people in the military and somebody's always doing
4 something wrong or something different. So, I get a
5 lot of new questions and this was a new question that
6 I'd never been asked. The mere fact that I had never
7 been asked the question before wasn't a surprise to me
8 because, as I say, every day I'm -- I face questions
9 I've never been asked before.

10 Q Okay. What about -- generally, about
11 someone's Form 398, the information that the employée
12 fills out to get a security clearance?

13 A I've never been asked a question about that
14 before.

15 Q Didn't that send out some kind of warning
16 bell that whoa, this is about, you know, highly
17 personal information that the government uses to
18 evaluate employees to get security clearances; I
19 better, I better back off? That never dawned on you?

20 A Well, as I said, I mentioned to the reporter
21 and to Doc Cooke and Cliff Bernath, all three, I raised
22 questions about releasability.

23 Q You're certain you raised this to Doc Cooke?

24 A I believe that I did, yes. But I want to be
25 very clear again. When Jane Mayer called me, my

1 | recollection is I said to her two things: I don't know
2 | whether we will be able to locate this information and,
3 | if we do, I don't know whether we'll be able to release
4 | it.

5 | Q All right.

6 | A When I talked to Doc Cooke, I said I just got
7 | a call from a reporter, she told me that she has
8 | information that Linda Tripp had been arrested and she
9 | wants to know how she responded to a question on a
10 | specific point. I said to her I don't know whether we
11 | can release this -- whether we have the information,
12 | whether we can locate it. And, two, if we locate it, I
13 | don't know that we can release it. I'm calling you to
14 | find out if we do have this information to answer the
15 | first question. That's my recollection of what I said
16 | to Doc.

17 | Q All right. And I'm looking on page 12 of
18 | your Inspector General statement. It has a very -- a
19 | virtually identical quote and I will quote you saying,
20 | "At that point I said," and your conversation with Doc
21 | Cooke and I continue the quote, "this looks like it's
22 | it. But what I never said to him was is this
23 | releasable. I mean, in my mind I had said early on,
24 | both to him and to Doc, you know -- I don't know
25 | whether we can release this or not." Let me just ask

1 you to look --

2 A Excuse me. I believe that --

3 Q Who, who is it you're talking to?

4 A -- was the conversation with Cliff Bernath --

5 Q Okay.

6 A -- you just read, not with Doc Cooke.

7 Q All right. So, you are talking about your
8 conversation with Cliff Bernath and you never said to
9 Cliff Bernath is it releasable, but it says, "In my
10 mind, early on I had said both to him, Cliff Bernath,
11 and to Doc I don't know whether we can release this or
12 not."

13 A Right.

14 Q So, you had already asked Cliff Bernath can
15 we release this?

16 A Well, you may be dancing on the head of a pin
17 and I don't mean to be contentious about this, but I'm
18 not aware that I specifically said to Cliff can we
19 release this information. What I did do is raise the
20 question of releasability but I never said Cliff, I
21 want you to find out if we can release this
22 information.

23 Q All right. Now, you had some discussions
24 with Mr. Bob Tyrer after this occurred?

25 A Yes, I did.

1 Q Okay. Now, what happened and what was the
2 outcome of those discussions? What was his tone and
3 was he happy or sad that this had occurred or what?

4 A Mr. Bob Tyrer is Secretary Cohen's chief of
5 staff.

6 Q All right.

7 A After this event took place, I left town on
8 March 14th and was gone for a week with my family. I
9 got a call from Tyrer on Wednesday, which would have
10 been the 18th, I believe, of March.

11 Q Okay.

12 A He was upset with, with Cliff Bernath and
13 with COL Bridges because he felt that the Secretary had
14 not been adequately warned that the information about
15 Linda Tripp had come from the Pentagon and he was
16 mainly asking me questions about how to deal with Cliff
17 Bernath and Dick Bridges.

18 Q Okay. He was quite angry, was he not?

19 A Yes, he was.

20 Q Okay. Did you have to submit your
21 resignation?

22 A I did not.

23 Q Did you offer it?

24 A I don't believe at that time that I did.

25 Q And was there another time when you wrote a

1 memorandum saying you would offer it if asked or
2 something to that effect?

3 A Yes, there is.

4 Q Okay. What exactly -- as best you recall,
5 why did you write that memorandum?

6 A That memorandum was written in May and it was
7 following a conversation that I had had -- several
8 conversations that I had with Secretary Cohen and also
9 with Bob Tyrer over this.

10 Q All right.

11 A I had made it very clear to the Secretary
12 that it was my job to, to deal with problems that he
13 faced and that if I was creating a problem for him I
14 wanted him to know that I was ready to depart at any
15 minute in order to ease pressure on him if he thought
16 that was necessary.

17 Q All right.

18 A And I repeated that -- that was a statement
19 that I made orally and I repeated that in writing to
20 Tyrer. I had also made it orally to Tyrer.

21 Q Now, after this incident occurred,
22 Mr. Bernath went to a different position but is still
23 more or less under your supervision. Is that correct?

24 A Yes.

25 Q And tell us a little bit about how that came

1 about.

2 A One of the divisions in the Office of Public
3 Affairs is called the Armed Forces Information
4 Service --

5 Q All right.

6 A -- which runs a worldwide radio and
7 television broadcasting service for troops overseas.
8 It also broadcasts directly to ships at sea. It also
9 runs a news service that provides stories for
10 newspapers on bases, both domestically and overseas,
11 and it runs Stars and Stripes, the newspaper for
12 soldiers, sailors, airmen, marines serving in Europe
13 and in the Pacific.

14 Q All right. And he had been -- he had
15 applied for that position at some point in the past.
16 Is that correct?

17 A He had said to me about a year ago that when
18 the, the incumbent director of AFIS retired, which we
19 expected to happen sometime in the next year or so,
20 that he would be interested in taking over that job.

21 Q All right. Was there any other reason why
22 Mr. Bernath was transferred to that position?

23 A No. I interviewed three people for the job.
24 I asked each one to write a vision statement for AFIS,
25 where they would take it in the next 5 or 10 years,

1 what they thought the major issues were. And prior --
2 I had interviewed three people and had received these
3 vision statements prior to leaving town on March 14th.
4 And it was always my intention to make a decision among
5 these three people and announce when I came back my
6 choice to head AFIS.

7 Q Okay. Did Mr. Tyrer ever tell you that he
8 had simply lost confidence in Mr. Bernath?

9 A He told me that he had lost confidence in
10 Mr. Bernath, yes.

11 Q Did he say the same thing about you?

12 A I don't believe he ever said that to me.

13 Q All right. The fact that Mr. Tyrer lost
14 confidence in Mr. Bernath, did that -- did Mr. Tyrer
15 have any sign off on the transfer of Bernath to AFIS?

16 A He did not. It was my decision.

17 Q Okay. Let me ask you some questions that the
18 Inspector General asked you. On page 20, they ask you
19 "Do you consider this a Privacy Act violation?" And
20 what is your answer as you sit here today?

21 A I don't believe it was a Privacy Act
22 violation, but that is one of the things that the
23 Inspector General is trying to determine.

24 Q All right. And at that time -- I'll read
25 your answer back. You say essentially the same thing

1 with a little more -- "I don't know. As I told you,
2 I'm not an expert on the Privacy Act, haven't been
3 briefed on the Privacy Act, so I couldn't tell you
4 whether it's a Privacy Act violation or not." Why do
5 you think it's not a Privacy Act violation?

6 A Well, you've already read the qualifiers,
7 that I'm not a lawyer and I'm not an expert on the
8 Privacy Act. And as I've already said to you, this is
9 exactly one of the things that the Inspector General is
10 looking at right now.

11 Q All right. But do you continue to release
12 398 information to reporters in the 2 months, 2½ months
13 since then?

14 A I think I've made it very clear that if I had
15 this to do over again I would have done it differently.
16 One, I have not received another request for
17 information. This was a response to an individual
18 request. And two, obviously if I had received, if I
19 did -- were to receive tomorrow another request, I
20 would, of course, turn it over to the lawyers.

21 Q All right. They asked you -- the Inspector
22 General asked you on page 20 "Do you feel culpable in
23 this matter at all?" Your answer is "Not at all." Why
24 is that?

25 A Well, clearly, there's always a balance

1 between the Privacy Act and the Freedom of Information
2 Act. Our office, as I said earlier, does have a policy
3 of being as open and as forthcoming as possible. The
4 issue here is, I suppose, in a strict legal term
5 whether the Privacy Act was designed to protect people
6 from answering a question about whether they lied on a
7 issue of public record. In this case, it happens to be
8 an arrest record.

9 Q What makes you think that was a public
10 record?

11 A The arrest record?

12 Q Yeah. You, you believe that was public or
13 you think so -- you thought so at the time?

14 A I was informed that -- by the reporter that
15 she had, she had gotten this out of public records.

16 Q All right.

17 A No, I didn't, I did not interrogate her about
18 that, nor did I call a lawyer and say is it possible to
19 get arrest records out of public records.

20 Q Okay. But the 398 is not -- you don't
21 believe that to be a public record?

22 A I do not believe that to be a public record.

23 Q And you did not believe it to be a public
24 record at the time you put in play the release of
25 information from the 398, did you?

1 A Well, what I did know that there is always
2 attention between the Freedom of Information Act and
3 the Privacy Act. What I didn't know was whether this
4 record was public or not, that's, that's correct.

5 Q All right. Now, in your Inspector General
6 statement you said something to the effect that she,
7 meaning Linda Tripp, put herself in this position.
8 What did you mean by that?

9 A Well, she was a public figure who had -- who
10 herself had talked about her security clearance.

11 Q A public figure that was -- I mean, however
12 you look at it, Linda Tripp was perhaps trying to bring
13 down the President of the United States. Is that what
14 you understood at the time, that she had taped this
15 individual to bring evidence against the President of
16 the United States? Isn't that correct?

17 A Well, what she has said is that she taped
18 this individual in order to protect herself.

19 Q Right. But it also -- if Ms. Lewinsky's
20 statements on the tapes that have been released
21 publicly are true, pose grave, grave legal problems for
22 the President of the United States. Is that correct?

23 A If they were true, yes.

24 Q Right. And you certainly knew that shortly
25 after January 21, didn't you?

1 A Right.

2 Q Okay. So, however, whether one likes Linda
3 Tripp or despises her, the information she provided
4 could imperil the Presidency of the United States?

5 A That is certainly the case, yes.

6 Q Okay. And that certainly was in the back of
7 your mind when you released this derogatory information
8 about her? Or you had forgotten it?

9 A To say that it was -- well, it wasn't a
10 question of forgetting it, sir, it was a question of --
11 was it foremost in my mind? No.

12 GRAND JUROR: Mr. Crane --

13 MR. CRANE: Yes?

14 GRAND JUROR: -- could we take about a 10-
15 minute break?

16 MR. CRANE: Sure. Yeah, it's now 11:05 and
17 we'll take a 10-minute break and resume at --

18 GRAND JUROR: 11:15?

19 MR. CRANE: What time?

20 GRAND JUROR: 11:15?

21 MR. CRANE: 11:15, a little bit after.

22 (Whereupon, at 11:06 a.m., a recess was taken
23 and the Grand Jury reconvened at 11:19 a.m.)

24 FOREPERSON: May I remind you, sir, that
25 you're still under oath?

1 WITNESS: Thank you.

2 MR. CRANE: Okay, we're back on the record,
3 properly quorumed and no unauthorized persons.

4 BY MR. CRANE:

5 Q I'm going to show you what has been labeled
6 as Grand Jury Exhibit Number 1. It also has
7 Mr. Bernath's name on it, but we will refer to it as
8 Grand Jury 1-Bacon in the future. It's three pages. I
9 would represent to you that it's the 398 of Linda
10 Tripp. Take a look at it and tell us if that comports
11 with your understanding, sir.

12 A I have not seen this form before but it does
13 appear to be her 398.

14 Q All right. Now, at some point Mr. Bernath
15 brought you, first, Ms. Tripp's 171. Is that correct?

16 A That, that is correct.

17 Q Did he actually show it to you or just
18 discuss the 171 with you?

19 A I believe he showed me a portion of the form,
20 not the entire form.

21 Q All right. Now, did he actually -- after
22 that, where -- you all decided that the 171 was not
23 germane to the reporter's questions. Is that correct?

24 A Right.

25 Q And then he went back and eventually found

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1 the 398?

2 A When he showed me the 171, I said that it was
3 not germane. I said maybe we just don't have this
4 information --

5 Q Okay.

6 A -- and we can't answer the question and we'll
7 just tell her we don't have the information. And he
8 said at that point well, let me check further. And
9 then that's, that's what happened. He came back, he
10 never showed me the front page of a 398, he basically
11 showed me the answer to the question.

12 Q Okay. Which would be page 3 of the document,
13 Exhibit 1, that I've showed you where I've highlighted?
14 Had you seen that page, page 3?

15 A Yes. Yes, I, I saw -- you have called my
16 attention with highlighting to question 21 labeled
17 "Arrests." That's what I saw.

18 MR. CRANE: I'll just pass this -- these
19 three pages of Exhibit 1 around to the members of the
20 Grand Jury.

21 All right, at this point, we'll allow the
22 members of the -- the foreperson will allow the other
23 members of the Grand Jury to ask you questions, if
24 there are any questions at this point.

25 GRAND JUROR: I was -- when the reporter

1 called you, they already indicated that they had gotten
2 from public record this, this information on Ms. Tripp.
3 Were they asking for just corroboration of, of what
4 they understood to be the case and that's why they were
5 asking for what you knew? You didn't provide them the
6 form, but was it just read to them or just said yeah,
7 we, we have the information that agrees with whatever
8 arrest record she had gotten before?

9 WITNESS: Not precisely. Jane Mayer didn't
10 ask me to comment on whether or confirm that Linda
11 Tripp had been arrested. What she asked me to do was
12 find out if I could answer a specific question about
13 how she, how she answered a specific question on the
14 Form 398, and that question was have you ever been
15 arrested. That was the question she asked me, if I
16 could find out how she answered that particular
17 question.

18 I did not interpret this as trying to confirm
19 whether or not Ms. Tripp had been arrested. The
20 reporter already had that information from public
21 documents. She was asking to find out how she had
22 dealt with it on this particular form.

23 GRAND JUROR: Okay, I guess that was kind of
24 my question. She was asking you a question about
25 information that was confidential because OPF records

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1 and security records are locked up. And if there was a
2 question about it, I wonder whether you asked
3 Mr. Cooke. Is he a disclosure specialist?

4 WITNESS: Well, he's the chief administrative
5 officer of the Pentagon. He's called the mayor.

6 GRAND JUROR: Is he a disclosure specialist?

7 WITNESS: Well, his office does administer
8 the Privacy Act at the Pentagon.

9 GRAND JUROR: I understand that, sir. I
10 don't mean to be disrespectful, but is he a disclosure
11 specialist?

12 WITNESS: I would have to say that I don't
13 know whether he is or not. He's a lawyer but he
14 just -- I get, as I said, 30 or 40 calls a day.
15 Frequently, people ask me for information. And when I
16 get those calls, if -- I do one of several things. I
17 might give them to a member of my staff to answer. I
18 may refer the reporter to a member of my staff or I
19 may, in some cases, just pick up the phone and call
20 somebody myself to try to get the answer.

21 GRAND JUROR: I was just wondering why, you
22 know, if you weren't sure if he could answer the
23 question -- you said I don't know if I can do this or
24 not -- why you didn't go to somebody that you knew was
25 a specialist.

1 WITNESS: That's a good question. I just
2 went to the guy I thought could answer the -- could
3 lead me to the answer to the question the fastest. I
4 understand your question. I did not ask myself is he a
5 disclosure specialist.

6 GRAND JUROR: Okay. I wonder why you didn't
7 require him to develop a form, the release for
8 information form. Privacy Act/FOIA form.

9 WITNESS: Well, you, you know this in much
10 more detail than I do. Typically, in a case like this,
11 I would ask somebody who knows more about this than I
12 to sort out the, the issue, and that's in fact what I
13 thought I was doing in going first to Doc Cooke and
14 then turning it over to Cliff Bernath.

15 GRAND JUROR: So, you really don't have a
16 disclosure office per se then?

17 WITNESS: No.

18 GRAND JUROR: That's the problem.

19 GRAND JUROR: Do reporters ever ask you just
20 classified information about military information?

21 WITNESS: Yes.

22 GRAND JUROR: I mean, so you answer it? I
23 mean, I mean, are you into this where you could have --
24 could answer, decide how much to answer?

25 WITNESS: That's a very interesting question.

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1 One of the biggest problems I and the Pentagon faces
2 today is a fairly routine and brazen disclosure of
3 secret and top secret documents. Since the Cold War
4 ended, the internal restrictions that people felt about
5 protecting classified information seem to have
6 evaporated, or certainly weakened considerably. And
7 so, on the average of once a week we're faced with a
8 story in a newspaper that is based on secret
9 information and may actually say in a secret document
10 and then quote from the document.

11 We have a firm rule about not confirming
12 reports based -- commenting on reports based on
13 classified information.

14 GRAND JUROR: But you have to make a decision
15 whether a question is a classified question, I guess?

16 WITNESS: Yeah. This comes up fairly
17 regularly. People will ask me to describe the latest
18 situation in Kosovo, for instance, and this would -- I
19 give briefings twice, twice a week and this is a very
20 typical question now. I read intelligence reports
21 every day that have very detailed descriptions about
22 what's going on in Kosovo. And either on my own, I
23 decide how to sort of dumb down those reports and, and
24 explain in very general terms, frequently the type of
25 reporting you get in a newspaper, about what's

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1 | happening in Kosovo. Or if I have questions, I will
2 | call an intelligence officer and say I think I'm going
3 | to be asked this particular question, how can I answer
4 | this question? How can I be as forthcoming as possible
5 | without causing you any problems?

6 | GRAND JUROR: You could screw up that way,
7 | too.

8 | WITNESS: There are about 100 ways a day for
9 | me to screw up. I must say that I, I am, I am very
10 | careful about dealing with classified information that
11 | comes from intelligence sources and, and I spend a lot
12 | of time making sure that I don't reveal facts that,
13 | that aren't supposed to be revealed that I respect.

14 | GRAND JUROR: Just to follow up, the reason
15 | you were selected for your job, it sounds like, was for
16 | your expertise in dealing with the press and the
17 | sensitivities of the press and not so much in your
18 | expertise on government personnel matters.

19 | WITNESS: That is certainly true because if
20 | that had been a consideration I never would have been
21 | hired.

22 | GRAND JUROR: So, what you were thinking, and
23 | I'm just kind of recapping for my own edification, is,
24 | is the press issues coming from that perspective on, on
25 | this, this case and not the personnel issues?

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1 WITNESS: That is right. I have tended to
2 try -- I have tended to delegate personnel and many
3 administrative issues to people on my staff, and I
4 really spend most of my time dealing with issues that
5 arise on a day-to-day basis. I'm sort of like a, like
6 a second baseman and people are hitting line drives at
7 my head all day long and I try to deflect them and
8 throw the guy out at first, if I can, or stop from
9 getting killed if I can't.

10 GRAND JUROR: Am I correct in understanding
11 that there is an internal DOD regulation that speaks to
12 the issue of -- information -- security clearance?

13 WITNESS: There are certainly -- well,
14 there's the Privacy Act and there are regulations that
15 implement the Privacy Act, yes.

16 GRAND JUROR: Okay. So that's probably --

17 WITNESS: Yeah.

18 GRAND JUROR: Given that there is such a
19 regulation, it's my understanding that it precludes
20 releasing information that comes out of a security
21 file. Is that correct?

22 WITNESS: Well, I, I believe, and actually
23 I've submitted for the record some legal analysis on
24 this. I believe, as I said earlier, the Freedom of
25 Information Act and the Privacy Act have to be

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1 | considered as partners. So, sometimes it's a good
2 | marriage, other times it's like the marriage where the
3 | partners are going in different directions and you have
4 | to decide with one over the other. But there are --
5 | there is a judgment call that takes a certain amount of
6 | discretion provided in many of these cases.

7 | Now, I can't -- I am not an expert on the
8 | Privacy Act and I could not go through a whole -- if
9 | you were to throw 10 questions at me on it, I probably
10 | couldn't answer them.

11 | GRAND JUROR: No, no. I was just, I was just
12 | wondering if, if Ms. Tripp had ways to -- regulation
13 | with you. And, I mean, my understanding of those kinds
14 | of regulations is the intent to make it a little easier
15 | and more clear for carrying out the Privacy Act and
16 | the --

17 | WITNESS: Right.

18 | GRAND JUROR: As you say, subject to many
19 | different interpretations, the regulation lays out a
20 | specific guideline where you do this or you don't do
21 | this.

22 | WITNESS: Right.

23 | GRAND JUROR: And did he ever talk to you
24 | about that?

25 | WITNESS: Not in this particular case. Maybe

1 I haven't explained exactly what happened here, and I
2 don't offer this as an excuse. But on this particular
3 day, this entire decision probably took no more than 5
4 to 10 minutes of my time. I was sort of in and out of
5 the office, working on a number of projects, and the
6 primary project I was working on was assembling a lot
7 of information [REDACTED]
8 [REDACTED]
9 [REDACTED] and I was trying to draft a position paper for
10 Secretary Cohen to use in his speech the next week
11 before I left. So, I was sort of in and out of my
12 office, gathering up a lot of information, some of
13 which was intelligence information that I was trying to
14 put into a publicly presentable form. And so, for
15 better or for worse, and it turns out for worse, I
16 probably did not devote enough time to this decision,
17 but it was made very quickly, sort of on the fly
18 between a series of meetings. So, I did not pull out
19 the Privacy Act or the regulations or even discuss them
20 with, with Cliff who was the only person I discussed
21 this with on this morning of Friday, March 13th.

22 GRAND JUROR: You didn't discuss this with
23 anybody outside your office?

24 WITNESS: I did not, no.

25 GRAND JUROR: Had you received that kind of

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1 guidance from anyone prior to the question coming up of
2 how to respond to a request for -- requests about
3 Ms. Tripp and Ms. Lewinsky?

4 WITNESS: No, not -- well, we had -- and
5 Mr. Crane brought this up, that in January when this
6 broke and I was in Korea, I asked my office to -- when
7 they were deluged with questions to check with the
8 lawyers and find out what we could release and what we
9 couldn't release. And we did stick pretty close to
10 that at -- during that period, January and February.

11 GRAND JUROR: Okay. And have you had any
12 discussions with anybody in the White House about what
13 happened?

14 WITNESS: Absolutely not. I never discussed
15 this issue with anybody in the White House.

16 BY MR. CRANE:

17 Q What about Mr. Ickes? Just give us a little
18 background. Who is he? He's not at the White House
19 now but what were your conversations with him in recent
20 months?

21 A Harold Ickes, as you know, used to be the
22 deputy chief of staff at the White House until sometime
23 after the 1996 election, I'd say early in 1997. Then
24 he left the White House. He is an acquaintance of
25 mine. I wouldn't say a friend but an acquaintance.

1 And I have seen him three times this year, once at a, a
2 very informal dinner at a mutual friend's house, a
3 fellow named Steve Cohen who I believe has appeared
4 here, a bearded tax professor. Once I met -- I walked
5 by his table in a restaurant -- and that dinner was
6 sometime in February. I walked by his table at a
7 restaurant, probably in the third week of March in
8 Washington. And then he and I went to a Seder at Steve
9 Cohen's house, a Passover Seder, on April 10th, which
10 was also Good Friday obviously. But I did not speak to
11 him at the Seder. There were probably 20 or 30 people
12 at the Seder and we were sitting at different tables,
13 so I waved to him but never spoke to him.

14 Sometime in February we met at Steve Cohen's
15 house for an informal dinner, Thai or Chinese or
16 something food, and he had just volunteered to help the
17 White House deal with the press on some of the
18 Tripp/Lewinsky issues. He was not an employee of the
19 White House or paid by the White House. And we
20 discussed very briefly Tripp and Lewinsky. He said
21 they both work for you? I said yes. He said how has
22 it been? I said sort of hellish, we're getting deluged
23 with questions, it's been very, obviously,
24 destabilizing to the office and it's been very tough on
25 morale to be in the spotlight like this for people in

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1 the office. And we spent most of the time then talking
2 about what he was doing, his conversations with --
3 what, what he knew and didn't know, and we spent some
4 time talking about how Mike McCurry was handling these
5 questions.

6 Q Did Linda Tripp ever come up during the
7 course of this conversation?

8 A Well, her name came up but just -- as I said,
9 the context was sort of -- he said they both work for
10 you; yes, they did. I can't even remember that he
11 asked me anything about her. I said she came from the
12 White House, did you know her over there? And he said
13 I knew who she was, I knew where she sat, that was
14 about it, I'm not sure I ever have a conversation with
15 her. It was a very, I would say, brief and I would
16 call it a tangential conversation actually. It was
17 more just sort of in passing.

18 Q And is this correct? That Mr. Cohen,
19 Mr. Steve Cohen had recommended an attorney for you.

20 A It's a little more complex than that. When I
21 get back from Korea on January 22nd, I believe, I was
22 served with a subpoena to serve before the -- to either
23 the Paula Jones case -- it was a subpoena to give a
24 deposition. I gather this Grand Jury is actually
25 indeed somehow connected with that case. Isn't that

1 right? You read to me Paul Jones' name.

2 Q That's correct. You're saying you got a
3 subpoena in the civil Paula Jones case?

4 A In the civil Paula Jones case. The subpoena
5 was subsequently dismissed. But before it was
6 dismissed, I decided that I should hire an attorney.
7 While I was sitting in my office, contemplating my
8 fate, having received this subpoena, Steve Cohen called
9 me and he said -- Steven Cohen is an old friend from
10 college. I've known him over 30 years. He said I've
11 read your name in the paper, I understand both Tripp
12 and Lewinsky work for you, you're probably going to
13 get -- probably going to be subpoenaed. And I said I
14 just have been. He said you have a lawyer? And I said
15 no, do you have any suggestions? He said I don't but I
16 could call Greg Craig who is a mutual friend of ours
17 and he now works in the State Department but he used to
18 work at a local law firm, Williams and Connolly. And I
19 said no, that's all right, I'll call Greg. And he said
20 no, why don't I call him? I need to talk to him
21 anyway. So, he called back about an hour later and
22 said Greg Craig recommends William Murphy.

23 Q All right.

24 GRAND JUROR: Sir, is it safe to say that --
25 or for me to speculate that when you gave this

1 | information, when you conferred with Mr. Bernath that
2 | he said he would take over, that that was -- you felt
3 | confident that he would take care of it. And did you
4 | feel at any point that he needed to come back to you,
5 | report to you, let you know what he was doing? Or did
6 | you feel confident that you could just leave the matter
7 | in his hands?

8 | WITNESS: Well, first, I relied on Cliff to
9 | do a lot of things and Cliff has, has a lot more
10 | experience in the government bureaucracy than I do.
11 | But so, I did assume that he would take care of it.
12 | But Cliff also checked back at me -- with me throughout
13 | the day. The way it worked is I left, I would come
14 | back an hour later. Cliff would come into my office
15 | and say here's the 171 and I said no. And then I left,
16 | came back an hour or so later. He said I think that,
17 | that I'm in the process of finding this form. I don't
18 | think immediately that he found it. Then he came back
19 | and showed me. I came back maybe an hour later, he
20 | showed me the form.

21 | So, between 7:30 and 12 I might have had
22 | three or four 1- or 2- or 3-minute meetings with him.
23 | That's why I said I didn't really spend more than a
24 | total of 10 minutes on this whole thing. But I was
25 | very aware of what Cliff was doing. I want to be clear

1 about that. I mean, I didn't just send Cliff off and
2 he, you know, went off on his own and did this. I knew
3 what was happening.

4 GRAND JUROR: I have a three-part question.
5 You're the lead character obviously for the office when
6 it comes to press briefings.

7 WITNESS: Right.

8 GRAND JUROR: You're the high profile --

9 WITNESS: Right.

10 GRAND JUROR: Do you have, have people
11 delegated below you to do like low profile things,
12 minor questions from the press who handle that on a
13 day-to-day basis? Or do you handle everything that
14 comes --

15 WITNESS: No, no, I couldn't possibly handle
16 everything. There is a part of my office called the
17 Directorate for Defense Information that has maybe 20
18 people in it. It's run by an Army colonel, Dick
19 Bridges. They have area experts, somebody who follows
20 what goes on in Bosnia very closely and what's going on
21 in Iraq, what's happening in weapons development
22 programs, what's happening with Y2K computer adjustment
23 for the next millennium type stuff.

24 The bulk of questions that come in come
25 directly to there and they answer them. I refer a lot

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1 of questions I get. There are a number of reporters
2 who only call me and I will either answer the question,
3 if I know it, or refer them or have -- or call
4 somebody, call Bridges and say call so and so back, she
5 has a question on X or Y.

6 GRAND JUROR: So, these are reporters that
7 you know on a personal basis, one to one?

8 WITNESS: Well, I mean, one of the things I
9 have to do in my job is sort of have a sense of what's
10 out there, what stories are about to pop, what issues
11 are going to arise for the Secretary or for me or other
12 people in the Department. So, I try to talk on a daily
13 basis with reporters from the major news organizations,
14 the networks, CNN, The Washington Post, The New York
15 Times, and those are the ones who, sort of out of
16 habit, call me all the time just because I encourage
17 them to do that. This is my best way of sort of
18 keeping abreast of what people are working on, what
19 stories are about to, to pop.

20 GRAND JUROR: Did you handle Jean Mayer
21 personally because she was a former colleague of yours
22 or --

23 WITNESS: Not -- she happened to call me
24 because she knew me. She didn't know -- she doesn't
25 cover the Pentagon. She knew me, she called me. The

1 | reason this -- ordinarily, I probably would have given
2 | this request to Dick Bridges and asked somebody in the
3 | Directorate of Defense Information to offer it.
4 | Bridges leaves at about 5. He gets in around 6, leaves
5 | at about 5. This happened at 5:30 or 6 in the
6 | afternoon, so -- and I also knew that I could probably,
7 | at that time of day, if we were going to answer the
8 | question we had to answer it very quickly because
9 | people would be leaving. And that's why I just picked
10 | up the phone and called Doc Cooke.

11 | GRAND JUROR: Why were you anxious to be so
12 | cooperative with Ms. Mayer?

13 | WITNESS: Well, I'm cooperative with most
14 | reporters who call. I consider it my job generally to
15 | answer questions and to get information out. So, I
16 | didn't -- I don't believe I treated her any differently
17 | than I would treat many reporters who called me, and
18 | they're not -- sometimes people call me from, you know,
19 | much smaller publications. And if they get through to
20 | me, I try to get their questions answered as soon as
21 | possible.

22 | GRAND JUROR: This was a different kind of
23 | question, you said.

24 | WITNESS: You're absolutely right.

25 | GRAND JUROR: You'd never answered it before.

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1 WITNESS: That's right, but I also pointed
2 out that every day I get questions on topics I've never
3 faced before. It's one of either the glories or the
4 pitfalls of my job.

5 GRAND JUROR: What would make you think that
6 it would be all right to release that kind of
7 information, an answer that she'd given on, on this
8 security form? I mean, you said you wondered if it was
9 all right. What would make you think that it would, it
10 would be all right, knowing it was a confidential
11 question in files that were locked up?

12 WITNESS: Well, as I said, one, I was not an
13 expert on the security form and I didn't know whether
14 this was locked up or not. I just basically asked
15 somebody to find out. Two, if I had this to do over
16 again, I would do it differently. Yes?

17 GRAND JUROR: Did you ever have like a Monday
18 morning quarterback conversation with Ms. Mayer to try
19 to find out how she came upon that information?

20 WITNESS: No, but she subsequently wrote a
21 second piece in the New Yorker in which she said she'd
22 been tipped off to the information by Linda Tripp's
23 stepmother.

24 I don't know whether you've distributed that
25 article to the Grand Jury or not, but that's what she

1 wrote.

2 And indeed, maybe since Mr. Crane has brought
3 up the article several times, the article was
4 largely -- the article that ran in which this piece of
5 information about the arrest was embedded was largely a
6 psychological profile of Linda Tripp that dealt
7 extensively with the relationship between Ms. Tripp and
8 her father. And this was a, was a relatively small
9 part of the article. It was not the focus of the
10 article. It was a very -- I guess you would have to
11 describe it in psychological terms as a Freudian
12 approach, in a way, that dealt with daughter/father
13 relationships. And then she went back and wrote a
14 subsequent article.

15 Now, I, I did not talk to Ms. Mayer about the
16 first article in any general terms. You know, I did
17 not know at the time what the article was going to say
18 and what the approach was going to be.

19 GRAND JUROR: So, in fact then, it seems to
20 me like she really didn't get the information from
21 public records, she got it from somebody who told her
22 that --

23 WITNESS: Well, I think what --

24 GRAND JUROR: -- and gave her some kind of a
25 lead that caused her to go and look in the Poconos or

1 | wherever it was.

2 | WITNESS: Well, I think it's both. I think
3 | that, that the -- as I understand it, and maybe you
4 | should get the article from Mr. Crane, the second
5 | article, but as I understand it, the stepmother or
6 | former stepmother had tipped the reporter off, said
7 | there was something about an arrest that, that the
8 | father felt toward Linda Tripp. I'm just trying to
9 | recall the article. I'm not -- and this is my
10 | recollection of the piece. And that, that after she
11 | got this mention of an arrest, then she or somebody on
12 | her staff went and found the arrest record. So, it was
13 | both a tip that led to locating a public record that
14 | was available to anybody who knew where to look for it.

15 | MR. CRANE: Right, except that the 398 is
16 | still not a public record?

17 | WITNESS: That is correct.

18 | MR. CRANE: Okay. The incident of her --

19 | GRAND JUROR: Would there have been any other
20 | way to corroborate that arrest?

21 | WITNESS: I guess I'm not enough of an expert
22 | on records to -- having never looked for an arrest
23 | record myself. But I think this was a case where she
24 | had adequate confirmation. She actually had a copy of
25 | the arrest record. I haven't seen it. I understand

1 from the article the arrest record was printed on the
2 Internet but I have not seen it personally. But so,
3 the basic issue, had Linda Tripp ever been arrested,
4 was answered -- that question was answered by the
5 arrest record.

6 BY MR. CRANE:

7 Q Did Ms. Mayer give you any indication how she
8 knew whether to look -- let me rephrase that.

9 Did Ms. Mayer tell you how she knew to look
10 on a Form 398?

11 A She did not.

12 Q So, you have no idea how she knew even that
13 Linda Tripp had filled out a 398? Did she ever tell
14 you or did anyone else ever tell you that someone --
15 the stepmother, as I understand it from the press,
16 tipped off the reporter about the arrest which occurred
17 some 29 years ago, but the stepmother didn't know about
18 the 398. So, someone, I'm surmising, must have tipped
19 off Ms. Mayer that a document somewhere within the
20 government exists called a 398 that Linda Tripp filled
21 out. This -- I'm surmising again, but this didn't just
22 dawn on Jane Mayer out of the blue.

23 A I have no way of knowing that.

24 Q You have no way of knowing that?

25 A No. She didn't describe to me how she knew.

1 She just -- she announced two things to me. One, Linda
2 Tripp had been arrested and, two, she understood that,
3 that to get a security clearance she would have had to
4 fill out a form and on that form there was a
5 question --

6 Q Right. Did she use --

7 A -- have you ever been arrested.

8 Q Excuse me. Did she use the term 398 when she
9 called you?

10 A I, I don't believe she did, but I don't
11 recall.

12 GRAND JUROR: Mr. Bacon, I'd like to ask a
13 question. What, what action has your office taken,
14 steps, to see to it that you don't provide private
15 information on, on federal employees today? Have you
16 taken any action or would you again provide somebody --
17 if I called you today and asked you for Mr. Tripp's
18 Social Security number, would you provide it to me?

19 WITNESS: I would not. I don't believe I
20 would have provided it back in March either, but I can
21 assure you --

22 GRAND JUROR: Well, you -- but you provided a
23 very private information on her arrest record. That
24 was private. So was her Social Security number. But
25 it was private and you provided it.

1 WITNESS: Yes, I did. And I can tell you
2 that today if I got a similar request I would turn it
3 over to the lawyers.

4 GRAND JUROR: But you'd still provide the
5 Social Security number then?

6 WITNESS: No, I said, I said I would not. I
7 said I think I, I would have known in March not -- I
8 wouldn't have provided a Social Security number or --

9 GRAND JUROR: Well, I'm, I'm surprised that
10 your office doesn't have a standard process to handle
11 these requests and not just by hook and crook -- I
12 don't expect you in your capacity to do it, but there
13 should be a process in your office that these things
14 don't fall through the cracks, because to me providing
15 private information to me is an invasion of an
16 individual's privacy to provide that information. It's
17 all confidential information, whether it be on you or
18 me or anybody else. This just happened to be
19 Ms. Tripp, but I'm concerned that there isn't something
20 in your office that's established to see that this
21 doesn't happen in the future to some other employee.

22 WITNESS: Well, I think this incident has
23 sensitized everybody in the office to the need to do
24 that, and my way of dealing with it would be just to
25 turn it over to the lawyers and say here's a request

1 we've gotten, what's the advisability of doing this.

2 GRAND JUROR: Do you think if the form had
3 said that she had been arrested for something, you
4 know, that you would have given that information out or
5 the fact that it said that she hadn't been arrested and
6 that's --

7 WITNESS: Well --

8 GRAND JUROR: You say you wouldn't have given
9 out the Social Security number because that, you know,
10 that's -- that was private.

11 WITNESS: It's a hypothetical. For better,
12 for worse, I was faced with a very specific question
13 about how she had filled out a form dealing with a
14 matter of public record, i.e., her arrest record. And
15 for better, for worse, we provided the answer to that
16 question. I guess that I probably would rather not
17 speculate about if the question had been slightly
18 different or if the information had been slightly
19 different.

20 GRAND JUROR: I just see a big difference
21 when you get questions like Bosnia and all that. That
22 does serve the public but, I mean, something like did
23 she lie on the form, I mean, that doesn't serve the
24 public, you know, to answer that question. And, and,
25 you know, for the most part, I mean, you are supposed

1 to fill out the release form for, for information about
2 private records. That's the standard. I mean, you --
3 fax machines, you fax it over, you get somebody on it
4 right then if it's a big, if it's a big rush. I just
5 don't understand, you know, why it was so important.

6 WITNESS: Well, as I said, it was done
7 quickly, it was done on the fly. In retrospect --

8 GRAND JUROR: But in here it says that you
9 told her you couldn't get the information that night,
10 at 5:45 p.m. on March the 12th, and that you would --
11 and that she said she could wait till morning. So, it
12 wasn't so much on the fly. That's what it says here.

13 WITNESS: Right. But we didn't have the --
14 the first question was could we locate the information
15 at all, and we didn't know that until, until the next
16 morning.

17 GRAND JUROR: But it just seems like there
18 was a little bit more time than on the fly. Am I wrong
19 in assuming that or --

20 WITNESS: Well, I think that, as I said, this
21 was not something I devoted a lot of time to thinking
22 about. The next morning Cliff took over the project.
23 I basically was out of the project, although Cliff kept
24 me informed about what was happening and I did not
25 think about this really much more than, as I said, a

1 small number of minutes in the course of the morning.
2 Since then, I've spent many, many hours thinking about
3 it. I hadn't thought about it for better, for worse.

4 GRAND JUROR: I guess I'm just reading this
5 wrong because it looks like there was more than a few
6 minutes spent on it because from one evening to the
7 next morning, that just seems like a little bit more
8 than a few minutes.

9 WITNESS: Well, the fact of the matter is I
10 didn't, you know. The --

11 MR. CRANE: Let's -- can we just take like a
12 five-minute break? I think some of us have to go to
13 the bathroom anyway.

14 Could you just step out for a minute?

15 WITNESS: Absolutely.

16 MR. CRANE: Okay, thank you.

17 WITNESS: You want to come get me when you're
18 through?

19 MR. CRANE: Yeah, we'll come and get you.
20 That's fine.

21 (Whereupon, at 12:10 p.m., the witness was
22 excused and subsequently recalled at 12:34 p.m.)

23 WITNESS: I don't have to swear again?

24 FOREPERSON: No. I just have to remind you
25 that you're still under oath, sir.

1 BY MR. CRANE:

2 Q All right, I have just a few questions that
3 we've already gone over. But to make it clear, this
4 Government Exhibit 1, as I understand it, on the 13th
5 Mr. Bernath came and showed you page 3 of the 398 which
6 here I've highlighted the operative points -- operative
7 line in yellow. Is that correct?

8 A Yes.

9 Q Now, after he shows it to you, did you know
10 that he was then going to call back Jane Mayer and give
11 her that answer? Did you tell him to do it or what was
12 your, your directive or nondirective?

13 A I, I think, as I recall, he said to me is
14 this what she wants, and I said I believe so. Then he
15 said should I provide this -- he said I guess I'll
16 provide this information, and I said fine or something
17 like that. I don't believe he said should I provide
18 the information, do you want me to call her now? He
19 said, you know, I guess I'll call her back, and I said
20 fine.

21 Q All right.

22 A That's my recollection of the conversation.

23 Q Okay.

24 MR. CRANE: Back to the members of the Grand
25 Jury, are there any follow-up questions on this line?

1 WITNESS: Do you want this back?

2 MR. CRANE: Yeah, that's fine. Thank you,
3 sir.

4 GRAND JUROR: I don't think there are any,
5 sir.

6 MR. CRANE: All right. Let me just look over
7 my notes.

8 Again, I think I've asked you earlier, there
9 was no contact with either Ms. Tripp or her attorneys
10 before the release of this information?

11 WITNESS: No.

12 MR. CRANE: Okay.

13 GRAND JUROR: Mr. Bacon, could I ask a
14 question? This involves when you were interviewing
15 Ms. Lewinsky for employment. Did you ever receive any
16 written or telephone calls from anyone to influence
17 your decision on hiring her?

18 WITNESS: No. I've been asked this question
19 and maybe I should just take a minute to explain it. I
20 interviewed -- I had had a, a secretary named Jean
21 Wetzell who was maybe about my age. [REDACTED]

22 [REDACTED] And she had left --

23 GRAND JUROR: Can you speak a little louder?

24 WITNESS: Sorry?

25 GRAND JUROR: Can you speak a little bit

1 | louder?

2 | WITNESS: Certainly. I had had a secretary
3 | named Jean Wetzell who was about my age, maybe a couple
4 | of years older. She was maybe ██████████ at the time.
5 | And she had not been happy in the job because she felt
6 | that the traveling was too exhausting and stressful.
7 | She wanted to move to another job at the National
8 | Security Council and I arranged for -- helped her get
9 | over there and get the grade she wanted. And, and she
10 | said to me -- I interviewed three people from within
11 | the building and -- who were already working -- one
12 | person who had had the job several years prior under
13 | one of my predecessors.

14 | And in the middle of this the personnel
15 | office at the Pentagon called me and said would you
16 | interview a person who currently works at the White
17 | House and I said I would, and that person was Monica
18 | Lewinsky. That was the only phone call I ever got
19 | about Monica Lewinsky.

20 | She came and interviewed, I believe talked to
21 | Cliff Bernath and talked to me separately. I'm not
22 | positive that she talked to Cliff but the standard
23 | procedure is she would have talked to Cliff and I'm
24 | pretty sure she did in this case. When the interview
25 | was over, Jean Wetzell, my current secretary, said you

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1 know, given the demands of this job, maybe you ought to
2 hire somebody younger. And all the women I had
3 interviewed were also about Jean Wetzell's age or my
4 age. And the -- so that began making me think that
5 maybe she was right, I should have a younger person in
6 this job.

7 The other thing that intrigued me about
8 Monica was that she, as history later showed, was
9 clearly adept at using the Internet and Jean had not
10 been. And increasingly, in my office I was realizing
11 that we were getting more and more information off the
12 Internet. If I wanted to get a copy of a speech that
13 Secretary Albright had given, or then-Secretary
14 Christopher, or wanted to get a document from the UN
15 that the fastest way to do this was over the Internet
16 and Monica was very conversant with the Internet.

17 So, after interviewing these four people, I
18 hired Monica, but I never -- I actually gave her, to
19 address your question, Mr. Crane, I dictated a letter
20 to her and had her type it out just to see if she could
21 take dictation and, and produce a letter in a timely
22 way. And I hired her but I never talked to anybody
23 else in the White House. Nobody ever called me.

24 GRAND JUROR: The decision was yours and
25 solely yours?

1 WITNESS: Solely mine.

2 GRAND JUROR: Thank you.

3 WITNESS: You're welcome.

4 GRAND JUROR: Were there any type of
5 applications with them when they come there? Any of
6 those that you interviewed?

7 WITNESS: Sorry?

8 GRAND JUROR: Did they have any type of
9 application to go along with the interview?

10 WITNESS: Well, she had a résumé and I think
11 one of these 171 forms. And the other applicants, the
12 three other applicants had the same things.

13 GRAND JUROR: Okay. If, if a news media
14 called you and wanted a copy of those, would you
15 release it to them?

16 WITNESS: Probably not now without checking
17 with my lawyer. I don't know what I would have done on
18 March 13th, but no one has made that request to me,
19 specifically. I mean, as, as Mr. Crane said, we got
20 blanket FOIA requests, but no one came to me
21 specifically and said could I look at Monica Lewinsky's
22 or, or Mrs. X's form.

23 BY MR. CRANE:

24 Q Can you tell us, do you, do you have a
25 sharing agreement with some of the other witnesses or

1 targets that have appeared, or subjects that have
2 appeared before the Grand Jury to share information
3 back and forth with them, to your knowledge?

4 A No.

5 Q You haven't signed something or told your
6 attorney share everything I, I tell the Grand Jury with
7 the White House, et cetera?

8 A I have not.

9 Q Okay. And that would include any documents.
10 Is there any document sharing that you know of?

11 A Not that I'm aware of.

12 Q Okay.

13 A I would be glad to go out and ask my attorney
14 if he signed such an agreement, but I would hope that
15 he would tell me --

16 Q Right.

17 A -- since it would implicate me in some way.

18 MR. CRANE: All right, I'm just going to look
19 over my notes, if any other member of the Grand Jury
20 has a question. I think we will finish up about 15 or
21 20-minutes early.

22 GRAND JUROR: I have just a real quick one.
23 How would the White House know that you're looking for
24 a replacement for your secretary?

25 WITNESS: Well, as I understand it, first of

1 all, the job was a Schedule C job, political appointee
2 job. And when those jobs become vacant -- and I, I
3 don't do this myself -- it's reported up through some
4 personnel chain and the personnel office just produces
5 applicants. So, I interviewed the first three, as I
6 said, and then really fairly late in the process we got
7 a request -- or I think it actually came -- I learned
8 about it probably through Cliff or COL Joe Gordon who
9 ran the management side of my office that handles
10 personnel that we had been asked to interview one
11 person from the White House.

12 GRAND JUROR: Is a Schedule C a political
13 appointee position or what?

14 WITNESS: Yes. Yes.

15 GRAND JUROR: Okay.

16 WITNESS: This had been -- when I got there,
17 I inherited a secretary. She left to become a writer
18 at AFIS, the Armed Forces Information Service, and then
19 Jean Wetzell came after her. She had been working on
20 the Joint Staff, was a secretary on the Joint Staff.

21 GRAND JUROR: Ms. Tripp was a Schedule C,
22 also, right?

23 WITNESS: Yes, she was.

24 GRAND JUROR: Well, this is another -- just
25 an offshoot of this. Was Ms. Lewinsky around the day

1 that you and Mr. Bernath were talking about this issue?

2 WITNESS: No, because she had left in
3 December of '97. And the last day I saw her in the
4 office was the day before -- I think it was
5 December 23rd. I think officially her employment ended
6 on December 27th.

7 MR. CRANE: And just out of -- essentially,
8 for background for the members of the Grand Jury,
9 Ms. Tripp continues to be employed by your office, she
10 works at home essentially. Is that correct?

11 WITNESS: Yes. She's on what's called the
12 Flexiplace arrangement that allows her to work at home.

13 GRAND JUROR: Is she doing anything
14 substantive for your office?

15 WITNESS: She, she has not for several
16 months. But to be fair, the agreement allows her to
17 take administrative -- paid administrative leave to
18 cooperate with the Grand Jury and that's how she's been
19 spending most of her time, cooperating with the Office
20 of the Independent Counsel.

21 MR. CRANE: All right. I think I have
22 nothing further. And if there are no further
23 questions, Mr. Bacon, do you have anything further
24 relevant to add or any just statement that's not
25 responsive to any question that you want to -- for the

1 benefit of the members of the Grand Jury?

2 WITNESS: No. I think you've given me an
3 opportunity to say everything I want.

4 MR. CRANE: All right. Then if there's
5 nothing further, I'll ask the Foreperson to excuse you
6 and you can return to your duties.

7 FOREPERSON: Thank you, sir.

8 WITNESS: Thank you very much.

9 MR. CRANE: Okay. Thank you, sir. Thank you
10 for your time.

11 (Whereupon, the witness was excused at
12 12:45 p.m.)

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I, BARBARA LORD, the reporter for the United States Attorney's Office, do hereby certify that the witness whose testimony appears in the foregoing pages was first duly sworn by the Foreperson or the Deputy Foreperson of the Grand Jury when a full quorum of the Grand Jury was present; that the testimony of said witness was taken by me, and thereafter, reduced to typewritten form; and that the transcript is a true record of the testimony given by said witness.



Barbara Lord,
Official Court Reporter



Lou Deosaran,
Official Transcriber