

The US impeachment hearing

Testimony exposes elements of a political conspiracy

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Independent Counsel Kenneth Starr's appearance before the House Judiciary Committee last Thursday failed to revive the flagging impeachment drive.

The only new information Starr presented actually went against his insistence that the case against Clinton is not simply about sex. He reported that he had no incriminating evidence against the White House on either 'Travelgate' (the firing of White House Travel Office staff) or 'Filegate' (the handling of FBI files of former Republican officials). He also said his office had concluded there were no impeachable offenses arising from the Whitewater land deal.

Much of Starr's account of Clinton's supposedly criminal activity concerned the White House's use of legal means to defend itself and protect the confidentiality of discussions with lawyers and administration aides. In his opening statement Starr also reiterated the position that criticism of his office is tantamount to criminal activity.

Republicans on the House Judiciary Committee went to often ludicrous lengths to praise Starr and excoriate his critics. The Democrats conspicuously avoided defending Clinton. At least one, New York Senator-elect Charles Schumer, seconded Starr's allegation that Clinton lied before the grand jury. They all remained silent on the right-wing conspiracy to effect a political coup that is at the heart of the Starr investigation.

Nevertheless, a number of Democrats on the committee and Democratic Counsel Abbe Lowell raised a series of issues concerning the unconstitutional practices and political intrigues engaged in by Starr's office. Taken as a whole, they make a compelling case that Starr and his allies inside and outside of Congress, as well as in the courts, illegally conspired to set up Clinton for impeachment. These issues can be summarized as follows:

Collusion with lawyers and supporters of the Paula Jones suit

- Prior to his appointment as independent counsel, Starr consulted numerous times with Gilbert Davis, a member of the legal team that initially brought Jones's sexual harassment suit to the federal courts. He advised Davis on arguments to counter Clinton's assertion that a civil suit against a sitting president should be postponed until after the expiration of the president's term.

- Starr held discussions with the Independent Women's Forum, a right-wing group backed by billionaire publisher Ricahrd Mellon Scaife, on writing an amicus brief in support of the Jones suit.

- The law firm Kirkland & Ellis (from which Starr took a leave of absence only last summer) was initially contacted to represent Paula Jones

in her sexual harassment suit against Clinton, and helped Jones select her legal team.

- Richard Porter, Starr's friend and partner at Kirkland & Ellis, in November of 1997 leaked an affidavit in the Jones case to the *Chicago Tribune*, and subsequently steered Linda Tripp to Starr's office.

- Starr's office granted immunity to Linda Tripp after she handed over illegally recorded tapes of conversations with Monica Lewinsky, but it did not, in a departure from standard procedure, order her to remain silent. This enabled Tripp to brief Jones's lawyers on the contents of the tapes on the eve of Clinton's January 17 deposition in the Paula Jones suit.

In the hearing, Starr acknowledged his contacts with Davis and the Independent Women's Forum. However, in one of numerous statements that strain credulity and may constitute lying under oath, he denied ever discussing the Jones case with Porter, or having knowledge of Kirkland & Ellis's involvement in the Jones matter. Starr also denied any prior knowledge that Tripp intended to brief Jones's lawyers. This contradicts a statement by Tripp's lawyer James Moody reported in an October 11 *Los Angeles Times* article. The article states:

'With Clinton's deposition in the sexual harassment case imminent, Moody said, he also informed Starr's prosecutors that the Jones lawyers 'were trying to schedule a deposition' with Tripp. He said their reaction was: '[This is] none of our business. Thank you for telling us.'

Distortion of evidence, violation of the independent counsel statute, illegal leaks

- When seeking authority from the Attorney General's office to expand his jurisdiction last January, Starr failed to disclose to the Attorney General, as required by law, his previous connections to the Paula Jones suit. In the hearing, Starr attributed this to an oversight.

- In violation of the independent counsel law, Starr has acted as an advocate of impeachment and presented a highly biased referral to Congress. All testimony and evidence exculpatory of Clinton was omitted from Starr's referral to Congress.

When pressed by Rep. Schumer as to why he did not quote Lewinsky's grand jury testimony categorically denying that anyone asked her to lie or promised her a job in return for lying, Starr replied, 'Because we do not

think that is consistent with the truth.' But wherever Lewinsky's testimony conflicted with Clinton's and could be cited against the president, as in Clinton's grand jury account of their personal relationship, Starr took Lewinsky at her word.

- The US judge overseeing Starr's grand jury has cited the OIC for systematically and illegally leaking secret grand jury material to the media. Starr stonewalled on this issue, on the grounds that the matter is currently under litigation.

Witness intimidation and abuse, breach of due process, violation of democratic rights, entrapment

- Starr and his prosecutors bullied and threatened recalcitrant witnesses, trampling on constitutional safeguards and democratic rights. There were many exchanges in the hearing concerning the events of January 16, when Starr's agents surprised Monica Lewinsky at the Ritz-Carlton Hotel outside Washington, to which she had been lured by Tripp, and held her for 10 hours. She immediately said she wanted to speak to her lawyer, Francis Carter, but was told if she called Carter she would jeopardize her chance for an immunity deal. Starr's deputies told her she faced up to 27 years in prison and said they were prepared to prosecute her mother as well.

Lewinsky later told the grand jury that Starr's agents had followed her about the hotel and made her feel she would be arrested if she left. She also testified that she was urged on January 16 to wear a wire so as to secretly record telephone conversations with Vernon Jordan and possibly Clinton.

Starr defended this episode as 'a traditional technique that law enforcement always uses.' When Democratic Counsel Abbe Lowell challenged Starr on violating Lewinsky's right to call her lawyer, the following extraordinary exchange took place:

Starr: 'We would not encourage someone who was involved in felonies, as we thought at the time, to in fact reach out to a lawyer, especially a lawyer who had assisted her in crafting a perjurious affidavit. Why would we possibly do that?'

Lowell: 'Well, one reason would be because the rules of the Department of Justice, the law of the land, as decided by the Supreme Court, and the Code of Federal Regulations require it.'

Starr denied that his agents named Vernon Jordan as someone Lewinsky might be asked to record, another example of Starr's selective approach to Lewinsky's grand jury testimony.

Democratic Congressman Jerold Nadler of New York pointed out that as of January 16 Lewinsky had not even submitted her affidavit to the judge presiding over the Paula Jones case. (The affidavit was received by the judge four days later.) He charged that Starr did not want Lewinsky to call her lawyer, because Carter might have decided to amend the affidavit or withhold it, thus depriving Starr of a critical piece of ammunition in his perjury and obstruction of justice case against Clinton.

In his response, Starr unintentionally lent credence to Nadler's line of questioning, saying, 'We knew he [Carter] had been engaged by Mr. Jordan.' In other words, Starr assumed Carter would inform Jordan, who would alert Clinton that he was being set up for a perjury trap at his deposition by Paula Jones's lawyers the following day.

Another question arising from the sequence of events on January 16 and 17, not raised at the hearing, is this: How could Starr be certain of the contents of Lewinsky's affidavit, since it had not been received by the judge? The only plausible answer is that he was tipped off by his friends in or around the Paula Jones camp.

Starr's treatment of Lewinsky (and her mother) was not an aberration. In the course of the hearing a number of victims of Starr's strong-arm tactics were mentioned. These include Susan McDougal, who was jailed for 18 months for refusing to provide incriminating testimony against Clinton, including, she asserts, false statements that Clinton had an affair with her. She still faces a criminal trial arising from Starr's investigation. Less than a week before the impeachment hearing, Starr for the third time indicted Clinton confidant and former Justice Department official Webster Hubbell, who has likewise refused Starr's demands for evidence against Clinton.

Others only remotely connected to the Clintons who have been caught up in Starr's dragnet were mentioned at the hearing. Sara Hawkins of Little Rock was repeatedly threatened with prosecution and lost her small business as a result. Starr's agents in Little Rock sought to serve a subpoena on the 16-year-old son of a Whitewater witness at the boy's high school. Julie Hiatt Steele, who made public statements undermining the credibility of one of Starr's anti-Clinton accusers, Kathleen Willey, was ordered to turn over tax records, bank records, credit reports and telephone records to Starr's investigators. The OIC even threatened to investigate the legality of the procedures Steele used to adopt her eight-year-old child if she did not cooperate.

Starr justified such tactics on the grounds that, 'It was not our place to reinvent the investigative wheel.'

- The OIC has trampled on the constitutional principle of lawyer-client confidentiality.

- Starr's contempt for the rights of privacy and free speech has extended to issuing subpoenas to bookstores for records on the reading habits of those targeted by his investigation.

Conflicts of interest

In addition to Starr's legal work for the tobacco industry, his contacts with the Paula Jones camp and his links to Richard Mellon Scaife, several other conflicts were raised in the hearing:

- While serving as independent counsel, Starr in 1995 made a donation to a political action committee which backed Republican opponents of Clinton's reelection bid.

- In the summer of 1995, a year after his appointment as independent counsel, he was hired as a consultant to the conservative Bradley Foundation on the issue of school vouchers.

The mantra of Starr and his Republican supporters on the Judiciary Committee was the sanctity of the oath. The Republican Counsel David Schippers argued that Clinton lied under oath and in so doing all but toppled the American judiciary.

But if the standard for perjury applied by Starr to Clinton's testimony were applied to his own rambling and evasive answers at last Thursday's hearing, he would certainly be a prime target for investigation. Rep. Maxine Waters at one point reminded Starr that he was testifying under oath and said, 'When you were asked very specific questions, you said: 'I

don't recall. I don't quite remember. I am not so sure. I'll have to search my memory,' those kinds of answers. Yet, when the President of the United States responded in that way, you outright called him a liar.'

In this connection, an exchange between Rep. Zoe Lofgren of California and Starr was highly significant:

Lofgren: 'In or about November 1997, did you discuss with any person the possibility that a tape recording might exist on which a woman claimed to have had sexual contact with President Clinton?'

Starr: 'I am not recalling that. The specificity of your question suggests that there may be information, and I'm happy to respond to information, if that is--'

Lofgren: 'How about the question?'

Starr: 'If that's--if that's relevant.'

Lofgren: 'Is there any possibility that the answer is yes?'

Starr: 'I have no recollection of it, but I am happy to search my recollection. This is the first time anyone has asked me such a question, and you're asking about something--'

Lofgren: 'So it was possible that it was before January, then?'

Starr: 'Yes, I gather--but you said very specifically November of 1997, so that's--and I will search my recollection--'

At this point James Sensenbrenner (R-Wisc.), who was acting as temporary chair in the absence of Henry Hyde, broke into the questioning and asked if Lofgren had information 'to this effect.'

Starr, who had obviously been rattled by the question, repeated that he would 'search my recollection and ... provide the committee with information.'

Lofgren followed with: 'So you would agree to answer that, under penalty of perjury, if we followed up in a written request, after you've had time to reflect upon it?'

She added a second question as to when Starr first heard information about a tape recording of a woman claiming to have had sexual contact with Clinton, and said, 'We'll look for an affidavit on that, too.'

Neither Lofgren or any of the other Democrats explained the significance of these questions, but they obviously set off an alarm among the Republicans, including Starr. His office has stated repeatedly that it first learned of the tapes implicating Clinton in a sexual affair when Linda Tripp contacted the OIC in early January.

But the reported last month that transcripts from Starr's investigation reveal a Linda Tripp tape from November 21, 1997, which records a call to her home from David Pyke, one of Paula Jones's lawyers. Pyke received Tripp's unlisted phone number from Lucianne Goldberg, who had been in regular contact with Starr's former law partner Richard Porter. In the course of Pyke's call, Tripp told the Jones lawyer of Clinton's affair with Lewinsky, without mentioning Lewinsky's name.

If Starr's office had knowledge of this tape before it debriefed Tripp in January, such knowledge could only have come from Jones's lawyers, Tripp or Goldberg. This, in and of itself, would demonstrate the existence of a conspiracy involving Starr to politically embarrass Clinton and set him up for impeachment.

The danger that Starr could be exposed as having lied last Thursday before the House Judiciary Committee, or be compelled to commit perjury in a subsequent written submission, might help explain the sudden decision of his 'ethical adviser' Sam Dash to resign on Friday morning.

See Also:

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