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EXPERTS' ADVICE TO CLINTON: CONFESS, HOPE FOR THE BEST

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A jury like no other will decide President Clinton's fate during a trial in the U.S. Senate.

Facing such a politically biased panel, jury experts in South Carolina and across the country suggest Clinton confess his sins, plead for mercy and avoid legal technicalities in his defense. Unlike in a court trial, where truth is supposed to win out, politics dominates the nation's second presidential impeachment trial.

"This is so unbelievably different from a civil or criminal trial," said Diane Follingstad, a Columbia clinical and forensic psychologist. "(Clinton) can't weed out people who are biased."

Uncertainties about the trial's procedures make it difficult to pick a legal strategy, said Follingstad, who has helped lawyers select jurors in six cases.

"Some people keep waiting for him to be more contrite and forthcoming about what he did that was wrong," Follingstad said. "Others say he could be opening himself up to future criminal prosecution. He faces a huge dilemma."

Clinton's fate could hinge on how his version of events plays to TV cameras in the Senate's chamber, said Howard Varinsky, a jury consultant and psychologist in Emeryville, Calif.

"This is going to be one of those unusual events, like the O.J. Simpson trial, where people are going to see some portion of this on TV," said Varinsky, a prosecution consultant in Timothy McVeigh's trial for the Oklahoma City bombing. "The common person is the gauge.

"If you play to the American people through TV coverage, you can bring pressure on senators to compromise," Varinsky said. "There is a higher jury than the Senate. They should never forget the psychology driving this."

A vote to remove Clinton from office would carry greater political consequences for senators than the impeachment vote had for House members, said Amy Singer, a jury consultant and psychologist in Fort Lauderdale, Fla.

Removal from office would require a two-thirds vote, or 67 of 100 senators. Only a simple majority, 51 votes, would be needed to censure Clinton.

"The senators are going to do whatever is politically correct," Singer said. "They're looking at

polls back home and what their constituents want. They want to do what is popular."

Clinton can increase political pressure for a compromise by keeping silent, said Singer, who consults in jury trials nationwide.

"He needs to shut up. He needs to let Republicans react and breathe fire because that upsets the public," Singer said. "This is a political thing as opposed to a legal thing."

History will be written. U.S. Chief Justice William Rehnquist is presiding at Clinton's impeachment trial. But he has only limited control over evidence and procedures.

The case for removing Clinton from office is being presented by 13 House members, including South Carolina Republican Rep. Lindsey Graham. They will act as prosecutors.

The House prosecution team faces a tough task because the jury is fixed, said 11th Circuit Solicitor Donnie Myers, a Lexington Republican.

"The decision has already been made. The only question is what compromise can be worked out on the punishment," Myers said. "It's plea-bargaining to the nth degree."

The 13 House members don't have detailed rules to guide them as they would have in a court trial.

"You don't know what the bounds are, unlike a civil or criminal trial. History will be written," said Joseph Rice, president of Jury Research Institute in Alamo, Calif. "There is no pretense of impartiality. Political considerations are the dominant force."

Clinton needs a theme for his defense that will build alliances across political party lines in the Senate, said Rice, who helps lawyers select jurors in several hundred cases nationwide every year.

The president shouldn't use a technical defense about whether he lied to a federal grand jury about his affair with former White House intern Monica Lewinsky, Rice said. Most Americans believe Clinton lied and are "outraged" that he maintains he didn't, he said.

"If you talk about human behavior and what drove him as a man to do what he did, it opens the debate up to a subjective evaluation," Rice said. "He needs to portray himself as a fallen man who has been subjected to embarrassing attacks."

Clinton should appeal to senators' sense of tradition and view of themselves as a more deliberative, thoughtful body than the House, said Follingstad, the Columbia psychologist.

"I would emphasize the importance of it not being a partisan matter," Follingstad said. "I think the president shouldn't go in like he's looking for a fight."

South Carolina's two senators have said little about Clinton's impeachment trial. Democrat Fritz Hollings and Republican Strom Thurmond have said they don't want to do or say anything that could taint their impartiality as jurors in the president's trial.

Some senators have tipped their hand by talking about the impeachment trial, said Columbia

lawyer **Jack Swerling**, who has used Follingstad as a jury consultant.

"It won't be an impartial proceeding with an unbiased jury," said **Swerling**. "Senators are jockeying for political position and disposition of the case before one witness has been heard. If we had jurors doing this in a civil or criminal trial, they would never be allowed to sit in judgment. It's the theater of the absurd."

Clinton needs to rely on his political instincts, rather than his instincts as a lawyer, **Swerling** said. He should admit he lied to the grand jury and sacrifice his reputation to avoid a sensational trial that would bring disrespect to the office of president.

"People get indignant when the president says he misled the grand jury but didn't lie," **Swerling** said. "He isn't offering moderate senators anything to persuade them to support censure."

"There's a clear conflict between what is best for the man and what is best for the office," **Swerling** said. "So far, they haven't been able to resolve that."

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1. U.S. Chief Justice William Rehnquist will preside over the Senate trial.
2. Sen. Strom Thurmond, R.- S.C., will be one of the president's 100 'jurors.'
3. Sen. Fritz Hollings, D.- S.C., also will serve as a 'juror' should the trial progress that far.



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