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TO CONSIDER POSSIBLE IMPEACHMENT OF  
UNITED STATES DISTRICT JUDGE SAMUEL B. KENT  
OF THE SOUTHERN DISTRICT OF TEXAS

Wednesday, June 3, 2009

House of Representatives,  
Task Force on Judicial Impeachment,  
Committee on the Judiciary,  
Washington, D.C.

The task force met, pursuant to call, at 12:07 p.m., in Room 2141, Rayburn House Office Building, Hon. Adam B. Schiff, Jr. [chairman of the task force] presiding.

Present: Representatives Schiff, Conyers, Jackson Lee, Delahunt, Cohen, Johnson, Pierluisi, Gonzalez, Smith, Sensenbrenner, Goodlatte, Lungren and Gohmert.

Staff Present: Alan Baron, Counsel; Mark Dubester, Counsel; Harold Damelin, Counsel; Kirsten Konar, Counsel; and Jessica

Klein, Staff Assistant.

Mr. Schiff. This House Judiciary Task Force on Judicial Impeachment will now come to order. Without objection, the Chair will be authorized to declare a recess of the hearing, I'll now recognize myself for an opening statement.

This hearing has been called to commence the inquiry into whether United States District Court Judge Samuel Kent should be impeached by the United States House of Representatives. Article I, section 2 of the Constitution vests the sole power of impeachment in the House of Representatives. The task before us is not one that we welcome; however, it is an important responsibility that has been entrusted to us by the Founders.

In August 2008, a Federal grand jury returned a three-count indictment against Judge Samuel Kent after a Department of Justice criminal investigation. A superseding indictment filed in January 2009 added three additional counts, for a total of six counts charged. According to the indictment, Judge Kent is alleged to have committed acts constituting abuse of sexual contact and attempted aggravated sexual abuse in 2003 and 2007 against Ms. Cathy McBroom, a deputy clerk occasionally assigned to Judge Kent's courtroom. Judge Kent is alleged of committing acts constituting aggravated sexual abuse and abuse of sexual contact from 2004 to at least 2005 with Ms. Donna Wilkerson, Judge Kent's secretary. Aggravated sexual abuse is a crime punishable under 18 U.S.C. section 2241 by up to life in prison. Finally, the

indictment charges Judge Kent with one count of obstruction of justice for corruptly obstructing, influencing and impeding an official proceeding by making false statements to the Special Investigative Committee of the U.S. Court of Appeals for the Fifth Circuit regarding his unwanted sexual contact with Ms. Wilkerson.

On February 23, 2009, the day his criminal trial was set to begin, Judge Kent pled guilty to obstruction of justice. As part of his plea, he admitted to engaging in nonconsensual sexual contact with Ms. McBroom without her permission in 2003 and 2007. Judge Kent also admitted to engaging in nonconsensual sexual content with Ms. Wilkerson without her permission from 2004 through at least 2005. Finally, he admitted that he falsely testified before the Special Investigative Committee of the Fifth Circuit regarding his unwanted sexual contact with Ms. Wilkerson. In particular, Judge Kent admitted making false statements with regard to his repeated nonconsensual sexual contact with Ms. Wilkerson.

On May 11, 2009, Judge Kent was sentenced to a term of 33 months in prison and ordered to pay fines and restitution to Ms. McBroom and Ms. Wilkerson. Judge Kent is ordered to surrender himself on June 15th for incarceration. The day after his sentencing, the House of Representatives passed House Resolution 424 by unanimous consent authorizing and directing this task force to inquire whether Judge Kent should be impeached. Accordingly, we are conducting this evidentiary hearing today.

Article 3, Section 1 provides that the judges both of the Supreme and inferior courts shall hold their offices during good behavior and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office. Article II, Section 4 of the Constitution provides that all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors.

As we will hear today, historical precedent suggests that there are two categories of conduct that may justify impeachment: serious abuses of power, and conduct that demonstrates that an official is unworthy to fill the office that he holds. Therefore, the task force will examine whether the conduct that Judge Kent has admitted to as part of his guilty plea proceeding, namely making false statements in a judicial proceeding, as well as other potential obstruction of justice based on false statements to the FBI and Justice Department, render him unfit to hold judicial office.

The task force will also examine whether the evidence of sexual misconduct constitutes abuse of judicial power and provides a further basis for Judge Kent's unfitness to retain his office.

The purpose of this hearing is to develop a record upon which the task force can recommend whether to adopt articles of impeachment. These proceedings do not constitute a trial, as the constitutional power to try impeachment resides in the Senate.

This inquiry will focus on whether Judge Kent's conduct provides a sufficient basis for impeachment.

In order to develop the record, the task force has called witnesses and will admit documents that will help us determine whether the constitutional standard for impeachment has been met. The task force has invited Judge Kent to testify before us today. Judge Kent has declined this offer. The task force has received correspondence from Judge Kent that he has asked to be considered as a written statement for today's hearing. It will be so considered and has been made available to all Members. Without objection, I ask that it also be placed in the record.

[The statement of Judge Kent follows:]

\*\*\*\*\* INSERT 1-1 \*\*\*\*\*

Mr. Schiff. The task force has also invited Judge Kent's counsel to participate in the hearing and present arguments on behalf of his client, as well as to provide the opportunity to question any of the witnesses before us. Judge Kent's counsel has also declined to appear or participate in the hearing.

We have also received a letter from Judge Kent to the White House dated yesterday, June 2nd, stating his intention to resign June 1, 2010, a year from now. Neither his surrender to custody in 12 days nor his stated intention to resign a year from now affect his current status as a Federal judge or our constitutional obligation to determine whether impeachment is warranted. This task force will proceed in a fair, open, deliberate and thorough manner and our work has and will continue to be done on a bipartisan basis.

I want to thank the witnesses, particularly Ms. McBroom and Ms. Wilkerson, for their willingness to testify at the request of the task force. We recognize the great sensitivity of the subject matter.

After the task force members have an opportunity to make opening remarks, I will ask Alan Baron, counsel to the task force, to introduce the documentary record and provide the context for today's testimony. We'll then move to our panel of witnesses. After the witnesses make their initial statements, Members will have the opportunity to ask questions, observing the 5-minute

rule.

At the conclusion of the hearing, we'll be scheduling a follow-up meeting of the task force to discuss whether to recommend articles of impeachment to the full committee for its consideration.

I now recognize my colleague Mr. Goodlatte, the distinguished Ranking Member of the task force, for his opening remarks.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Gohmert. Mr. Chairman, can I make a parliamentary inquiry? You had said, without objection, the letter from Judge Kent would be made part of the record, correct?

Mr. Schiff. Yes.

Mr. Gohmert. That letter, as I understand it, is addressed to this committee. Is it made pursuant to any penalties for making false statements to this committee?

Mr. Schiff. Well, I would imagine that as a correspondence and a statement to an official arm of the government engaged in an impeachment inquiry, it would be subject to 18 U.S.C. 1001. That is just a gut reaction to your question. But we can certainly follow up and get you a more definite answer.

Mr. Gohmert. But it was not made under oath as the witnesses -- will they be sworn in today?

Mr. Schiff. The witnesses will be sworn in.

Mr. Gohmert. So that is not under penalty of perjury as the witnesses will have here today?

Mr. Schiff. That's correct.

Mr. Gohmert. All right. Thank you.

Mr. Schiff. It is also, in addition to 18 U.S.C. 1001, an offense to obstruct Congress. But in answer to your question, vis-a-vis perjury, the letter is not, as I understand it -- we can consult further with the experts -- not made under oath. Thank you.

Mr. Goodlatte.

Mr. Goodlatte. Thank you, Mr. Chairman. And thank you for holding this important hearing in an expeditious manner.

Article III of the Constitution provides that Federal judges are appointed for life, and that they shall hold their offices during good behavior. Indeed, the Framers knew that an independent judiciary, free of political motivation, was necessary to the fair resolution of disputes and the fair administration of our laws. However, the Framers were also pragmatists and had the foresight to include checks against the abuse of the independence and power that comes with a judicial appointment.

Article I, section 2, clause 5 of the Constitution grants the House of Representatives the sole power of impeachment. This is a very serious power which should not be undertaken lightly. The impeachment of a Federal judge is a very infrequent occurrence within the halls of Congress. In fact, no Federal judge has been impeached in the last 20 years. It is a power that Congress ~~only~~ utilizes only in cases involving very serious allegations of misconduct. However, when evidence emerges that an individual is abusing his judicial office for his own advantage, the integrity of the judicial system becomes compromised, and the House of Representatives has the duty to investigate the matter and take the appropriate actions to end the abuse and restore confidence in the judicial system.

Today we are investigating whether to issue articles of

impeachment against Judge Samuel Kent of the United States District Court for the Southern District of Texas. Judge Kent has served for almost 18 years as the only Federal judge in the Galveston, Texas, Division of the Southern District. Today Judge Kent still holds the position of Federal judge despite the fact that he is a convicted felon, having admitted to obstructing justice by lying during an investigation being conducted by his fellow judges that was looking into complaints that he sexually assaulted at least two women court employees who worked in the Galveston courthouse.

Judge Kent pled guilty to the obstruction of justice charge on February 23rd. In pleading guilty to the obstruction of justice charge, Judge Kent also admitted to engaging in, quote, repeated nonconsensual sexual contact with a court employee and, quote, nonconsensual contact with another employee despite requests by the employee that the conduct stop.

On May 11th, Judge Kent was sentenced to 33 months in prison. He is due to report to prison on June 15th. Despite his guilty plea and pending incarceration, Judge Kent has chosen not to resign his position as a Federal judge. Because his position is a lifetime appointment, Judge Kent will be able to keep the position as well as his salary and other benefits until he either resigns or is impeached and removed from office.

Judge Kent was invited to appear at this hearing and explain why his conduct does not justify impeachment. His attorney was

also invited to come today, but both Judge Kent and his attorney have declined to attend.

Two of the women who were the victims of Judge Kent's sexual assaults, Cathy McBroom and Donna Wilkerson, have decided to come forward and tell their stories to the task force. I know this is not an easy thing for them to do, and I want to personally thank them for their willingness to come forward and testify.

It is not a pleasant task before us today, but it is a necessary one. I welcome the testimony of all of the witnesses, and I thank you, Mr. Chairman, for holding this important hearing.

Mr. Schiff. I thank the gentleman for his statement.

[The information follows:]

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Mr. Schiff. And I would now like to recognize Mr. Conyers, the Chairman of the Judiciary and ex officio member of the task force.

Chairman Conyers. Thank you, Chairman Schiff. I will submit my statement for the record.

Mr. Schiff. Thank you, Mr. Chairman.

[The information follows:]

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Mr. Schiff. I would now like to recognize Mr. Smith, the Ranking Member of the Committee on the Judiciary and ex officio member of the task force as well.

Mr. Smith. Thank you, Mr. Chairman. Thank you, Mr. Chairman, for holding this hearing following Judge Samuel Kent's guilty plea and sentencing. This public hearing is an indication of how seriously we take the possible impeachment of Judge Kent.

Judge Kent, who is from my home State of Texas, comes before the task force as a convicted felon having pleaded guilty to obstruction of justice. As part of the plea agreement, five counts of the indictment charging Judge Kent with the sexual assault of two court employees were dismissed. On June 15th, Judge Kent will start serving a 33-month prison sentence. By resigning effective June 1, 2010, Judge Kent is attempting to collect his full judicial salary for another year, even while he sits in a Federal prison. Judge Kent and his lawyer are banking on the fact that impeachments take time, literally.

Judge Kent receives \$465 of his taxpayer-funded salary every day he remains in office. We are here today to put an end to Judge Kent's abuse of authority and exploitation of American taxpayers. Allowing Judge Kent to remain on the bench and retain a taxpayer-funded salary is an affront to the very idea of justice that Judge Kent once swore to uphold. Our constitutional

democracy depends on the rule of law and the equal protection of the laws. These principles depend in turn on a disinterested judiciary whose members cannot place themselves above the law.

I am not unsympathetic to the claims that Judge Kent endured difficult personal tragedies and may suffer from mental illness; however, he does not have the right to continue to serve as a Federal judge and to collect a Federal salary while sitting in prison. And although his attorney claims that Congress has, quote, better things to do than pursue impeachment, I disagree. Ensuring that a Federal judge convicted of a felony does not receive a taxpayer-funded salary while sitting in jail is important to our system of justice and a priority of this Judiciary Committee.

Mr. Chairman, I yield back.

Mr. Schiff. I thank the gentleman for his statement.

[The information follows:]

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Mr. Schiff. At this time I will recognize any other Member who would like to make an opening statement.

The committee recognizes Mr. Cohen of Tennessee and Mr. Sensenbrenner of Wisconsin.

Mr. Cohen. Thank you, Mr. Chairman.

This is an awesome responsibility to sit on a committee such as this dealing with impeachment. And I have read the materials and the allegations that have been presented and what is the guilty plea in the judge's case.

I do want to reflect on the fact that when I was a State Senator in Tennessee, we had a similar situation, and we had a judge, a State judge, who had confronted not an employee, but a litigant before his bench, a female litigant in a divorce case, and forced himself upon her. He was tried and convicted, and we were unable to take his pension and judgeship away from him because of the issue of prospective legislation and retroactive activity. But we were able to pass a law because of that to in the future not allow a judge who was convicted of a crime pertaining to their office and in the conduct of their office from receiving a pension or a salary after conviction.

It was a very important issue in our State, and it is unfortunate that because of our laws we couldn't do anything about it, and that judge continues to receive his pension. And I think that it is something that many feel is -- and I do -- was a

miscarriage of public trust and of public treasuries. And I have done everything I can and believe I have come into this hearing without prejudicing my own thoughts based on the experience I had on a similar-type case. But I do think public officials need to maintain the public's faith in the system, and the public tax dollars should only go to people who are doing such, and if not, reflect poorly on the state of the judiciary or our government in general.

So this is a case that is kind of a deja vu to me, and I do think that the public Treasury should be protected as should the public trust. Thank you.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Schiff. I thank the gentleman from Tennessee and now recognize the gentlemen from Wisconsin Mr. Sensenbrenner.

Mr. Sensenbrenner. Thank you very much, Mr. Chairman. First of all, let me thank you for holding this prompt hearing and inquiry on whether Judge Kent should be impeached.

There is an urgency involved in this because in less than 2 weeks, Judge Kent will go to jail, and if the Congress doesn't move, and that means both the House and the Senate, he will be sitting in jail collecting a full judicial salary, which is equal to the salary that is paid to the United States Senators and Members of the House of Representatives. That in itself would be outrageous.

Judge Kent has admitted to the activity that brought about his conviction, and, unfortunately, he is putting Congress through the time and expense of actually conducting this inquiry and potentially impeaching him and trying him before the Senate of the United States.

Let me point out as a result of his felony conviction, he will undoubtedly be disbarred in Texas and consequently will no longer be able to practice law even if he still remains a judge in the year before his resignation becomes effective. That means we do have to drop whatever we are doing and go ahead with this simply as a result of the need to keep the public's faith in the judicial branch of government and our ability to remove those bad

apples from office who refuse to go voluntarily.

So I thank the gentleman from California for promptly scheduling this hearing. I hope that we'll proceed to a committee markup on articles of impeachment and presenting them to the House equally promptly. And I yield back the balance of my time.

[The information follows:]

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Mr. Schiff. I thank the gentleman from Wisconsin, and I now recognize the gentleman from Georgia Mr. Johnson.

Mr. Johnson. Thank you, Mr. Chairman, for bringing this issue promptly to our attention as well as to the American people.

The integrity of our judicial system and our judiciary is fundamental to the functioning of our legal system. And as a former judge and Chairman of the Subcommittee on Courts and Competition Policy, I am aghast at the shamelessness of Judge Kent, which has been displayed by trying to enhance his pension benefits, and it is -- the right thing to do is for him to resign immediately. And that is pretty much my statement, sir.

Mr. Schiff. I thank the gentleman.

[The information follows:]

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Mr. Schiff. I'm sorry. I had someone whispering in my ear. Did you yield back the rest of your time?

Mr. Johnson. Certainly I do.

Mr. Schiff. Thank you. I thank the gentleman from Georgia. Does any other Member wish to make an opening statement at this time?

Ms. Jackson Lee. Congresswoman Jackson Lee.

Mr. Schiff. You do want to be recognized?

I recognize the gentlelady from Texas Ms. Jackson Lee.

Ms. Jackson Lee. Did Mr. Gonzalez --

Mr. Gonzalez. I'm waiving opening statement.

Mr. Schiff. You're recognized.

Ms. Jackson Lee. Thank you very much, Mr. Chairman, for holding the meeting.

I think it is appropriate for me to not accept the burden of an entire State, but it is sad that this case has occurred in the State of Texas and particularly in the Houston-Galveston area, which I happen to have the opportunity to represent.

I'm also disappointed that the Fifth Circuit did not find a way to resolve this in light of what we have at least heard on the issues of the mental state of the individual that we have before us, but I will keep an open mind so that we can address the questions both of the integrity of the bench, which I think is enormously important, and get the particular bench that Judge Kent

held in the hands of an individual that will carry out justice and the law; but I will also call upon his grace and mercy for the understanding of the actions of individuals who may be impacted by mental health needs and substance abuse, certainly characteristics that we don't promote for individuals on the bench. But I will be listening to the presentations made by various stellar witnesses here who themselves have been victims and as well try to utilize in addition to the responsibilities of this committee as it relates to the impeachment of Federal officials, I will also try to incorporate in my thinking his grace and his mercy.

I yield back.

Mr. Schiff. I thank the gentlewoman for her remarks.

[The information follows:]

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Mr. Schiff. And would any other Member like to make an opening statement?

Seeing none, at this point we'll hear from Mr. Alan Baron, special impeachment counsel for the House Judiciary Committee, who I have asked to set out the procedural history of the case for the purpose of introducing the documentary record.

Mr. Baron is currently a partner at Seyfarth Shaw law firm here in Washington. He is a graduate of Princeton University and Harvard School of Law. After law school Mr. Baron clerked for the Honorable Roszel Thomsen, chief judge of the U.S. District Court for the District of Maryland. He then held the position of assistant United States attorney for Maryland from 1967 to 1970 until entering private practice.

Mr. Baron served as special impeachment counsel for the U.S. House of Representatives from 1987 through 1989 by working on two judicial impeachment proceedings during that time. Mr. Baron was retained in October of 2008 as special impeachment counsel by the House Judiciary Committee with regard to the possible impeachment of U.S. district Judge Thomas Porteous and thereafter U.S. District Judge Samuel Kent.

Mr. Baron, please proceed.

Mr. Baron. Thank you, Mr. Chairman.

Mr. Schiff. You'll need to turn your mic on if it is not on already.

Mr. Baron. Is that working?

Mr. Baron. Mr. Chairman, at the direction of --

Mr. Schiff. Mr. Baron, can you pull the microphone a little closer to you? That might help.

Mr. Baron. Mr. Chairman, at the direction of the task force, I and the staff undertook to investigate these allegations concerning Judge Kent. One of the first things we did was review the criminal case file where Judge Kent was named as a defendant and gather various documents pertinent to those proceedings. From reviewing those documents, I would like to relate certain basic facts concerning Judge Kent and also with regard to the chronology of the proceedings involving Judge Kent.

Judge Kent is 60 years old. He was born in June of 1949. He has served as judge for the U.S. District Court of the Southern District of Texas in the Galveston Division, and he was the only judge in the Galveston Division. He was nominated in August of 1990 to ascend to the bench, and he received his commission in October of 1990. He has served some 19 years.

Initially a complaint was filed against Judge Kent by the person who is referred to as Person A. That is Cathy McBroom, who is here today to testify. She filed a complaint on May 21, 2007, with the Fifth Circuit judicial counsel raising allegations of sexual misconduct by Judge Kent.

On June 8, 2007, Judge Kent voluntarily, and indeed at his request, appeared before the commission. On September 27, 2007,

Judge Kent was reprimanded and suspended by the Fifth Circuit counsel for a period of 4 months, and thereafter Ms. McBroom appealed the disposition of his case in that manner. At approximately that time, she asked for it to be reconsidered, but approximately at that time the Justice Department began an investigation of Judge Kent, and they returned, as you refer to, the original indictment that was referred to -- returned on August 28, 2008.

And if the Members would look in the binders that I believe each of them has, they should have before them the original indictment, which has three counts. It is brought in the United States District Court for the Southern District of Texas, Houston Division, and it relates that Judge Kent was a U.S. district judge in the Southern District, and relates that he engaged in improper sexual conduct with Person A, who has since been identified as Cathy McBroom.

Thereafter, on January 6, 2009, there is a superseding indictment, which also should appear in the binder. That document contains six counts. The first three are the same first three from the original indictment involving Ms. McBroom. Counts 4 and 5 relate to yet another person identified in the superseding indictment as Person B. That is Donna Wilkerson. Both Ms. McBroom and Ms. Wilkerson are here today to testify, as noted earlier.

These counts speak of attempted aggravated sexual abuse,

abusive sexual contact, and they delineate in some detail the actual conduct involved. There is a count 6 in the superseding indictment, which is obstruction of justice in violation of 18 U.S.C. section 1512(c)(2). That is the count to which ultimately Judge Kent pleaded guilty, and what it essentially alleges is that when he appeared before the Fifth Circuit counsel in June of 2007, he lied to them. He falsely stated to them, according to the indictment, that the extent of his unwarranted sexual conduct with Person B was one kiss, and when told by Person B his advances were unwelcomed, no further contact occurred, when, in fact, and as he well knew, he had engaged in repeated, unwanted sexual assaults of Person B, et cetera.

That was the essence of the lie, and then it alleges that obstructed, influenced and impeded the Fifth Circuit's investigation into the misconduct that had been complained of.

Ms. Jackson Lee. What page is that?

Mr. Baron. That appears at page 6 and 7 of the superseding indictment as count 6.

Ms. Jackson Lee. Thank you.

Mr. Baron. Now, thereafter, on February 23rd, there are three documents that are relevant. There is a plea agreement that is entered into on February 23, 2009. There is a factual basis for the plea, and then there is a transcript of the guilty plea proceedings, all of which are dated February 23rd.

Looking first at the factual basis for the plea, particularly

at page 2, it relates the details of the manner in which Judge Kent engaged in obstruction of justice, and essentially that the counsel had sought to learn from him the facts, and in essence he lied to them about the nature and extent of the sexual conduct which was being investigated.

There is also a plea agreement dated February 23rd.

I would also note, to go back for a moment, that document, the factual basis for the plea, is signed by Judge Kent and his counsel.

There was also a plea agreement dated February 23rd. Page 1, he agrees -- that is the defendant Judge Kent -- agrees to plead guilty to count 6, and the State -- the prosecutors agreed to dismiss counts 1 through 5 of the superseding indictment. On page 2 of the plea agreement, it notes that the maximum penalty under count 6 was 20 years of imprisonment and a fine of \$250,000. Further down the page on page 2, under "factual stipulation," Judge Kent agrees that the attached factual basis for the plea fairly and accurately describes the defendant's action and involvement in the offense to which the defendant is pleading guilty. The defendant knowingly, voluntarily and truthfully admits the facts set forth in the factual basis for the plea.

There is a transcript of the guilty plea in court when Judge Kent appeared to actually be rearraigned. He had initially pleaded not guilty, and then he was being rearraigned with regard to count 6 of the superseding indictment.

It is noteworthy that as part of that process, it is incumbent upon the judge who is taking the guilty plea to explore to be certain that the defendant understands what his rights are, that the defendant knowingly can -- is competent to participate in the guilty plea proceedings, he understands which rights he is giving up: the right to jury trial, the right to have the government prove its case beyond a reasonable doubt, the right to testify, the right not to testify, that he was entitled to presumption of innocence.

The judge goes through that entire litany with Judge Kent, which, of course, Judge Kent would have been familiar with because he had served as a Federal judge for all those years, and at the end of that discussion, and this occurs at page 18 of that transcript, here is the judge speaking: And most importantly, I find that you, Judge Kent, have made your decision to plead guilty to this charge freely and knowingly and voluntarily. And you've made that decision with the advice of counsel, an attorney with whom you've indicated your full satisfaction. So let me ask you now, Mr. Kent, how do you plead to count 6 of the superseding indictment?

And then the defendant states, guilty.

I would go back just for a moment to page 10 of this transcript at line 18. The Court, in its colloquy with Judge Kent, says to him, the plea of guilty has the legal effect of saying the charge is true. You understand that?

Judge Kent replies, yes, sir.

We also have the transcript of the sentencing proceeding before the judge. That is a fairly extensive colloquy because a great deal of time --

Mr. Schiff. Mr. Baron, that is item 3 in the task force binders?

Mr. Baron. Yes, sir. That is.

The next document. An extensive colloquy occurs at that point because one of the issues was where Judge Kent fit within the sentencing guidelines, and there is sparring back and forth between counsel and with the judge about how to calculate where he stands within the sentencing guidelines. In the course of that, I would ask and direct the task force's attention to page 6. The prosecution was in effect arguing for a higher number within the sentencing guidelines, and it makes this representation. I'm looking now at -- well, we can start at line 1. This is the prosecutor speaking. He says, during the voluntary interview, he was interviewed regarding his conduct, and he repeated the same false statements that he later told to the special investigative committee both about Person A and about Person B. Then just before the trial team was going to present the initial indictment to the grand jury -- this is in August of 2008 -- the defendant, through his attorney, asked for a meeting at main Justice headquarters, and there in the Assistant Attorney General's conference room he sat down with his attorney and met with, among

others, the trial team, the FBI agents, the chief of the Public Integrity Section and the Acting Assistant Attorney General, and during the interview portion of that meeting, he again repeated the same lies. He said that he had been honest with the FBI in December of 2007, he said that any attempt to characterize the conduct between him and person as nonconsensual is absolutely nonsense, and that is in stark contrast to the factual basis for his plea during which he admitted in engaging in repeated nonconsensual sexual contact with Person A without her permission. And he goes on with regard to Person B. And this was not refuted by Judge Kent or his counsel.

They argued about what its significance was in terms of the sentencing guidelines, but he did not deny that he had also lied to the FBI and to the prosecutors on this other occasion.

Ultimately the judge imposed a sentence of 33 months, plus a \$1,000 fine and several thousand dollars to each of the victims as kind of restitution. They both testified at the sentencing in the context of impact on them as victims of Judge Kent's behavior, and that is also found within this transcript.

I have obtained certified copies of the various -- many of the various documents I have referred to, the original indictment, the superseding indictment, the plea agreement, the factual basis for the plea. These are all here. I would offer them to the task force so that that could be made part of the record.

Mr. Schiff. Without objection, each of those documents will

be made part of the record.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Baron. I would also offer the transcript of the guilty plea and the transcript of the sentencing, which the guilty plea transcript is dated February 23, 2009. The transcript of the sentencing is dated May 11, 2009.

Mr. Schiff. Those documents will also be made part of the record.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Baron. Finally one other document. There is an official court document. It is the judgment of conviction in a criminal case, and that, too, is dated May 11, 2009.

Mr. Schiff. That will be made part of the record as well.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Baron. Now, subsequently, Judge Kent sought to retire on disability, and he presented that to the Fifth Circuit specifically. It was to be considered by Chief Judge Edith Jones. Judge Kent presented to her voluminous materials concerning his ~~fiscal~~ physical and mental health and his personal history, and this is not an adversarial proceeding. There were no countervailing doctors or anyone to argue. This was his petition. On May 27, 2009 -- this document also should be in the folders, I believe, that the Members have.

Chief Judge Jones considered all of the materials that had been submitted to her, and let me quote from the letter. She says, in order to evaluate this request, I have considered numerous medical, psychological and psychiatric reports concerning Judge Kent. I have spoken with nearly all of the doctors who prepared those reports. And, skipping down, she says, finally I have sought legal advice from the general counsel of the administrative office of the courts.

She then goes on to conclude -- this is on the second page at the bottom of the second paragraph of her letter -- taken together, these facts do not show that Judge Kent's performance of professional duties was affected by mental instability or alcoholism before he was criminally investigated and indicted. And ultimately the bottom line is, for these reasons I deny the request to certify Judge Kent as disabled pursuant to 28 U.S.C.

section 372(a).

I would offer that that letter also should be made part of the record.

Mr. Schiff. Without objection.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Baron. The committee also received a letter dated June 1, 2009, and it is headed "Statement of Judge Samuel B. Kent Provided to the Task Force to Consider the Possible Impeachment of Judge Samuel B. Kent." Judge Kent notes that his health does not presently allow him to travel to Washington to address the task force in person, and then he asks that his letter be accepted as his written statement and to afford it any consideration the rules may allow.

I would request that that also be made part of the record.

Mr. Schiff. Yes. That will be made part of the record as well. I encourage the Members to read that.

Mr. Baron. Finally, Mr. Chairman, members of the task force, there is a letter dated June 2, 2009. It is addressed by Judge Kent to the President of the United States. It reads as follows: Dear President Obama, I hereby resign from my position as United States district judge for the Southern District of Texas effective June 1, 2010. So effectively 1 year from then.

I would ask that that also be made part of the record.

Mr. Schiff. Without objection.

[The information follows:]

\*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

Mr. Baron. That concludes my testimony.

Ms. Jackson Lee. Is that letter in our folder, that last one that you read --

Mr. Baron. We got it in pretty late. We do have copies for everyone. It is not in the folder, but we will distribute it. There is someone ready to do that right now.

Mr. Schiff. We'll make sure that each of the Members gets a copy of that letter.

Mr. Baron, thank you.

What I'd like to do now is turn to the first panel of witnesses, and Mr. Baron will be available after the witness testimony should Members have questions regarding the procedural posture of the case.

Thank you, Mr. Baron.

Mr. Gohmert. Mr. Chairman, could I make a parliamentary inquiry? Was there -- in the transcript, the witness was alluding to -- there was mention of 413 notice in which they said it wasn't just Person A, it wasn't just Person B, there were additional victims of this defendant? Is that 413 notice -- was that made a part of our record as well by this witness? Was that something that you had submitted?

Mr. Schiff. Mr. Baron, you can speak to that.

Only the documents that I think Mr. Baron referred to have been made part of the record.

Mr. Gohmert. Then that was not one of them then.

Mr. Schiff. That's not one of the documents that this witness has presented.

Mr. Gohmert. Thanks.

Mr. Schiff. Thank you, Mr. Baron.

Mr. Baron. Thank you.

Mr. Schiff. Why don't we begin. If the witnesses could come forward to the table. We have been paced for a series of two votes, So we will begin the testimony, and then we'll break and return as soon as the votes are concluded. If our three witnesses could come to the table, that would be great.

Ms. Jackson Lee. Mr. Chairman?

Mr. Schiff. Yes.

Ms. Jackson Lee. Just a moment of personal privilege, just a moment. Let me acknowledge Mr. Rusty Hardin, who has commended himself well. This gentleman -- is he counsel? Mr. Terry Yates. And I assume from the Houston area? If you would allow me to acknowledge the gentlemen for commending themselves well. And I know that Mr. DeGuerin is not here, but all the lawyers who participated in this unfortunate set of circumstances, I want to thank you for your service. And I yield back, Mr. Chairman.

Mr. Schiff. I thank the gentlelady.

At this time, I would like to introduce our panel of witnesses. Our first witness is Cathy McBroom. Ms. McBroom served the Clerk's Office for the Southern District of Texas and

had encounters with Judge Kent that ultimately led to his prosecution and the proceedings today.

Our second witness is Donna Wilkerson. She served as his secretary for 7 years and is also here to describe her encounters with Judge Kent.

Our final witness will be Professor Arthur Hellman at the University of Pittsburgh School of Law. He occupies the Sally Ann Semenko endowed chair of the university and has been part of the faculty since 1975. He is one of our Nation's foremost scholars on Federal judicial ethics and has written numerous articles on the topic. Professor Hellman has previously testified at hearings in both the House and Senate, including as a witness before the House Judiciary Committee, on the issue of judicial impeachment. His other testimony has centered on a range of issues concerning the Federal courts, and he provided valuable assistance to members of the Judiciary Committee in drafting legislation to revise the handling of misconduct complaints against Federal judges.

Thank you for your willingness to participate in today's hearing. Without objection, your written statements will be placed in the record.

Given the gravity of the issues we are discussing today, we would appreciate it if you'd take an oath before you begin the testimony.

Excuse me one moment.

If each of you would please stand and raise your right hand.

[Witnesses sworn.]

Mr. Schiff. And I think what we will do is maybe reverse the order in light of the votes and -- well, one moment, please. What we are going to do is we are going to break for votes. That way we won't have to break for testimony. We have two votes. We'll be back probably in about 40 minutes. Give you all a chance to grab a bite to eat, and we'll resume. I ask Members to return immediately after casting the last vote.

Thank you. We are in recess.

[Recess.]

RPTS DEAN

DCMN NORMAN

Mr. Schiff. The task force will come to order.

Thank you. We'll start, Ms. McBroom, if you could begin your testimony. Your written testimony has been made a part of the record and thank you for beginning.

**TESTIMONY OF CATHY McBROOM, CASE MANAGER, UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS**

Ms. McBroom. My name is Cathy McBroom. I've --

Mr. Schiff. I think your microphone may not be on.

Ms. McBroom. My name is Cathy McBroom. I have been employed by the United States District Court for 10 years. I am the victim that is referred to as person A in the indictment against Judge Samuel Kent. We're here today because I filed a complaint of judiciary misconduct against Judge Kent.

I began my career as a secretary for judge Nancy F. Atlas, and I worked in that capacity for about 3 years. After that I decided to pursue a case management position because I thought I would be better suited for those type of responsibilities. And I applied for the first available position, which was actually for Judge Kent out in Galveston.

I want to describe several incidents to you that are very

difficult for me to talk about, but I think they are very necessary and they may be difficult for you to hear. These are incidents that I feel should never happen in the workplace. And the fact that they happened to me and they were initiated by a Federal judge is even more frightening.

The very first incident happened to me after I had been working for the judge for about 8 months. I actually worked on a different floor than the judge, but it was my responsibility to come up a couple of times during the day and check my outbox, also to bring paperwork to him, motions and things for him to review. And on this particular day, I had come up in the afternoon to check my outbox. And there was no one in chambers, so I had the key, I let myself in, I checked my outbox, and I was leaving his office to come back down to the elevator.

As I was walking down the hallway, I saw him coming towards me. And he was laughing and being pretty loud, as he usually was. As I approached him, I was actually coming pretty close also to the command center. The command center was the place where the security guards usually sat and they could monitor the building from there. And I noticed in the command center there were several of the security guards.

As I approached the judge, he asked me if I would show him the workout room. There wasn't really an official workout room in the building, but the guards had actually set up some weight equipment, free weights and things, just a few pieces of equipment

in this little, small, kind of storage room that was about 10, 15 feet from the command center.

I could tell that he was -- had been drinking, because he was slurring his words when he was asking me to show him the weight room. But I went ahead and took him into the weight room and pointed out the various exercise equipment that we had. And when I turned he grabbed me. And when I say he grabbed me, he grabbed with one hand sort of around my waist and he started trying to kiss me and he actually did force his tongue into my mouth. And at the same time that that was going on, he immediately started trying to remove my clothing by -- he pulled up my blouse, he got his hand underneath my bra and pulled everything up at once so that my breasts were exposed.

I was begging him to stop, telling him please don't do this to me, please don't. I really love my job, I don't want to lose my job. Please don't do this. He wouldn't listen. I was trying to fight him off and keep his hands away from my body parts. He also put his hand down -- tried to force his hand down my skirt. And I noticed that the door to the small -- small room that we were in was cracked open, and I knew that the security guards must be able to hear what was going on in there. I even said, Judge, the guards are right outside, I know they can hear us. And he said, I don't care who hears us. He wasn't afraid of that at all. And that even made me more frightened. I guess he felt like he was powerful enough that no one was going to approach him and no

one was going to come and -- come to my rescue, and he was right.

Finally I threatened to just scream. I said, if you don't stop I'm going to have to scream. And at that point he -- he just let go of me and just looked down at me with this disgusted look on his face and then he turned and left. And I was very shaken and upset and I sat down on a bench that was in the room and just cried for a few minutes and wondered what -- what do I do now, what do I do? And I tried to collect myself, straighten my hair, you know, get my clothes back in shape and I left the office.

When I walked out of the office an important thing is that I noticed were at least three men in that command center and all three of them had gone; no one was there. I really believe that they saw what was happening and they wanted to just leave, because they didn't want to be involved.

From there I went immediately down to my supervisor's office and I -- I walked into her office and I said, why didn't you warn me about him? And she said, what -- what's going on? And I told her he attacked me. And she knew immediately who I was talking about. And she asked me to close the door and so I closed the door. And she said, sit down, we'll talk. And I told her -- you know, I described the incident and told her that he'd attacked me. And she said, well, do you want to file a complaint? And I said I -- I don't know what that means, I don't know what you mean by complaint. All I know is I don't want to lose my job, I know that.

And she said, well, I can't guarantee that you could keep your job. I think that he's a Federal judge and he's not going anywhere, and more than likely you're going to be the one to go. And I thought about that for a moment and said that I'm not going to file a complaint. I want to know what else I can do, what are my other options. And she said, if you're not going to file a complaint then I'll talk to you off the record.

So she sat down and she told me that he had done something similar to her, but just not to that great of an extent. He had -- she was up in his chambers one day and he had forced a kiss upon her, he had French kissed her. But she said that she resisted and that that was an isolated incident that -- that never happened again. And that had been several years prior to what had happened to me.

And so she really felt like that he would probably talk to me later, and maybe even apologize, and maybe I'd never have to worry about it again. I hoped that that was true.

So I went about my business as a case manager and sometimes we'd go months without having that type of contact with the judge. It would be strictly business for the most part. But there were other incidents that arose after that. He started calling me on the phone. There were several, I would say probably more than 10 episodes, of him calling my office and begging me to come up and give him a kiss or just come up and talk to him. And I would resist.

And one other thing I want to say is after that first incident, I did tell one of the security guards that he had tried to attack me, and I was upset with this particular person because he didn't do anything, because he just left. And he said that he had to worry about his job, and his job was to protect the judge. And he apologized, but he said there wasn't anything he could do. So he agreed to try to watch out for me in other ways. He agreed to tell me if he knew the judge had been drinking, or the judge was looking for me, or he suspected that the judge was going to do something like that; he would call me ahead of time and give me a heads-up. So that sort of helped me to initiate various coping mechanisms that would allow me to stay in my position and sort of stay under his radar and avoid him when I thought the situation was going to be bad.

Another incident I want to describe is about avoiding him. If I knew that he was back from a long lunch and he had possibly been drinking and he was the only one up in chambers, and I knew it was going to be a dangerous situation, if he called me and I could see that it was his extension calling me, his private line, I wouldn't answer the phone. I would just avoid his phone calls. That was a hard decision to make. As a case manager who is there to do your work, you always have to analyze, does he want me for real business or does he want me there because he wants to have sexual contact with me? It was an extremely fine line that I walked, and a very difficult position to be in.

Another incident that happened: He tried to call me several times and I wasn't answering, so he came down to my office, which was two floors down. He came right into my office, sat in front of me, across the desk from me and just started being friendly, loud, telling jokes. And, you know, I listened and laughed and, you know, I tried to participate the best I could.

He then stood up and came -- started coming around my desk. And my instinct was to stand up, too. So I stood up, backed away as far as I could from him, and there was a credenza, actually just a table that I was using for a credenza behind my desk. And I backed up completely against the credenza, and he came around the desk, got in between my desk and me, and pushed me up against the credenza and pinned me there and started kissing and grabbing various body parts. My office door was open -- and he was a big man, he was over 6 foot, probably closer to 6'3", 6'4" -- and I could sort of see over him to the doorway to my office and I could see someone come to my office. I saw someone there for a moment and they just turned and left. I couldn't tell who it was.

But I feel like that's another example of people understanding what was happening there but everybody being afraid to address it, afraid to even come forward or say anything. That incident ended similarly. It didn't get as far as the first incident, because he wasn't able to get my clothes up, but I was able to push him away and discourage him enough that he eventually just left the room.

The other incident that I want to describe is one that happened right before I left. It was the final incident that happened to me. Judge Kent had called me up to his chambers to discuss an administrative action that had been taken in the Clerk's office, and I came up the elevator and turned to go to his office and I noticed there was a security officer sitting in the command center again. And he looked at me and said, where are you going? I said, I've been summoned to chambers. And he just kind of said, well, be careful. I still don't understand what he meant by that, but I went down to the judge's chambers. His secretary wasn't in, it was just me and the judge. He asked me to come directly into his office, asked me to close the door, and we had a brief discussion and I was about to leave -- I said, okay, thank you. And I was about to leave the office and he said well, come give me a hug. And I said no, let's don't. I don't want to do that. I'm not -- please don't start that. And he said, oh, come on. I've been good to you. You need to come give me a hug, that's the least you can do. So I did. I reached up and he came around the desk and I was standing there and I reached up and gave him a hug. And the instant that I did that he reached around and grabbed my backside and pulled me in close to him, and then he started the same thing. He started trying to undress me, take my clothes off. He yanked my shirt, my sweater that I was wearing, and this time my breast was exposed and he did put his mouth on my breast. And meanwhile I'm pushing him away.

That day he had his dog, he had a bulldog that he brought to work with him at times, the dog started barking and causing a big commotion. I was afraid of the dog because the dog had incidents of attacking people, too. So here I had the judge attacking me and the dog barking and I was just trying to push him away.

And at some point he pushed my head down towards his crotch and asked me to do oral sex on him. He didn't use that language, he used more explicit language. And then I resisted and he grabbed my hand and placed my hand on his crotch. And I was just still trying to push him away and escape and beg him to stop. And at some point I heard someone come into the outer office. And he heard that, too, and so that momentarily distracted him enough to where I could break free.

And when he went into the outer office to investigate who had come in, I made my exit. And as I was leaving the office he made a statement to me that he thought I was a great case manager and that I did excellent work for him, but it didn't change the fact that he wanted to do sexual things to me. These things are described in my written statement but they are too embarrassing for me to talk about in public.

At that point I felt afraid enough that I wasn't able to go -- I knew I would never be able to go back to that office again. I knew that I would be in danger if I continued to go there. I felt like he -- he felt like he had power and control over me and could do whatever he wanted to me, and there was no

one that was going to help me or come to my rescue or even believe me.

So I really didn't have any other alternative but to give up my job, and this was a job that I had worked very hard to attain. This was a job that I loved the responsibilities. I still do. It's something that I had planned to work until my retirement in. But I left the office and I decided that weekend that I would write a letter to my manager and request a transfer. So I did. I wrote the letter, I gave it to my manager the next week. And in the letter I described the incidents and I also asked for the transfer to Houston.

So the transfer was granted and I was offered a position in Houston that was not a case management position, but it was what they had available, so I accepted that position. And I -- you know, the history of my employment is just I worked in that position until something of more of a case management in nature came available, and I did that for a while. And just recently I applied for -- now I'm working for another Federal judge in a case manager position. So I now have my job back, finally, after 2 years.

One thing I want to say about my transfer back to Houston. I was in a position working for the staff attorneys and I had been doing that for oh, I guess, a month or so. And it still bothered me that even though I had made a complaint to my manager and the complaint had been addressed and I had received a transfer, I felt

that nothing, absolutely nothing, had been done to correct the situation in Galveston. And I didn't think anything was going to be done to correct that.

I knew that there were other victims out there and I also knew that there will continue to be victims if no one did anything. That thought nagged at me and just -- I couldn't sleep at night because I felt like I had a responsibility to say something or do something to ensure that it wouldn't continue to happen. So after a couple of months I decided to file my judicial misconduct complaint. I wrote it myself, I mailed it off myself, and I waited to see how the circuit or the committee would handle the complaint.

Not too long after I filed the complaint, I got a letter from Judge Jones stating that a panel of judges would be in Houston to interview me. They did that; they came in and there were three people that interviewed me. It was two judges and an attorney. And it's my understanding that they interviewed other people, coworkers and other people they thought were -- could be witnesses. The problem is that most the people in Galveston were extremely afraid of Judge Kent, they were afraid of retaliation. And a lot of people didn't feel at liberty to tell the truth to the committee of judges. And they didn't feel like they should offer any information that could have been helpful to the case. They were afraid for their jobs.

I felt alienated completely, because people who were my

friends and my coworkers treated me as if I had the plague, they were so afraid to be associated with me. Eventually I found out that the circuit decided to reprimand the judge. And in the reprimand they gave him 4 months of administrative leave, with pay, as his punishment. That didn't seem entirely fair to me. They also classified what happened to me as sexual harassment. In my opinion what happened to me went way beyond sexual harassment. That's when I decided to go forward with a criminal complaint.

The criminal investigation brought on a whole -- a whole new form of stress. I mean there was -- everything that I did, I felt was under a microscope. Everyone was looking into my background, they were subpoenaing all of my records, my telephone records, my e-mail records, everything; everything I did became public. And that was very frightening and incredibly stressful not only to myself, but to my family. Seeing their mother's name in the news and the way that -- it was linked to his claims of our ordeal being enthusiastically consensual was just beyond belief. My children had to listen to comments from other people about was it a consensual act, things like that, or things that kids should never have to deal with.

My marriage suffered terribly to the point of just disaster, because I was so -- I was so completely stressed, I suffered from anxiety, depression, loss of sleep. I barely could even go to work every day, but I knew I had to have my income and I had to continue on. So the very best I could do was go to work and come

home. I wasn't able to manage my family responsibilities, you know, decisions with the kids and making sure they met their deadlines in school and things like that. I was not capable of doing that. And everyone relied on me to do that, so I feel like I really let my family down in that area. And I wasn't able to meet my husband's needs. All of that contributed to an impact on my family.

So I just ask that you consider all of this when you vote to impeach Judge Kent because it's just -- it has been an incredible ordeal for me, for my coworkers, for my family, for the other victims involved. And I think it's very important. Thank you.

Mr. Schiff. Thank you, Ms. McBroom. We very much appreciate your willingness to come and testify today, and I know how difficult it is. Thank you.

[The statement of Ms. McBroom follows:]

\*\*\*\*\* INSERT 2-A \*\*\*\*\*

Mr. Schiff. Ms. Wilkerson.

TESTIMONY OF DONNA WILKERSON, LEGAL SECRETARY, UNITED STATES  
DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS

Ms. Wilkerson. Thank you, Mr. Chairman. Thank you for this opportunity to let you know my story. I'm very nervous and don't do well at public speaking so I ask for a little patience with me.

My name is Donna Wilkerson, I am 45 years old. I live in Santa Fe, Texas. I'm happily married to my husband of 25 years and we have two teenage children who attend high school in Santa Fe. I was a legal assistant and secretary in the private sector for 19 years before going to work for the Federal Government, and have worked for Judge Kent for the last 7 years as his secretary in his chambers. I began working for Sam Kent at the Federal court in December 2001. I left a happy and rewarding career in the legal field to take what I felt was a once-in-a-lifetime career opportunity as a secretary to a Federal judge.

This job provided an income which exceeded my past salary in the private sector, with excellent benefits for my family and me. And it was a 20-minute commute from my home as opposed to the law firm jobs I had in Houston, some 40 miles away.

One reason I am here today is to shed some light on what until now has been viewed by many as sexual harassment and sexual

misconduct by Judge Kent. But in fact, it wasn't just sexual harassment and sexual misconduct. His acts were sexual assault. I have detailed those -- these incidents involving these assaults and the more minor incidents of misconduct and harassment in my written statement that has been provided to the task force.

I was a 7-year victim of Sam Kent's sexual and physical -- psychological abuse, I'm sorry. During my interview for this job and several times subsequent to my being hired, Sam Kent told me that he was the sole person responsible for his personnel staff's hiring and firing, and his personnel staff consisted of me and his two law clerks.

He also told me that he was the government. He would make statements routinely: I am the government, I'm the Lion King. It's good to be king. I'm the emperor of Galveston, the man wearing the horned hat guiding the ship.

He warned me in my interview, three things which he said would not be tolerated and would be grounds for my or our -- with the staff -- immediate dismissal: Disloyalty to him, talking out of school as he put it, and by engaging in behavior that would be an embarrassment to the court.

Sam Kent's sexual abuse and misconduct with me began on the fifth day of my job in December of 2001. He'd had a retirement party that was hosted by some friends for his retiring secretary whom I was taking her place. There was drinking and eating at that luncheon. And once there, while his retiring secretary and

others were in the reception area of the chambers, he called me into his office and shut the door. He sat behind his desk and I sat in a chair in front of his desk. He told me that he was very excited to have me coming to work for him, to take Ms. Henry's place; that he thought I would be an asset to him and the operations of the court and that he thought I was intelligent and pretty and other random compliments.

As he got up, appearing to be showing me out of his office, I was walking in front of him to the door. He reached for the door as if to open it for me but put one of his hands on the door and the other hand on the other side, putting me between the door and him. He leaned in and placed a kiss on my mouth. After that he told me how beautiful he thought I was and that, again, he was glad I was there. I did not know what to do, but in my shock I did nothing but exit the room thinking, what in the world was that and how am I supposed to handle this?

From that point forward, the abuse became more frequent and more severe. The number of these incidents from minor to most severe can be averaged at one to two times per month over a year's time for a period of approximately 5 to 5-1/2 years, from 2001 to 2007.

Again, these episodes as to severity are set out in my written statement. These episodes were routinely followed by Judge Kent returning from long lunches where he was intoxicated. And there were periods in this time that I -- that Judge Kent

would stop drinking for several months and weeks at a time. There would be times where he was out on extended periods from the office wherein he obviously didn't have any contact with me.

I've explained in the past that the severity of the sexual abuse can be described using a bell curve as an example, starting with the most minor of incidents of hugs and kisses and escalating to the worse incidents of touching me inappropriately, groping me outside my clothes, then inside my clothes, both top and bottom, then attempting to and gaining penetration in my genitals with his hand and placing my hand on his crotch. And then there was one, or possibly two, most severe incidents of sexual assault.

These episodes always occurred inside of his chamber, sometimes in his office, and sometimes in the reception area, or wherever in chambers he could corner me. Preceding the incident he would always begin speaking in a vulgar and inappropriate way to me, and telling me graphically what he wanted to do to me. During these episodes I repeatedly told him no, stop, stop acting like a pig, quit, cut this out, you can't -- we can't be doing this. I don't want to do this, behave yourself, and so on and so on.

There were times when he would approach me from behind while I was sitting at my desk and working at my computer. He would quickly come up behind me and put his hands over my shoulders and grope me on the outside of my clothes and then down my shirt and into my bra. Sam Kent is a 6'4" man weighing 260 to 300 pounds in

any given period. Once cornered, caught, or pinned there's no getting away. Each time when I was at my desk and I knew that he was coming towards me in this manner, I would scoot my chair under my desk as far as I could, crossing my legs and arms to try to close myself off from him, all the while telling him no. He would keep trying to get his hands on me, but sometimes in this position I could literally keep his hands from moving and keep his hands off of me to the point that he would stop. But most times, however, I was not successful.

At those times I would attempt to move away to an area in the office where he would not -- where he could not corner or trap me, literally even getting pieces of furniture in between us. I tried at all costs not to go inside of his office if he were in there and calling for me. I would stand in the doorway and talk to him and try to keep him off of the subject.

I know that it may be hard for some to understand or wonder how I could have endured this situation without doing anything about it. The reasons are many. My job was one that afforded -- I'm sorry -- offered a significant amount of pay and benefits, even more than that of my husband. I could not afford, nor do I want to leave this job providing more than half of the income for my family.

My husband is a man with a fairly short fuse, a man of very few words who believes that part of his job as my husband and father to our children is to protect his family. Had I told him

of even the first episode, the most minor of episodes, he literally would have gone to Galveston courthouse and "taken care of the situation." I was very afraid of how he would handle that situation. Any altercation, verbal or physical, with Sam Kent would have resulted in my being fired. My husband would face any variety of criminal actions and Sam Kent would have blackballed me from the Galveston County legal community.

After the incidents became more severe, my husband's reaction would have also been more severe. And whom exactly was I supposed to tell after he repeatedly told me that he was the government, he was the only one responsible for firing and hiring me. He made it clear, over and over, that he was the only person who made the decisions about his employees. And he had made that evident by his getting rid of and transferring several employees of the court whom he did not like or he felt needed to be replaced because of his own reasons.

One final and painful realization in my coming forward was dealing with my 14-year-old daughter and describing to her how she should conduct herself, how she should never put herself in a position that she has to take abuse from any young man, old man, and what she should do; and that no job, no situation, is ever worth that. How could I look her in the face and tell her these things when I couldn't do it myself? So I had to come forward, I had to do the right thing.

Sam Kent has spent his life manipulating people and abusing

his relationships with people. Abusing people not just sexually, and not just women. Certainly this has been my experience the whole time I've known him.

He has also spent his time lying to everyone. He is a compulsive liar and he will never acknowledge what he has done to the people around him. He continues to try to manipulate the system and make excuses for his abhorrent behavior.

In the criminal case against him -- although some of his lies were uncovered by his own admission -- because of his narcissism and inability to admit fault and accept fault, he turned to even more lies by publishing ridiculous statements in the newspaper and blaming everyone and everything but himself.

Although this plea bargain required his claiming personal responsibility for his actions, as soon as he was, out of the courtroom he made statements to the press through his lawyer which were lies, and made ludicrous excuses for his past lies.

I did not fully realize how Judge Kent manipulated me until I was able to get out of his web, as he commonly referred to his position with the people involved in his career and his life.

I now realize how he maliciously manipulated and controlled everyone and everything around him. Through the entire time I was in this situation with Judge Kent he basically attempted to buy me, buy my silence as well as others. He continued to manipulate and control what I and others would say after the action began by threatening to take his own life.

Before my first grand jury appearance, after he returned from administrative leave, 20 minutes before my scheduled appearance, he came to my desk and told me if anyone from Dr. Hirschfeld's office calls -- that's his psychiatrist, one of his psychiatrists -- please put them through right away. You know they have me on suicide watch again, right? He even instructed his law clerk in my presence to research his life insurance policy to make sure that it did not contain a suicide exclusion, so that if he killed himself his wife would still be paid the benefits.

On another occasion, before my last grand jury appearance, he told the law clerk that if I rolled on him, it would be all he could take and he would kill himself. And of course she, being my friend knowing the true story, notified me immediately, as she was worried that he might carry out with the plan, but that was exactly what he wanted her to do. He abused those around him and misused the power that his position brought him. He said that he hated bullies. And how sad is it that he himself is the biggest bully of them all?

He continued his manipulative behavior in seeking a mental disability when, just 2 years ago, he fought very, very hard to make his accusers and the investigators know that he was fully capable of keeping his bench.

I've heard today that he wrote a letter saying that he was unable to travel here because of health concerns and health reasons.

[The information follows:]

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Ms. Wilkerson. It is all contrived. I probably know Judge Kent as well as anyone could. And I have to agree with Judge Jones' assessment that his problems, psychologically and physically, have, of course, been brought on by this situation. And yes, he is psychologically impaired and a broken man, as he said, now. But I truly believe that it's because of this situation. Who wouldn't be psychologically troubled by this situation?

Judge Kent liked to say that he had to treat the lawyers who appeared before them harshly, because if he was nice to them that they would take advantage of him. He said that people misunderstood kindness as weakness, and now I know that this is what he truly believes. He saw my kindness to him as weakness, and he took complete advantage of me. He abused his power continuously and believed that no rules truly applied to him. I witnessed this over and over and can give so many examples of this behavior. He mocked, made racist comments. It pains me to say that he routinely used the N word and abused criminal defendants who came before him, litigants, lawyers, his colleagues and people in his everyday life.

My life has been truly affected in ways that I can never describe. No one can fully understand what it was like for me to have this happen to me. My family and I are in counseling to deal with the pain that he has caused. Our lives have been turned

upside down.

I have teenage children who have had to hear the ugly details of sexual abuse perpetrated by someone they once loved and trusted. On a daily basis I struggle with the past and the pain that this situation has caused me. I'm mentally exhausted, and every day is a struggle to heal, move forward and literally function. My marriage has suffered significantly from the stress of this situation, and I pray that it will survive. I am angry at the toll that this has taken on me and my family and the precious time I have been pushed, pulled, and taken away from my children and my husband, time I can never regain. I worry constantly about what my future will be like, both personally and professionally. Until this matter is completely concluded, the reality is that I'm reminded of the situation daily and it is a source of constant angst and a complete drain of my emotional and physical energy.

Ironically, until Sam Kent is off the bench, even the administrative office will not release me from his grips. I am still tied to him as a personal employee, tied to his budget, and any attempt to reassign me has not been successful; but yet he continues to earn his yearly salary as not only a convicted felon but also a man who possesses all of the horrific characteristics of everything a Federal judge is not ever supposed to be, but who still holds on to his position and seems to have protection from the real world.

Yesterday Judge Kent sent a letter to the President advising

of his resign -- resignation as of June 2010. I ask for your help in seeing to it that the right thing is done and that he be removed from his bench as soon as possible. Thank you very much.

Mr. Schiff. Thank you Ms. Wilkerson, again we very much appreciate your willingness to testify and know how very difficult it is.

[The statement of Ms. Wilkerson follows:]

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Mr. Schiff. Professor Hellman.

TESTIMONY OF ARTHUR HELLMAN, PROFESSOR, UNIVERSITY OF PITTSBURGH  
SCHOOL OF LAW, PITTSBURGH, PA

Mr. Hellman. Thank you, Mr. Chairman. The testimony that you have just heard makes all too clear the importance and, indeed, the urgency of this hearing today. The question before the task force is whether Judge Kent's conduct falls within the constitutional category of high crimes and misdemeanors that warrant impeachment.

I submitted a statement in which I analyze this question in some detail. Here, I will just briefly summarize my conclusions.

In my view, based on the public record, Judge Kent's behavior does fall within the constitutional category, high crimes and misdemeanors. I reach this conclusion for two independent reasons. First, Judge Kent has admitted to making false statements in a judicial proceeding, specifically to a judicial -- a special committee that was investigating a complaint that he engaged in sexual harassment. This false testimony makes him unfit to hold judicial office.

Second, there is evidence, now ample evidence, of sexual misconduct that constitutes abuse of official power. And it provides further evidence of Judge Kent's unfitness to retain his

judicial position.

I will start with the false statements. Judge Kent has admitted that when he appeared before the Special Committee of the Fifth Circuit Judicial Council that was investigating a judicial misconduct complaint filed against him, he falsely testified regarding his unwanted sexual contact with Donna Wilkerson. False testimony by a Federal judge in a judicial misconduct proceeding falls easily within the realm of high crimes and misdemeanors that warrant impeachment.

This is so, in part, because of the context. This Fifth Circuit Special Committee was part of the mechanism that Congress itself established in the Judicial Conduct and Disability Act of 1980. In that act, Congress made a considered decision to give the judiciary itself the primary responsibility for investigating and remedying misconduct by Federal judges. If that system is to operate effectively, chief judges and special committees must be able to rely on getting truthful answers from judges who are accused of misconduct. By testifying falsely before the special committee, Judge Kent impeded the committee's performance of this congressionally mandated task.

And the mischief goes even deeper. A second purpose of the 1980 Act was to allow the judiciary, as one sponsor said, to isolate the most serious instances of misconduct and to set before the House of Representatives a record of proceedings revealing misconduct which might constitute an impeachable offense. So when

Judge Kent testifies falsely before that special committee he interfered with the judiciary's ability to carry out that function, a function with constitutional underpinnings.

As if that were not enough, there is another aggravating factor. The purpose of Judge Kent's falsehoods was to impede an investigation of acts of sexual misconduct that even then we knew may have constituted abuses of Judge Kent's position as a judge. As I develop more fully in my statement, abuse of official power virtually defines the impeachable offense. A public official who testifies falsely in order to cover up his abuse of power is doubling unworthy to fill his office. And when the official is a judge, the unfitness is inescapable.

The record also points a second ground for impeachment, the act for sexual misconduct. On this point, Judge Kent's admissions established that he engaged in repeated non-sex -- non-consensual sexual conduct with two employees who were his subordinates. Now, if all you had were admissions, I think that I would be reluctant to conclude that the admitted facts, without anything more, satisfy the constitutional standard.

But, of course, there is more, a great deal more, the testimony you have heard today from Cathy McBroom and Donna Wilkerson. Based on that testimony and other evidence, you may well find that Judge Kent relied on his position of authority and control in the Galveston Division of a district court to coerce employees of that court to engage in sexual acts for his personal

gratification and to coerce and intimidate them into remaining silent rather than to report his attacks to a higher authority.

If the record shows that, there can be no question that it is impeachable behavior. It is, in the words of the authoritative commentator, Richard Woodson, it is official oppression that introduces arbitrary power. It is a high crime and misdemeanor.

To sum up, there is at least one ground, and probably more, for impeaching Judge Kent. He has proved himself to be unworthy to fill the office he holds, and I urge the task force to take the next steps in the process that will enable the Senate to convict him and remove him from office. Thank you.

Mr. Schiff. Thank you, Professor.

[The statement of Mr. Hellman follows:]

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Mr. Schiff. We'll now begin the questioning, and I'll recognize myself for 5 minutes.

Ms. Wilkerson, I wanted to ask you -- Ms. McBroom went through some of the chronology of how she filed the complaint around how the disciplinary proceeding was begun. Can you tell us a little bit about how you came to be involved in the legal proceedings, whether it was through the grand jury or otherwise, and what the course of the legal process was?

Ms. Wilkerson. Yes, sir. I was questioned by the -- initially I was questioned by the Fifth Circuit panel, and then I was called for grand jury testimony. I did not elaborate, I did not tell the whole story from the beginning.

I became involved about a year and a half later. I did not want to come forward from the beginning, but I was sought out to tell the truth, and realized at a point that I had to tell the truth and come forward and do the right thing. And some people close to me also helped me make that decision that this had to be done. And so that's how I got involved.

Mr. Schiff. Thank you.

Professor, I want to ask you a couple of questions. First Mr. Baron related the part of the transcripts of the sentencing proceeding in which the prosecutor made reference to the same false statements that were the subject of the Fifth Circuit proceeding. The judge had also made to the FBI the same false

denials. He also made reference to those same false denials being made later to the Justice Department. False statements to the FBI, false statements to the Justice Department in connection with the same conduct, in view -- in your view, would those constitute impeachable offenses as well?

Mr. Hellman. Yes, I think they would. And I rely in part on the impeachment and conviction of Judge Harry Claiborne who was convicted of tax fraud unrelated to his duties as a Federal judge. I think that if that is an impeachable offense, this kind of falsehood is an easy case after that.

Mr. Schiff. In terms of the testimony we heard today, can you elaborate a little bit on whether it's necessary to show a nexus between the sexual assaults that were described and his position of authority or his responsibilities as a judge. Is there -- and the necessity of there being a nexus -- in other words, if the two women who testified today, let's say they didn't even work in the courthouse but were assaulted in the manner they described, would that be impeachment because it also constitutes criminal conduct, or would you need to show a nexus with his position of authority as a district judge, his position as employer? Is a nexus required for impeachment and has a sufficient nexus, in your view, been laid here?

Mr. Hellman. Let me take the first part of that question. It is interesting that the question you pose was actually posed in a slightly different context more than 150 years ago by Justice

Joseph Story, who was not only a Supreme Court Justice but one of our most authoritative constitutional commentators. And he posed that question: Suppose you had the misconduct -- he talked about bribery rather than sexual misconduct -- and it was totally outside the official capacity. He didn't quite answer it, but he put the question: Would we have any less confidence in that person's ability to hold his office simply because the misconduct occurred in a private capacity? The answer obviously to that question is no, you would not have confidence in the ability to hold that office.

It seems to me, though, that you didn't have to get to that here. Based on the testimony here, you have ample evidence of the nexus that this -- that Judge Kent was able to engage in this behavior repeatedly and over a period of time because of the position of power he had as a Federal judge, and particularly as the only Article III judge in that Galveston courthouse. That's abuse of power, and abuse of power is quintessentially what makes for an impeachable offense.

Mr. Schiff. Last question. The Constitution makes mention of judges serving during good behavior, which has been interpreted as meaning a life term. But I wonder whether those words "good behavior" also add context to what the framers meant by high crimes and misdemeanors. And the reason I ask is this: Unlike other Federal officials, Members of Congress, the President, who serve for a term of years and then are up before the voters, the

judges are never up before the voters. There is only one method to be removed from judicial office, and that is by impeachment.

Does that fact of there being no other remedy, no other mechanism for removal, and the discussion or the mention of good behavior mean that the framers had in mind either a different view of what constitute a high crime and misdemeanor in the case of judicial officer, or that good behavior should inform that in some way? Is there any discussion of whether, in the cases of someone appointed for life, that the same definition of high crimes and misdemeanors is nonetheless viewed in a different way?

Mr. Hellman. Unfortunately for us today, the sequence in which the framers at the convention in Philadelphia considered these questions doesn't enable us to give a confident answer to that question. What is reasonably clear from the commentators over a period of time is that the concept of high crimes and misdemeanors does relate to the particular office because of this emphasis on unfitness or unworthiness to hold the office. And so I think in that sense you do look at judges a little bit differently, partly because of the particular responsibilities that they have, and partly because, as one of the commentators did say, you cannot remove them from office otherwise. So that does -- that does put the context of the particular office, it does make it important in that sense.

Mr. Schiff. Thank you, Professor. I now recognize the gentleman from Wisconsin, Mr. Sensenbrenner.

Mr. Sensenbrenner. Thank you very much, Mr. Chairman. I just want to make sure that the record is absolutely clear. And I would like to ask both you, Ms. Wilkerson, and you, Ms. McBroom, in your respective written testimonies you go into some detail on exactly what the nature of the misconduct of Judge Kent was against you. I'm not going to ask you to repeat this in public, but I would like each of you to say whether or not your detailed explanation is the truth and that is exactly what happened. You can just say yes or no.

Ms. Wilkerson. Yes, sir, absolutely.

Ms. McBroom. Yes, it's the truth.

Mr. Sensenbrenner. Now, all of the instances that you described in your oral testimony, as well as in the written testimony which has been included in the record, took place while you were working, and during working hours; is that correct or not?

Ms. Wilkerson. That's true.

Ms. McBroom. That's correct.

Mr. Sensenbrenner. So this was all harassment that occurred on the job while the clock was running for both of your jobs, correct?

Ms. Wilkerson. Yes, none of these incidents occurred outside of the courthouse, ever.

Ms. McBroom. Same with me.

Mr. Sensenbrenner. I have no further questions, Mr.

Chairman.

Mr. Schiff. I thank the gentleman. Ms. Jackson Lee.

Ms. Jackson Lee. Thank you very much, Mr. Chairman. I feel compelled to apologize to both Ms. Wilkerson and Ms. McBroom for the treatment that you have detailed to us today, and hopefully you will accept the knowledge that your Federal Government, the system of the judiciary, is one overall that you can be proud of.

This is a difficult position for you to be in. And I believe it is very important for you to know of the many jurists and Members of Congress who stand away from the details that you have offered here today. So thank you for your coverage, for being here today, and accept this as an apology for, again, what you have represented to us today.

Let me just try to find out from Ms. McBroom and from Ms. Wilkerson, did you overlap in tenure in Judge Kent's court? What were the years of service, again, Ms. Wilkerson? Can you give me the year to year -- I think you said something like 2001 to 2007; is that accurate?

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DCMN HOFSTAD

[2:22 p.m.]

Ms. Wilkerson. Thank you very much for your kind words. Yes, our tenure did overlap. I came to the court in December of 2001. And, if I may speak for Cathy, I believe she came in July or so.

Ms. McBroom. It was September of 2002.

Ms. Wilkerson. So I was there for almost a year before Cathy came.

Ms. Jackson Lee. Thank you.

And I think what you said, Ms. Wilkerson -- and I will ask both of you. You indicated that when the judicial panel came forward, you were still at a point of intimidation and concern about your employment. So tell me just what you did when that panel came forward and asked you to speak to them?

Ms. Wilkerson. Yes, ma'am, absolutely. At the time of the Fifth Circuit interviews, Judge Kent earlier -- I believe my interview was in June, June sometime -- Judge Kent had already been interviewed.

Prior to that time, in between the time when Ms. McBroom filed her complaint and the time that I was interviewed, Judge Kent told me and told everyone that I knew of, including his lawyer, that he had been inappropriate with me on several

occasions, kisses and hugs, a couple of times. The first few times, in his words, were that I was sweet about it, I was nice about it, but after the second or third time I made it very clear to him that I wanted no part of that. He told me from the beginning that that was his story, that was what he told his lawyer, that is what he told the Fifth Circuit. And then, ultimately, that is what he said that he told the FBI when the criminal investigation began.

So that was the story that he told everyone. That is what he told me. That is what he told his law clerks. That is what he told even his colleagues, even the chief judge, I believe. But, in fact, that is not what he said at all in his interview with the Fifth Circuit and the FBI.

Ms. Jackson Lee. So he said less than that.

Ms. Wilkerson. He said less than the story he even told me.

Ms. Jackson Lee. And when you went -- did you go before the panel?

Ms. Wilkerson. Yes, ma'am, I did.

Ms. Jackson Lee. And how did you feel the necessity -- what testimony did you offer?

Ms. Wilkerson. My testimony was that that was the story, that I had been approached two or three times, a few times. I made it very clear that it was unwanted and it was more than a few times.

Ms. Jackson Lee. And that was on record, and --

Ms. Wilkerson. Yes, ma'am.

Ms. Jackson Lee. -- then you still were in his employ as a personal secretary?

Ms. Wilkerson. Yes, ma'am. I let them know that the -- with that story.

Ms. Jackson Lee. You went forward with that. Well, that is good. I just wanted to make sure that you were at that panel and provided that information.

Ms. Wilkerson. Yes, ma'am, I did.

Ms. Jackson Lee. Ms. McBroom, so it was 2002 that you started, and your complaint was filed when?

Ms. McBroom. I believe it was filed towards the end of May 2007.

Ms. Jackson Lee. Right. And you went before that panel, as well?

Ms. McBroom. Yes, I did.

Ms. Jackson Lee. Okay. And likewise gave your almost complete testimony?

Ms. McBroom. I gave them every piece of information I had.

Ms. Jackson Lee. Okay. Let me thank you. And because my time -- Professor, let me ask you --

Mr. Schiff. Will the gentlewoman yield for just one moment? I want to make sure we have a clear record on this, Ms. Wilkerson.

Ms. Jackson Lee. I would be happy to yield.

Mr. Schiff. I thank you.

In your comments to the judicial panel, there are many things that you did not tell them that you only disclosed later. Is that correct?

Ms. Wilkerson. That is correct.

Mr. Schiff. Okay. I just wanted to make sure we were clear about that.

Ms. Jackson Lee. And I thank you for clarifying. I am understanding that Ms. Wilkerson framed her testimony at least with the items that the judge said, but, more importantly, that she was against these -- or she refused these sexual assaults or advances -- I don't want to characterize your testimony. But you made it clear on the record at that time.

Ms. Wilkerson. Yes, ma'am, I made it clear there had been more than one incident of sexual misconduct and that it was against my wishes.

Ms. Jackson Lee. Thank you. I think that is clear.

Mr. Chairman, if you would indulge me, I was just in the middle of finishing very quickly with Professor Hellman.

Professor, it does seem quite clear in the law about the idea of the impeachment standard. Where do you place the representations about alcohol abuse and mental health concerns?

I would like you to -- I am not sure what you have read or the materials that you have read, but I do know that there is a letter in the record from Judge Edith Jones, where they made the determination that, I guess, obviously you are upset and have some

mental issues because you are in the midst of this crisis.

Does there have any impact if this person represents or proves that they had a mental health issue throughout the period of these actions, as it relates to the impeachment proceeding?

Mr. Hellman. Well, I suppose it has a view as an impact -- you know, you can feel perhaps a little bit more sympathetic towards Judge Kent as an individual. The question, though, for this task force in the first instance and then for the House is, is he worthy of the position he holds?

And if he is not worthy of that position, as much of this evidence indicates very strongly, then that background, it seems to me, should not affect that determination. Because without removal from office, he will continue to sit as a Federal -- not to sit as a Federal judge -- to hold the title of Federal judge, to receive the salary of Federal judge, and also to occupy a position that otherwise could be filled by a new judge appointed by the President.

So that, it seems to me, is what is primarily relevant at the impeachment stage.

Ms. Jackson Lee. Could you just -- I will conclude on this question. Could you just restate the premise? Is that constitutional or case law on "worthy to be"? Could you --

Mr. Hellman. Well, there is not -- I mean, one of the other points --

Ms. Jackson Lee. I want you to help us with the right

question, so that is why I am asking you.

Mr. Hellman. Right. Yeah, no, I think the -- we don't have case law on this for the simple reason that the Constitution vests the impeachment responsibility in the House and the trial responsibility in the Senate. Neither of those are judicially reviewable.

For that reason, we rely heavily on the commentators. And one of the most authoritative commentators uses the standard of "worthiness for office," that a public official should be removed if he has shown himself to be unworthy of the office he holds. And so that is, I believe, the question here. And obviously there is very ample evidence on that, at this point.

Ms. Jackson Lee. I thank the chairman.

I thank all the witnesses very much for your testimony.

I yield back.

Ms. McBroom. Mr. Chairman, may I add something to my statement?

Mr. Schiff. Of course.

Ms. McBroom. There were several incidents of sexual misconduct that were not alcohol-related. There were incidents where I was called up to his chambers in the morning and he tried similar things, tried to grab me, kiss me, fondle, when he had not been drinking. It was not always alcohol-related.

As a matter of fact, he would go months at a time without drinking. I can't say that each incident was because of being

intoxicated. It was not.

Ms. Jackson Lee. That is an important clarification. I thank you for your testimony.

Mr. Schiff. I thank the gentlewoman. Her time has expired.

Mr. Goodlatte of Virginia?

Mr. Goodlatte. Thank you, Mr. Chairman.

Ms. McBroom, can you describe generally the power that Judge Kent exercised in the Galveston courthouse? Is it basically true that it was a one-judge courthouse and he basically ran everything and supervised everybody?

Ms. McBroom. Yes, it was a one-judge courthouse. I think all of the employees were afraid to get out of line. I know when I began my employment there, my own manager, the deputy in charge for Galveston, sat down and talked to me and told me that I needed to be very careful to stay under his radar, that anything could set him off.

Mr. Goodlatte. So there was nobody in the courthouse that you or anybody else really would feel like you could go to complain --

Ms. McBroom. Not anyone who was not afraid of him.

Mr. Goodlatte. Right. Did Judge Kent do or say anything that communicated to you that he felt he could get away with his misconduct towards you because he was a Federal judge?

Ms. McBroom. Well, at the time I told you about in the wait room, whenever I told him the security officers were right

outside, he didn't say it was because he was a Federal judge, he just said, "I don't care. I don't care who hears me." I just understood that it was because he was in that position of power.

Mr. Goodlatte. What did it take, because of this environment, for you to be able to get the assistance or support from somebody else? How did you follow through on this to --

Ms. McBroom. Do you mean when I decided to request the transfer?

Mr. Goodlatte. Well, yes. When did you first seek some help in terms of dealing with the problems that you were having?

Ms. McBroom. Oh, I sought help from the very beginning, from the very first incident by making my manager aware of what is going on. And she even agreed that if there were times when I felt threatened I could leave. She said, if you need to leave, you just go ahead and go, take off.

But there were certain times when I actually had a lot of work to do and he might have been in the building and may have been looking for me, and I thought if I could temporarily just escape until he left the office then I could stay and continue to do my work. I know that sounds crazy, but I really did want to perform my responsibilities. Sometimes I would just go hide in an empty office until I knew that he had gone for the day.

Mr. Goodlatte. Thank you.

Ms. Wilkerson, how did the fact that Judge Kent was a Federal judge affect you in your initial response to his actions?

Ms. Wilkerson. Well, as I said in my statement, I -- what could I do? He had made it very clear that he was the sole person in our staff, the two law clerks and myself, he was the sole person responsible for every decision there. And I literally, when I came there, there was no training, there was no -- in fact, several times throughout the 7 years that I was with him, I had asked to go to several training seminars and such, and he declined those. There was no training. I was like, who am I supposed to go to with this? Who am I supposed to tell this to? How am I supposed to handle this?

Mr. Goodlatte. So you didn't even have the resource of a supervisor --

Ms. Wilkerson. I did not have a manager. He was my manager. He was the manager.

Mr. Goodlatte. And how did you ultimately bring this to the attention of others, that you had been subjected to this treatment?

Ms. Wilkerson. Initially, I told the Fifth Circuit panel when they asked me in the investigation of Ms. McBroom's complaint. That was the first time.

Well, let me back up. I had told two of our law clerks. One was a career law clerk, and one was a term law clerk that had left. And they've remained -- she remains a co-worker and a dear friend, and he remains a dear friend. And I had told them back when. I had not told them the severity of it because it was too

humiliating. I had told no one, no one, the details because it was too embarrassing and humiliating. Who could I tell these things to? I hadn't told my husband. I couldn't tell anyone. I personally felt I couldn't tell anyone.

So I told them, but -- and they were in agreement, that's awful. And one even went so far as to say, yeah, I think he is a predator. What are you to do? Everyone, even -- and this guy, this friend of mine that was the former law clerk, of course he was intimidated and afraid of him also.

Mr. Goodlatte. Mr. Chairman, I know my time has expired. I wonder if I might have leave to ask one question of Professor Hellman.

Mr. Schiff. Of course, without objection.

Mr. Goodlatte. It seems there are various views as to what sort of conduct would be sufficient to justify impeachment. Can you discuss for the task force how the concept of abuse of trust or abuse of position fits within the concept of high crimes and misdemeanors?

Mr. Hellman. Yes. Abuse of trust, abuse of a position really is the heart of high crimes and misdemeanors.

Mr. Goodlatte. You may want to hit your speaker button there.

Mr. Hellman. I think it is -- I'll bring it closer there.

What is striking to me as I listen to the very courageous testimony of Ms. McBroom and Ms. Wilkerson, this context is new --

sexual abuse, sexual assault, sexual harassment -- but it fits so closely to the description in one of the classic works by the commentator Woodson, "a magistrate who introduces arbitrary power." Those were the words he used. And that is what we are hearing about here today.

Judge Kent introduced arbitrary power into the Galveston courthouse for his own personal gratification and satisfaction. It is a sad thing for me to hear, as somebody both to listen to the personal ordeals but also, as somebody who generally admires the Federal judiciary, that there was a judge who introduced arbitrary power, abused his power in this way. That is the essence of an impeachable offense, in my view.

Mr. Goodlatte. Thank you. And I think it is a sad thing for all of us to hear.

And I want to especially thank Ms. McBroom and Ms. Wilkerson for being willing to step forward and testify here today. It is no -- I don't think any of us can in any way underestimate the stress that this must put you under. But we thank you very much. You are providing a great service to your country.

Thank you, Mr. Chairman.

Mr. Schiff. Thank you. The time of the gentleman has expired.

Mr. Pierluisi of Puerto Rico?

Mr. Pierluisi. Thank you, Mr. Chairman.

I want to extend my heartfelt thanks to both of you, Ms.

McBroom and Ms. Wilkerson, for appearing before us. Few individuals will ever experience the depth of pain and humiliation you have felt because of Judge Kent's conduct. You're both brave women for bringing his inexcusable behavior to light.

As I see it at this point in this proceeding, Judge Kent's refusal to resign immediately from his office adds insult to injury. He already insulted you; he insulted all of us who believe in the American justice system. He insulted everybody. But now he injured everybody. Now he is insulting us.

One thing is to cause the damage he caused to you, and now it is quite another and it is really flabbergasting that he wants to keep earning a Federal salary while even incarcerated. It makes no sense. He is forcing this Congress to take action. And that's what this is all about.

Having said that, I imagine that no action that Congress takes can make you whole for the unspeakable harm Judge Kent caused you. Both of you mentioned the devastating impact that he has caused in your personal and professional lives. So on a human -- on a personal basis, I just want to make sure, does this process help you in healing? Does it help you in moving on? I just want to hear from you on that.

Ms. McBroom. I find it extremely helpful, and it is helping me to have closure, first of all, to know that I live in a country where it does matter. In America, sexual assault is a crime. Sexual assault in a workplace is even more of a crime, in my

opinion.

And it is -- I just feel -- I feel good about myself for coming forward, and I am so grateful that everyone is taking notice and that there is going to be action taken. It is very healing. Thank you very much.

Mr. Pierluisi. You're welcome.

Ms. Wilkerson. Thank you for your kind words, as well.

Yes, this process, although very intimidating and out of my comfort zone for sure, I do feel that this process will help. I have kept thinking over this time, you know, the next step, the next step, the next step of trying to move forward and heal, and it seems like it couldn't get any crazier. This whole thing has been surreal.

But all I can say is that, with each step forward, as painful as it is and as painful as the past has been, I am moving closer and closer to, you know, some sunshine in my days and to a healing process that, like Cathy says, people are taking notice and must take notice that this cannot and should not ever be acceptable or tolerated and that the system will maybe eventually, maybe not when we think it needs to be done, but will take care of situations such as this. So thank you very much.

Mr. Pierluisi. You're welcome.

I have no further questions.

Mr. Schiff. The gentleman yields back.

Mr. Lungren of California?

Mr. Lungren. Thank you very much, Mr. Chairman.

Professor Hellman, your testimony is very helpful in terms of establishing the parameters within which we work. And you made it very clear that it is the Congress, both the House in terms of impeachment and the Senate in terms of trial, who make the final determination. And while precedent is important and commentators are important, it is the collective judgment of the House and the Senate that prevails and is not appealable.

You were asked a question about good behavior because of the reference to the Constitution. I think as we try and understand that, you go back to the Founding Fathers and you look at the commentary, which I think is pretty important, called the Federalist Papers, where I think it was Madison who said that "the Constitution is established for a virtuous people. It would be insufficient for any other." And he was talking generally about the public. But I think it is also guidance in terms of those who are in official office.

He also went on to say, "If men were angels, we wouldn't need a government." But obviously we aren't and we need a government. But he also said, "Once you have selected the people who are to govern, you have to watch those who are governing." And that is our requirement here. We're supposed to watch those who are governing. And, in this case, we are given the responsibility to make judgments with respect to the conduct of those who have lifetime appointments.

And I don't think it is a close question as to whether or not what was related by these two witnesses here needs to have a nexus to employment. If one, while being a Federal judge, conducts himself in the way they have described, which in my estimation are prima facie cases of sexual assault or in some cases rape, there need not be a direct nexus to the job. That makes it even worse. So I think that is a separate and appropriate basis upon which we can impeach.

Secondly, it seems to me, what they have described here is a case in which someone abused his power not only with respect to these two women, but if you look at the conduct in its entirety, it is obvious to me that he has used his influence to corrupt the process in which other employees look the other way. And that, to me, is one of the worst acts that someone with authority can have. They essentially corrupt the actions of others so that they either -- they are aiding and abetting or, in the least, they are looking the other way. And when you have a Federal institution in a particular community which is the Federal court, to have the power to corrupt that entire workplace and the people who work within it is sufficient to find within the definition of high crimes and misdemeanors, in my judgment.

To the ladies who testified here, what you have described is a reign of judicial terror. And if we do not act here, we not only do not do justice to you, but we send a message loud and clear to the rest of the country that, when one gets a lifetime

appointment as a Federal judge, they are above the law.

And if we allow him to sit in his incarcerated state and continue to draw his salary and then get his pension, what we have said is we are not serious about the fact that no person is above the law; that, along with the tremendous authority you get to be a Federal judge with lifetime tenure, the question of good behavior really doesn't mean anything.

It either means something or it doesn't mean something. You don't have to be, with all due respect, Professor, a professor or a Member of Congress or a lawyer to look at two words, "good behavior," and kind of figure out what they mean. And what you two ladies have described here is the absence of good behavior.

I happen to have a 91-year-old mother, I've got four sisters, I have a wife, I have two daughters. What you have described here is so unacceptable that Members of Congress have got to act. This cannot be allowed to go forward without an official response by this Congress.

And to let someone, first, try and get off on some sort of dodge of his own physical disability or mental disability or, secondly, to resign a year from now so that he can retain his salary is totally unacceptable. And I want to thank the two of you for the courage that you have displayed, because God knows it is not easy for you to come forward and what it's done to your families.

But we have to act based on the information you gave us.

This is not a difficult case. It is a clear-cut case. This man should not be on the bench now; he shouldn't have been on the bench. And we have the obligation to act to make sure that not only he is on the bench but anybody else who would seek to be on the bench or serve on the bench would never give a thought towards acting the way he acted towards you and others.

So you have done a great service to this country by coming forward. I know it's not easy, but there are a lot of people in this country who respect you for what you've done and thank you for what you've done. And now it is our obligation to do the job that must be done based on the information that you have given us.

Thank you very much for being here.

Ms. McBroom. Thank you.

Ms. Wilkerson. Thank you very much.

Mr. Schiff. The time of the gentleman has expired.

The gentleman from Texas, Mr. Gonzalez?

Mr. Gonzalez. Thank you very much, Mr. Chairman.

I'm going to piggyback a little bit on what Mr. Lungren said. And what is the amazing thing, Ms. Wilkerson and Ms. McBroom, is both of you all have, in responding to my good friend from Puerto Rico's question about how you're finding this experience and you're saying, "Well, it has been painful, but it is gratifying that the system is working." But I hope you realize the system is only working because you came forward. The system would not have worked. And so, when we talk about courage and bravery, that's

what we are all discussing here.

The second thought that I have is, look, sexual assault is a violent act. Had the judge struck you, it would have been a simple case. And we need to be reminded of that. Unfortunately, in today's society, things are taken in context and such in a way that we don't treat violent acts the same. But this was a violent act, first and foremost. But your contribution is making sure that people are held accountable.

And the last thought is, tremendous adversity, that you come out of this stronger, that the family comes out stronger. And that would be all of our wish for you. And I think that is where you're headed. If you don't get there soon, I think you will get there.

Professor Hellman, let me ask you quickly -- because I do want to take the sensitivity, sensibilities of the witnesses, of the victims into account. I want them fully vested in the process to the extent necessary, because to continue different forums and different hearings does take its toll. It's just human nature.

But in your paper, in your written statement, you have -- let me start off. "The short answer is the House must exercise independent judgment. It is not bound to determinations of other actors in other proceedings. The longer answer is fourfold," and then you go into examples. And you have, "So I believe that the House should not rely on the criminal conviction as a basis for impeachment in and of itself. At the same time, however, the

House can legitimately rely on the facts admitted by Judge Kent when he signed the plea agreement as well as the factual basis for the plea."

Preceding that paragraph, though, you allude to two instances, one where a judge pled not guilty and was acquitted, but nevertheless we use what was in the charging instrument as a basis to impeach him. The second example you use is where a judge -- this is Judge Clayburn, in essence, where he was found guilty, but that wasn't the basis for impeachment; it was the underlying facts.

But in this case -- in those two cases, these judges pled not guilty. Isn't there some significance here in that we may be able to get to A to B if, in fact, we recommend to the full committee that articles of impeachment be filed and they accept our recommendation? Can't we get from A to B in the simplest form possible? And that is relying on the plea -- everything that was encompassed, the finding of guilty to a felony, a Federal felony, and the underlying facts that are encompassed in the statement, as you suggest, the factual basis for the plea?

Mr. Hellman. Well, on the false statements, I do think that the facts he has admitted to, without more, state an impeachable offense on the false statements. It is on the sexual misconduct that I think the admitted facts, without more, don't quite get you from A to B. On the obstruction, false statements count, yes.

And, of course, all you need is one article that the Senate

convicts by two-thirds and he is removed from office. That's all you need.

Mr. Gonzalez. The reason that I state my question is simply, if the full committee moves forward with the impeachment, then you know the role of the House of Representatives. It is still up to the House of Representatives to return, basically, like, an indictment. We are a big grand jury; that's the way I always think of us, anyway. Then it goes for trial before the Senate.

And to have to put witnesses to any extent or degree back under the microscope at a national level, at this point, is something, if at all possible -- this is my own personal opinion; it is definitely not anything I have shared with any of the members of the task force -- that if we don't have to do it, we shouldn't have to do it. And we can still, if, in fact, impeachment is appropriate and the finding is appropriate, then we move forward.

Can't we do that with what we have here, without fully engaging the witnesses and having them being part and parcel of that process?

Mr. Hellman. I appreciate and understand exactly the point you make. And it is my view that, if all -- if you want to assure that Judge Kent will be -- I suppose I should not say "assured." As far as a two-thirds vote of the Senate, and each Senator will use his or her independent judgment. But it does seem to me that the admitted facts on the obstruction count that Judge Kent

pleaded guilty to are sufficient to impeach him and convict him on that without the need to get into the details, the witnesses on the sexual misconduct.

Now, you may have other reasons for wanting to impeach him, as some of these comments here suggest. But if the simple question is, can he be removed from office, should he be removed from office solely on the basis of these false statements which he has admitted, I do believe that is sufficient.

Mr. Gonzalez. Thank you.

Mr. Chairman, without objection, just 1 minute. I wanted to ask the witnesses --

Mr. Schiff. Without objection.

Mr. Gonzalez. Thank you very much.

You're aware of the letter this committee has received from Judge Kent. I think you all have alluded to it, and you've been able to read it.

I'm going to ask you, since you're familiar with Judge Kent, his demeanor and the manner in which he treated individuals that came before his court, if a party came before him, did Judge Kent hold that party accountable for their acts?

And let me go further than that. And if someone came before him, a party or a defendant, and said, "Oh, if you rule against me or if you find me guilty, it will render me penniless and without the health insurance I desperately need to continue treating my diabetes and related complications as well as my continuing mental

health problem; please take these realities into consideration to the extent that you may," would it have altered his judgment? What would he have done?

Ms. McBroom. He would have dealt with them severely. He wouldn't have appreciated the fact that they were trying to play on his sympathies.

Ms. Wilkerson. That's true.

Mr. Gonzalez. Thank you very much.

Ms. Wilkerson. He would have thrown some expletives in there. There would be no question whatsoever.

Mr. Gonzalez. I appreciate it.

I yield back, Mr. Chairman.

Mr. Schiff. The time of the gentleman has expired.

Mr. Gohmert of Texas?

Mr. Gohmert. Thank you, Mr. Chairman.

And I do thank the witnesses for being here.

I did want to ask, we received a June 2, 2009, letter addressed to the President from Judge Kent. It says "personal and confidential," but apparently he didn't just send it to the President; it was provided for all of us. I don't know what he means, "personal and confidential," if he expected us to consider this.

But I don't know, Professor, if you know, or perhaps the chairman knows, what the effect would be if we did nothing and allowed him to resign effective a year from now on June 1, 2010?

Mr. Schiff. If the gentleman will yield?

Mr. Gohmert. Sure.

Mr. Schiff. He would remain a Federal judge for the course of the year. He would draw his salary while incarcerated for the year. And my understanding, although we would have to get further analysis, he could change his mind a year from now and decide to un-resign.

Mr. Gohmert. But if he resigned, would that end his ability to get a pension?

Mr. Schiff. I believe -- and counsel can correct me if I'm wrong -- that if he resigns from the bench or is impeached from the bench, he would not collect his pension. Under the circumstances of his years of service and his current age, my understanding is that he would not collect --

Mr. Gohmert. He wouldn't get his pension.

Mr. Schiff. If he resigned prior to a certain age, which he has not attained, or is impeached.

Mr. Gohmert. So if he did resign effective a year from now, he does not get a pension, correct?

Mr. Schiff. I think that is correct.

Mr. Gohmert. Counsel was nodding. Is that correct?

Okay. All right. Thank you.

Well, as a former judge, I go into a hearing like this understanding, first of all, you've had a Federal judge plead to obstruction of justice, which indicates a great deal of injustice

from the judge. But since we are supposed to take this up as a separate body and look at a separate punishment, basically, of removing him, impeaching him, actually charging him and pursuing elimination, which means no pension, no salary, yet we have to take a fresh look.

So I'm constantly looking for issues of credibility. And you've come in here today; you haven't been examined toughly. I'm sure that that kind of stuff has happened, as you've been questioned by the FBI and people all through this time. But he pled guilty to obstruction of justice, and one might normally think, well, that is sufficient unless we were to find that there was an obstruction -- I mean, there was some type of miscarriage of justice in the obstruction plea.

But examining the plea transcript, I don't find anything that indicates a miscarriage of justice. And in looking for other issues, perhaps of credibility, of mental culpability, mens rea, or contriteness which a judge likes to consider -- and is it true contriteness, or is this a manipulative type of contriteness? Are there issues that indicate true rehabilitation? You have both indicated that this is a manipulative judge. So what indications do we have that that may be the case even today or that he is contrite truly and he is no longer being manipulative if the evidence is there?

Well, it certainly appears that when you have a judge who lied to the judicial counsel, as we heard, who voluntarily sought

to make appearances in which he could lie, that that is clear indication of great manipulation. And, as we have seen in the transcript, you know, he again repeated the same lies. He said he had been honest with the FBI in December of 2007 and that -- he went on to say that Person A -- you know, acting with Person A is nonconsensual is absolute nonsense, which we later know he has admitted was actually not absolute nonsense but actually was a fact. So, again, misrepresenting. Person B, he said the defendant falsely -- the transcript said falsely stated that he attempted to kiss her on two separate occasions, when, in fact, it was over a much longer period.

So, again, he is still trying to manipulate through this process up to the actual sentencing hearing through this transcript. But other indications, too -- you know, we know this is an articulate guy. We can take judicial notice of his opinions and the things that he has said in court. He's got a good vocabulary. He is articulate enough. But then we know he also -- because I want to know, is he really contrite? Is he really feeling -- has he been rehabilitated after what he has been through?

We know he forced the Fifth Circuit to act upon his request to retire with a disability, knowing what he had done, already admitting to obstruction of justice. Boy, that is real manipulation. And then you come in here and we have this letter of resignation, June 2nd, addressed to the President, to retire a

year from now, which he could withdraw at any time. If we took this and said, "Oh, well, great, he is going to retire, he is going to resign, and so we don't have to deal with it anymore" -- but he could withdraw that at any time within the next year? That is real manipulation, not making it final, not making it clear that he is resigned to the fact that he needs to resign.

And then you compare that to the letter that's dated June 1st to this committee, which the Chair and counsel have already indicated comes not under oath, so should not carry the credibility of someone who came in and took the oath. But in that letter, he ends up saying that -- as my friend from Texas said, that removal from office "will render me penniless and without the health insurance I desperately need to continue treatment." Well, that is contradictory to his resignation. He completely contradicts himself. On one, he says he's got to have this. And then the next day sends a letter saying, "I'll resign next year," which gives us a clear indication he has no intention to resign next year. This is further manipulation, and it is rather insulting.

So, last, we come to the issue -- and I appreciate so much the insights my friend from Texas had into this, Mr. Gonzalez. But this not only has gone on beyond contriteness, but it is further manipulation such that I don't think we should stop even if we get a letter of resignation. I think this man needs to be impeached. Because when you have a Federal judge who would do all

he can to get paid for doing the job of a Federal judge while he is in prison for committing a crime while he is a Federal judge, this is somebody who needs to be impeached. And a message needs to go out to others that you're not going to play games with this panel, you're not going to play games with this Congress. You try to manipulate us like you have others, then we are going forward. You want to resign, you do it before you try to manipulate this body, or otherwise we are taking it to the wall.

Thank you, Mr. Chairman. I yield back.

Mr. Schiff. Thank you.

The gentleman yields back.

I just want to conclude by thanking you, Ms. McBroom and Ms. Wilkerson, again, for your courage in coming forward. I was a law clerk for a Federal judge in Los Angeles, a judge of great integrity. And it grieves me enormously to hear what you suffered in your courtroom and the courthouse. It is unimaginable.

And I want to echo the comments of my colleagues, that it is a tremendous public service that you came forward. Had you not come forward, Judge Kent would be sitting on the bench right now and, very conceivably, mistreating or assaulting other people in the courthouse. You've put an end to that. So you've done a great public service in coming forward. We are very grateful. We know how hard it must be, and I wanted to thank you again.

We will be scheduling a fall meeting of the task force very promptly to discuss whether to recommend articles of impeachment

to the full committee for its consideration.

And I want to thank my colleague, the ranking member of the task force, Bob Goodlatte, for his work.

I want to thank you, Professor Hellman.

And, with that --

Ms. Jackson Lee. Mr. Chairman?

Mr. Schiff. Yes, the gentlewoman from Texas?

Ms. Jackson Lee. Is there a time frame for both our discussions and then the procedure moving to the Senate? Obviously, it has to go to the full committee. Do we have a range of time? I'm making an inquiry.

Mr. Schiff. Yes, it is my intention to move very quickly to reconvene this task force to discuss what recommendation we want to make to the full committee. It will then be up to the full committee to schedule a full committee meeting to act upon the recommendations of the task force.

If the task force recommends articles of impeachment and the full committee then votes to approve those articles, it would then be up to the floor schedule to schedule floor action. But it would be my intention, not in the least of which because I don't think we want this to drag on and further prevent our witnesses from achieving some form of closure but also for the reasons that my colleagues have explained, that we move promptly and expeditiously.

Ms. Jackson Lee. A further inquiry is on the full committee

proceedings. Are all parties invited, or do they act upon our task force recommendations? Are parties invited again to the full committee procedurally?

Mr. Schiff. No. My understanding would be that the task force will make a recommendation to the full committee. We will deliberate as in a legislative markup, but we will not have witnesses at the full committee hearing.

Ms. Jackson Lee. If I just may have a moment of personal privilege, if you would, let me just -- these are constituents that live in and around the Houston area, and, obviously, the story saddens me.

But thank you again for being such good people and willing to expose yourselves. And thank you for also understanding that there are good people around you who care about you. And you have allowed us to clear the air for other workers, not only in our area, in the Houston-Galveston area, but around the Nation. So thank you so very much for your contributions.

I yield back, Mr. Chairman.

Mr. Schiff. I thank the gentlewoman.

The hearing of this impeachment task force is adjourned.

[Whereupon, at 3:07 p.m., the task force was adjourned.]