

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WASHINGTON REGIONAL OFFICE

-----X
THERESA C. CHAMBERS, :
 :
 Appellant, :
 :
 v. :
 :
 :
DEPARTMENT OF THE INTERIOR, :
 :
 Agency. :
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Alexandria, Virginia

Thursday, August 19, 2004

Deposition of

BENJAMIN J. HOLMES

a witness, called for examination by counsel for
Agency pursuant to notice and agreement of counsel,
beginning at approximately 9:05 a.m. at the law
office of McNamara & L'Heureux, P.C., 1522 King
Street, Alexandria, Virginia, before Mary Ross of
Beta Reporting & Videography Services, notary public
in and for the Commonwealth of Virginia, when were
present on behalf of the respective parties:

1 APPEARANCES:

2 On behalf of Appellant:

3 MICK G. HARRISON, ESQUIRE
4 Kentucky Environmental Foundation
5 128 Main Street
6 Berea, Kentucky 40403
7 (859) 986-0868

8 On behalf of Agency:

9 ROBERT D. L'HEUREUX, ESQUIRE
10 McNamara & L'Heureux, P.C.
11 1522 King Street
12 Alexandria, Virginia 22314
13 (703) 535-3014

14 JACQUELINE JACKSON, ESQUIRE
15 Attorney-Advisor
16 Division of General Law
17 Office of the Solicitor
18 United States Department of the Interior
19 1849 C Street NW.
20 Washington, D.C. 20240
21 (202) 208-6848
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C O N T E N T S

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Counsel for Agency	4
Counsel for Appellant	69

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

2 Whereupon,

3 BENJAMIN J. HOLMES

4 Was called as a witness and, having been
5 first duly sworn, was examined and testified
6 as follows:

7 EXAMINATION BY COUNSEL FOR AGENCY

8 BY MR. L'HEUREUX:

9 Q Good morning, Mr. Holmes. Let me
10 introduce myself on the record. My name is
11 Robert L'Heureux and I'm an attorney with the
12 firm of McNamara & L'Heureux, PC, which in
13 this matter represents the US Department of
14 Interior. What we're here about is a case
15 that's before the US Merit Systems Protection
16 Board, actually two cases, both of them
17 appeals brought by Teresa Chambers concerning
18 her removal and a number events leading up to
19 that removal. You've been asked to come here
20 to be deposed as a potential witness in this
21 case. Let me ask you first of all to state
22 your full name for the record?

1 A Benjamin Joseph Holmes Jr.

2 Q And would you state your address,
3 please?

4 A 815 Cypress Point Circle,
5 Mitchellville, Maryland 20721.

6 Q And your residence and business
7 telephone numbers, please?

8 A My residence number is 301-336-
9 2691. My business number is 301-402-4597.

10 Q Mr. Holmes, have you ever been
11 deposed before?

12 A Yes.

13 Q In what matters?

14 A Nearly every incidence has been
15 regarding my employment with the United
16 States Park Police, in most capacities as a
17 supervisor or a manager within the US Park
18 Police.

19 Q Well, what's going to happen today
20 is probably almost exactly similar to what
21 happened then. We, that is, the Department
22 of Interior, called this deposition so we get

1 to ask questions first. When I've concluded
2 I will invite Ms. Chambers' counsel to ask
3 any questions that he might have and that
4 might provoke me to ask some other questions
5 and then him to ask some other questions but
6 eventually we'll get to the end of it. I
7 expect that we'll be done in a couple of
8 hours, by noon at the latest, but that's a
9 guess depending on where we go in all of
10 this.

11 And there are ground rules. If you
12 want to take a break at any time for any
13 reason please say so and we can head out. If
14 you don't understand any of my questions it's
15 perfectly appropriate to say you don't
16 understand it and I'll try to clarify the
17 question a little bit.

18 Apart from that I really don't have
19 any other preliminary instructions except I
20 would like to ask you if there is any reason
21 related to your health or any medication that
22 you're taking why you think you shouldn't be

1 deposed today?

2 A No.

3 Q You feel fit and able to testify?

4 A Yes.

5 Q Well, let's go on then. Where are
6 you currently employed, Mr. Holmes?

7 A I am currently employed with MVM,
8 Incorporated. It's a security firm
9 headquartered in Vienna, Virginia. The job
10 that I'm performing right now is I am a
11 director-project manager for the MVM security
12 contract at the National Institute of Health.

13 Q How long have you been employed
14 there?

15 A Since March of this year, 2004.

16 Q Were you employed at some time by
17 the US Park Police?

18 A Yes, I was.

19 Q Would you describe that employment
20 briefly?

21 A I was a -- I joined the United
22 States Park Police on December 27, 1970,

1 served there for 33 -- approximately 33 and a
2 half years until my retirement in March of
3 2004.

4 Q What kind of positions did you hold
5 when you were in the Park Police?

6 A I started as a routine patrol
7 officer. I served -- completed the course of
8 training that was needed to become a park
9 police officer, patrol officer, scooter
10 officer, foot patrol, cruiser patrol,
11 motorcycle officer. I was promoted to the
12 rank of sergeant where I served as a patrol
13 sergeant and also a motorcycle mounted
14 sergeant. Do you need dates for when these
15 or just in general --

16 Q No, I don't need dates, just
17 thumbnail.

18 A All right. Okay, promoted to the
19 rank of lieutenant where I served as a shift
20 commander and when I was promoted to the rank
21 of captain I served initially as a regional
22 law enforcement specialist in the National

1 Park Service Regional Office in Seattle,
2 Washington, for about two and a half years.

3 And then I returned to the
4 Washington area in mid-'86 where I served
5 three positions continuing as a captain,
6 three positions here until my promotion to
7 the rank of major where I commanded the
8 Criminal Investigations Branch and served in
9 there for about five years and from there I
10 was -- the national law enforcement
11 specialist at the Interior Department for the
12 National Park Service, was in that position I
13 guess for about five months until I was
14 promoted to the rank of deputy chief.

15 And I was the deputy chief in two
16 of the three divisions for US Park Police.
17 My initial service was as the deputy chief in
18 charge of the Field Offices Division, which
19 encompasses all of the areas of the Park
20 Police outside of the Washington Metropolitan
21 area, and then I was -- I served as the
22 commander of the -- division commander for

1 the Services Division here in Washington, DC,
2 which take care of all of the logistical,
3 financial, transportation, everything that
4 provides a service to the patrol function,
5 operational function of the force.

6 And while in that capacity we had a
7 -- the chief and the assistant chief retired
8 in December 2000 was the chief retiring -- I
9 mean, I'm sorry, the assistant chief
10 retiring. April of 2001 the chief retired
11 and in the period between their retirement --
12 the chief's retirement and selection of a new
13 chief in February of 2002 I served on two
14 occasions 90-day stints as the acting chief
15 of police for the US Park Police.

16 Following the selection of the
17 chief of police in April of 2002 I was -- I
18 competed for and was selected for the
19 position of the assistant chief of police,
20 which is the number two position of the
21 organization, and I served in that position
22 as the assistant chief until my retirement in

1 March of this year.

2 Q Would you describe for me what your
3 educational experience is?

4 A High school graduate, I've got some
5 college courses but I do not have a four-year
6 college degree.

7 Q Do you have any law enforcement
8 training or advanced law enforcement
9 training?

10 A Advanced to the point of I
11 completed the schooling for Park Police. I
12 have taken some college courses at American
13 University and the University of Virginia
14 through the FBI National Academy which I'm a
15 graduate of the FBI National Academy.

16 Q How did you get to know Teresa
17 Chambers?

18 A By name when I found out she was
19 one of the persons who competed for the
20 position of chief for the US Park Police. I
21 was one of the persons who competed also.
22 And then by person when I met her I guess it

1 was toward the end of December of 2001.
2 Actually it was December 27, 2001, when she
3 came in after she had been selected and spent
4 a day with the then executive staff of the US
5 Park Police in preparation for her coming on
6 in February as the new chief.

7 Q I recall you said that you were
8 selected to be the assistant chief, the
9 number two person?

10 A Yes, sir.

11 Q Was it Ms. Chambers who selected
12 you for that?

13 A Yes, she did, yes.

14 Q About when did that occur?

15 A The selection process I guess
16 started probably sometime in March or so of
17 2002 because I think I was officially
18 selected and my official promotion date was
19 in -- I think it was around April 20, 2002.

20 Q What were your duties as the
21 assistant chief?

22 A The assistant chief basically

1 serves as the day to day operational
2 oversight for the force. I'm the immediate
3 supervisor for the three division commanders,
4 the three deputy chiefs who serve as division
5 commanders of the Operations Division, the
6 Field Offices Division, and the Services
7 Division. And I'm involved in the day to day
8 operations, usually involved in the
9 designated -- as the chief of designated
10 disciplinarian for the force and then act in
11 her capacity or act in the chief's capacity
12 whenever they're not working either on
13 assignment or away from the office. That's a
14 general thumbnail.

15 Q After this I have some specific
16 questions related to episodes that occurred
17 and they aren't continuous. There isn't
18 really a thread in here and I'm going to be
19 skipping around a little bit just because
20 there are specific things that I need to know
21 about as opposed to a general chronology of
22 events.

1 A Sure.

2 Q I have read an e-mail that you sent
3 Chief Chambers on or about November 26th,
4 reporting that Deputy Director Murphy had
5 made some comments about her during a
6 conference call on that date. Do you recall
7 that episode?

8 A Yes, I do.

9 Q What was it that you heard
10 Mr. Murphy say?

11 A All right, first of all, the
12 context of me overhearing the conversation
13 was back -- this was one of those times when
14 I think the chief was either on travel or on
15 a personal day off and as the acting chief
16 every couple times a month the Director of
17 the National Park Service holds a conference
18 call of all of her what's called the National
19 Leadership Council members of which the chief
20 is a member and because she was off that day
21 it was my responsibility to be a part of --
22 to participate in that call.

1 The particular incident you refer
2 to started -- there were budget issues being
3 discussed for I think 2005, the 2005 fiscal
4 year budget, and I remember regional director
5 Terry Carlstom, who is the regional director
6 for the National Capital Region, Washington,
7 DC, which a large part of our force covers
8 areas that he, you know, on his
9 responsibility, and he raised the issue about
10 a concern. I believe the chief had sent him
11 a memorandum advising that because of the
12 possibility of us having not a budget that
13 would be necessary possibly for us to cover
14 everything that we had covered in the past
15 that we would have to possibly curtail some
16 of our services to the region. And I think
17 Mr. Carlstom in that context raised the issue
18 about his concerns about the budget of the
19 Park Police and how it may possibly affect
20 the coverage for the parks and the National
21 Capital Region.

22 And Mr. Murphy kind of exploded and

1 basically stated that -- I don't remember the
2 verbatim but basically that the problems with
3 the Park Police not having the budget that
4 they would either want or need or whatever in
5 that capacity was irresponsible as he was
6 talking to Chief Chambers, that she had not
7 cooperated in budget discussions and things
8 like that and basically, I mean, in other
9 words basically blasted the chief and it was
10 clear to me that he was holding her totally
11 responsible for the fact that the Park Police
12 didn't get any more in the budget than we
13 got. And I think in that conversation I
14 think they did say that we got like a three
15 million, yeah, a three million dollar
16 increase.

17 Q And what had the Park Police been
18 expecting as an increase?

19 A I think we had figured we would
20 either be in the ball park with all the --
21 everything was going on as far as terrorism
22 coverage and icon security and all those

1 things probably I think around the area of \$8
2 million or something like that. I'm not
3 totally sure on the figures but I think it
4 was in that ball park.

5 Q Did Mr. Murphy use the term
6 "accountability" during his remarks?

7 A I don't remember verbatim but the
8 gist of the conversation to me it was clear
9 that he, you know, he was saying basically we
10 didn't get what we was supposed to get
11 because the chief hadn't cooperated in budget
12 conversations or deliberations about the
13 budget.

14 Q Did he give any more detail about
15 what that cooperation was or wasn't?

16 A No, he did not, very short versed,
17 probably didn't take any more than probably
18 not even a minute, but, I mean, just the
19 blast, the outburst, and then I think that
20 was pretty much the end of that conversation
21 and moved on to something else or continued
22 discussions about the budget matters.

1 Q When you say he exploded what do
2 you mean exactly?

3 A Raised voice, very excited voice.
4 I mean, it was obvious that it was -- he was
5 annoyed and the response was an annoyed
6 response. I can't explain it any better than
7 that. He's usually very low key about his --
8 how he speaks and things like that.

9 And Mr. Carlstom asked a question
10 and he just basically jumped right in. And
11 actually I think the question was directed to
12 the director who was -- Director Mainella,
13 who was conducting the meeting. And I don't
14 believe up to that point that Mr. Murphy had
15 really had any major input as far as the
16 dialogue or the conversation. But when
17 Mr. Carlstom asked that question Mr. Murphy
18 immediately jumped in and he provided a
19 response almost instantaneously before I
20 guess the director or anybody else said
21 anything.

22 Q Did you discuss his remarks with

1 Mr. Murphy at all?

2 A No, sir.

3 Q Had you ever had any conversation
4 with Mr. Murphy before he made those remarks
5 where he made similar comments?

6 A No, sir.

7 Q Did you have any reason to
8 understand what he was talking about?

9 A Other than -- what do you mean,
10 understanding --

11 Q Well, I mean, understand why he was
12 saying what he was saying?

13 A I understood that yes, we had been
14 in -- we, the force, the chief, had been in
15 deliberations about -- that there was a
16 request for us to have some budget cuts,
17 which everybody in the National Park Service
18 and the Interior Department are going to
19 have, but what we were about and was trying
20 to show that, you know, how -- if any budget
21 cuts came about how in fact they would impact
22 on us continuing to provide the service that

1 we had been providing and the services that
2 we needed to provide given the state of the,
3 you know, the country as far as being ready
4 to -- toward any kind of terrorist attacks.

5 Q Were you part of any meetings and
6 discussions which may have occurred in the
7 Park Police concerning a 12-million dollar
8 shortfall or an anticipated 12-million dollar
9 shortfall in fiscal year 2004 by the Park
10 Police?

11 A Yes, sir.

12 Q And what do you recall about those
13 discussions?

14 A It was identified that if we got
15 the budget that we were anticipating, that
16 they were anticipating that we would get,
17 that based on the things we were asked -- we
18 were being asked to cover, the services we
19 were being asked to provide, that in order to
20 do that the budget would have -- our budget
21 for the next fiscal year, the anticipated
22 budget, would have come up with about a 12-

1 million dollar shortfall.

2 And I think the direction that we
3 had been given from the Interior, as I
4 remember it, was well, okay, before we would
5 even consider addressing the shortfall we had
6 to show how we would, first of all, address
7 the necessary cut-backs so that we could in
8 fact if we didn't get the \$12 million how we
9 would function with what we got.

10 Q And were you part of that effort to
11 show how you could do that, live within the
12 whatever the amount was that you were
13 supposed to?

14 A Yeah, quite a few of us were. I
15 mean, the budget office, obviously, the
16 assistant chief, and I think at one time
17 there either was one or a couple of meetings
18 where other members of the command staff
19 basically pulled together and we -- a problem
20 was presented by the chief and it was pretty
21 much a brainstorming thing about every
22 commander was asked to go back and identify

1 areas where they could possibly cut services.

2 And I think the exercise there was
3 at least to identify and then eventually have
4 it presented to the powers that be at the
5 Park Service to say okay, here are the things
6 that we can cut. And I think at some point a
7 decision needed to be made exactly, okay, are
8 we going to cut these things, which things
9 are vital to cut and which things we just
10 can't cut because it would impact services
11 detrimentally and we would still have to do
12 them. That was the tone of what we were
13 trying to do or the exercise that we were
14 trying to accomplish.

15 Q And do you have an opinion about
16 what was the cause of the \$12 million
17 shortfall, about what was the predominant
18 cause for that? Maybe we better define our
19 terms and it's probably better if you define
20 it. What do you mean by \$12 million
21 shortfall? And I understand this to apply to
22 fiscal year 2004 but what does that mean in

1 your understanding?

2 A No, I think this -- no, this was
3 applied -- being applied to fiscal year 2005,
4 I believe. We were looking at the fiscal
5 year 2005 budget, I believe, at that time.

6 Q For purposes of discussion let's
7 accept that but what does a \$12 million
8 shortfall mean? What does that mean to you?

9 A To us, well, to me, what it meant
10 was we knew the services that we were
11 expected to provide, patrol services,
12 services to the regions that we function, as
13 an example, within the National Capital
14 region places like Wolf Trap Farm Park. Over
15 the years our budget has not greatly
16 increased and every year the park plans a
17 number of events at Wolf Trap Park. We are
18 expected to have a security detail out there
19 for if not all the majority of events out
20 there and, depending on the act or the
21 performance that's there, there's more need
22 in some instances for security than others.

1 Sometimes if it's a very low key,
2 if you will, group that doesn't draw a rowdy
3 crowd or anything like that the coverage may
4 be only a traffic detail and then an officer
5 or two there just in case a medical emergency
6 or things like that occur. If you have the
7 groups that draw the rowdy crowd to the point
8 where there may be a potential for you to
9 have to perform some law enforcement actions,
10 disorderly conduct, drunk, you know, things
11 like that, then we have to increase the
12 number of personnel that we have out there
13 for public safety.

14 So depending on what the shows are
15 that year that's how we gauge the number of
16 officers that we have to have at each show.
17 We have a set budget that we get and as time
18 -- what happens, the budget like for Wolf
19 Trap has not necessarily grown or if it's
20 grown it's grown small but what happens is
21 even if it grew a little bit what also grows
22 at the same time is that the bulk of those

1 officers end up because of the shortages that
2 we have, personnel shortages, the bulk of the
3 officers working out there usually end up
4 being officers who are called back and
5 they're there at an overtime rate.

6 So as -- every year an officer gets
7 a cost of living increase or things like that
8 and most years, just about every year,
9 Congress and the President will give us a
10 cost of living increase but there are no
11 additional funds that are provided for that
12 cost of living increase so you absorb that --
13 basically you absorb that cost of living into
14 your budget.

15 So what it cost us per officer this
16 year at Wolf Trap now, this year, even if
17 it's the same number of officers costs us
18 more. So those are the kind -- and that
19 happens at, you know, a lot of other events
20 is that you end up actually having to -- it's
21 a greater cost to provide the service for a
22 function than it would be the year before.

1 Q Now, concerning places like Wolf
2 Trap, you had a history about what the cost
3 would be for those events. Isn't that so?

4 A Uh-huh.

5 Q Were there any unanticipated
6 overtime draws that contributed to this \$12
7 million we're talking about?

8 A We have unanticipated events all
9 the time. Every major event that happens in
10 Washington. Some we end up absorbing. Some
11 we do get additional funding for law and
12 order, emergency which those funds are
13 brought back into the force out of another,
14 if you will, pool of monies in the National
15 Park Service.

16 But I think the bulk of it was just
17 we needed -- oh, I'll tell you a great thing
18 that we needed was increase in officers. We
19 have a shortage of officers and we had not
20 been in a position of having the monies
21 always to have the number of classes that we
22 needed to raise our ranks to, first of all,

1 have sufficient number of officers on the
2 street but also to -- as you increase the
3 officers the need for overtime will decrease
4 because then you'd have more officers
5 available to do some of these functions at a
6 straight pay -- on a straight pay basis as
7 opposed to an overtime basis.

8 Q The monuments, the Jefferson
9 Memorial, the Washington Monument, the
10 Lincoln Memorial, was overtime for staffing
11 at those things a factor in this 12 million
12 dollar shortfall?

13 A I believe so.

14 Q Was it a large factor, a small
15 factor?

16 A Well, I guess recognition would
17 tend to be large because the tasks that we
18 were giving with the monument icon security
19 was one which greatly impacted the number of
20 officers that we had on the street. And I
21 can't give you exact dollar figures but that
22 was, yeah, that was one component in that.

1 And I think in part of this I
2 believe that as part of the \$12 million -- us
3 trying to address the \$12 million shortfall I
4 want to say I believe that was one of the
5 things that we would be providing, the icon
6 security, but we would try to have to do it
7 with little or no overtime so that would also
8 impact the services that we provided to the
9 other areas outside of icon security.

10 Q Did the increase in icon security
11 cause a significant problem in officer
12 availability for other functions?

13 A Yes, sir.

14 Q Well, give me some idea of what
15 numbers were involved? What was the staffing
16 before it was increased. What were the
17 staffing numbers then as opposed to after the
18 increases have been mandated?

19 A You mean at the icons?

20 Q Yes.

21 A Okay, as an example let's use
22 the -- well, any one of them but Lincoln

1 Memorial. Normal staffing at the Lincoln
2 Memorial was one officer per shift, per
3 eight-hour shift, so you're talking about
4 three officers in a 24-hour period. And I
5 believe at one point the coverage was
6 depending on whether it was a code yellow or
7 a code orange. There were different ones
8 there.

9 Q Right, I understand.

10 A Even at code yellow we were
11 staffing the Lincoln -- yeah, the Lincoln
12 Memorial instead of one officer that officer
13 remained and I believe there were at least an
14 additional three officers added to that beat
15 every shift so you went from one to four.

16 Q So an additional three officers per
17 shift, that's three shifts a day. That's an
18 additional nine officers a day to be there?

19 A Uh-huh.

20 Q Times three icons?

21 A And there were different
22 configurations at each one based on the

1 layout of the land. I think the largest
2 contingent that we had was the one that
3 worked the Washington Monument.

4 Q If we multiply that times the three
5 Icons where it's mandated we're still not
6 talking about very many people, something on
7 the order of 50 or so officers increased to
8 cover the icons out of what was the total
9 work force in the National Capital area?

10 A In the National Capital area I
11 think we were probably -- I don't remember
12 exactly but probably I would say in the area
13 of 400 and some officers.

14 Q And it was a problem to cover this
15 additional 40 or 50 bodies out of a total
16 work force of 400 officers?

17 A Yes, sir, considering, you know,
18 that we have -- we account for sign-off days,
19 we account for vacation, court time. You
20 account for the fact that some of those
21 stations were already short of personnel and
22 then we had to draw more personnel out of

1 those stations. Yeah, it did become not
2 insurmountable but it did become a staffing
3 problem, yes, sir, because it was times like
4 at some stations where you had maybe one
5 officer on patrol out on the street in that
6 station as opposed to possibly two or three.

7 Q Did I understand you correctly to
8 say earlier that an effort was made not to
9 use overtime at the icons to cover the
10 problem?

11 A I believe that one of the
12 directions that we got was to do these
13 coverages but we also needed to try to cut
14 back on overtime dollars. That's one of the
15 areas that we had been I guess hit with out
16 of the NAPA report was the amount of overtime
17 that we use. And again for us -- to me the
18 way to do that is if you can increase your
19 staffing that automatically will decrease the
20 amount of overtime because you'd have more
21 officers or a larger officer pool to draw
22 from to cover some of these events that came

1 up.

2 Q I want to change focus now to
3 events which in the record of this case have
4 been described as on or about August 18,
5 2003. I have to say I'm not sure that's the
6 correct date. The events that I want to ask
7 you about occurred on a Saturday and August
8 18, 2003, is a Wednesday, I think. But
9 either the Saturday before that or the
10 Saturday after that we have some testimony in
11 the record of this case that there was a
12 conference call of the US Park Police
13 Executive Command Staff. I think that's the
14 title of the group. Were you a member of
15 that staff?

16 A Yes, sir.

17 Q Do you remember a conference call
18 occurring on or about August 18, 2003, on a
19 Saturday, the subject of which was an
20 imminent detail of Ms. Pamela Blyth to a
21 position outside the US Park Police?

22 A What was the conference call about?

1 Q From what I understand the
2 participants of the conference call were
3 Teresa Chambers, yourself, Mr. Beam,
4 Mr. Pettiford, and Ms. Blyth. It was a
5 telephone conference call on a Saturday, the
6 subject of the call being a detail of
7 Ms. Pamela Blyth which was supposed to occur
8 on the following Monday. Do you recall that
9 episode?

10 A It probably happened but no, I
11 can't say that I necessarily -- something
12 I've got in my memory box right now, no.

13 Q How much do you remember about it?

14 A What I can speak of generally is
15 the concerns about the detail and the fact
16 that she was being asked to -- directed to --

17 Q Who was being --

18 A Ms. Blyth was going to be directed
19 to take a detail outside of the force.

20 Q And who was going to direct her to
21 do this?

22 A Maybe "direct" is not the right

1 word but I think it flowed out of
2 Mr. Murphy's office, I believe, and she was
3 being assigned, for lack of a better word, to
4 this detail within the National Park Service
5 Washington Office and --

6 Q And how did you learn that that was
7 going to happen?

8 A Conversations with the chief.

9 Q And the chief being whom?

10 A Chief Chambers.

11 Q Chief Chambers, that's Teresa
12 Chambers?

13 A Teresa Chambers, Teresa C.
14 Chambers.

15 Q And you say Teresa Chambers told
16 you that Ms. Blyth was going to be detailed.
17 Is that what you recall?

18 A Yes.

19 Q Were you asked to comment on this
20 detail?

21 A We had -- as I remember it, and I
22 don't know if it's necessarily to this phone

1 call but I know there were a couple of times
2 when we had discussions about it because the
3 concern was at the time if the detail
4 occurred what would be the impact on the
5 force and who would if anybody would fill in
6 to perform her duties while she was on that
7 detail because that was -- I think if I
8 remember it it was expected to be something
9 like a detail for I think not to exceed 120
10 days.

11 Q When you say the concern was whose
12 concern was that?

13 A Well, the chief executive officer
14 of the force expressed a concern about it
15 because of the duties that Ms. Blyth was
16 responsible for, there were a number of tasks
17 and projects that, first of all, she had
18 given to Ms. Blyth to perform as the
19 administrative -- her title is the Special
20 Assistant to the Chief for Organization and
21 Development.

22 She was responsible at that time

1 for the budget office. She was also
2 responsible for -- there was a -- I don't
3 remember the exact name for it but there was
4 a couple projects that actually were tasked
5 down to us to provide information back to the
6 National Park Service, and Ms. Blyth was the
7 person who was spearheading -- overall
8 responsible for those assignments. And I
9 think at one point the chief did a memorandum
10 or e-mail to Mr. Murphy basically outlining
11 the range of assignments that Ms. Blyth was
12 responsible for, the deadlines.

13 Some of them had been imposed by
14 Interior -- I mean Park Service officials and
15 her concern about if I pull her I don't
16 really have anybody because of the small
17 staff I had who could necessarily step in and
18 take over the responsibilities. And it was
19 aimed at, I believe, trying to see what kind
20 of a -- you first of all identify these
21 things and get some dialogue going about is
22 there any kind of way we can possibly alter

1 this schedule or work it around so that she
2 could possibly even do both jobs, do work
3 over here sometimes but then still not
4 totally lose sight of the things that she was
5 doing before within the Park Police.

6 I don't particularly remember the
7 Saturday conversation but I can't also say
8 that it did not occur. It's just not
9 something that's necessarily fresh in my
10 memory.

11 Q In your opinion would the detail of
12 Ms. Blyth have affected the performance of
13 your duties or the duties under your
14 responsibility?

15 A My duties?

16 Q Yes.

17 A My particular duties, no, because
18 most of my duties were the operational, you
19 know, day to day operational responsibilities
20 of the force. My job would have been -- I'd
21 say other than that it was a possibility that
22 possibly some of the things that she had been

1 tasked with, if we lost her to that detail,
2 it would have been -- had to be -- if it was
3 going to continue to be done and meet the
4 deadlines it would probably have had to have
5 been given to either myself or other members
6 of the Park Police staff. If you mean affect
7 from that point of view, yeah.

8 Q Was it your opinion that the detail
9 of Ms. Blyth would possibly cause the Park
10 Police to fail in some important way?

11 A What do you mean -- when you say
12 fail I would say -- if you're talking about
13 collapse of the Park Police, no. I mean,
14 you'd meet -- you possibly ----- not making
15 some deadlines but, I mean, I see it in the
16 context of this. There's no one person who
17 cannot be within the operation of the force
18 that if they move that there's going to be a
19 failure of the force. But, I mean, there
20 could be some lapses in things getting done
21 in a timely manner and there could be times
22 when things just didn't get done until you

1 found somebody to step in to do them if
2 that's what you mean by "fail."

3 Q Well, that's not a bad definition.

4 A Okay.

5 Q Did you know that there was going
6 to be communication between Teresa Chambers
7 and Deputy Secretary Griles concerning the
8 matter of Ms. Blyth's detail?

9 A I don't believe I knew. I knew
10 that -- I knew that it did occur after the
11 fact but I don't necessarily remember that I
12 knew that it was going to occur.

13 Q At some point in these
14 conversations concerning the detail of
15 Ms. Blyth did you say words to the effect
16 that you would resign or consider resigning
17 if Ms. Blyth was detailed?

18 A I may have said those words, yeah.

19 Q Did others say those words that
20 you're aware of?

21 A I would say that there was a
22 general concern with everybody there about

1 what the removal of her from the position at
2 that time would have caused. I can't really
3 -- I don't recall but I know I may have very
4 well said ——— did you say that it strikes
5 a cord with me that there may have been that
6 emotional response that we were so concerned
7 about it that yeah.

8 Q Well, why were you personally
9 concerned enough to consider resigning over
10 this issue?

11 A The general concern about whether
12 or not the force was being allowed on a
13 position to be doing the things that we
14 needed to do on a daily base, that we knew
15 needed to be done to keep the force running,
16 a lot of it was those particular projects
17 that she was involved in, the duties that all
18 of us were involved in, and to remove
19 somebody from that position, you know, even
20 though the force would go on it would have
21 created a hardship and while we've handled
22 hardships in the past it just seemed like a

1 time that, you know, why is this coming now
2 when everybody knows that we're under the gun
3 to get NAPA things accomplished. A lot of
4 those assignments that she had involved
5 trying to respond and address the issues that
6 NAPA had. So the team needed to stay intact
7 and so, you know, what was the value of this
8 detail, those kinds of things.

9 Q Did anyone ask you to say something
10 like you would resign if this occurred?

11 A Ask me to say that?

12 Q Did anyone ask you to say that?

13 A Not that I recall.

14 Q To the best of your recollection
15 was that a spontaneous thing that you said to
16 yourself or was it calculated?

17 A Was it calculated on my part?

18 Q Yes.

19 A Sir, I don't calculate on anything.
20 I don't understand what you mean, was it
21 calculated.

22 Q Well, let me ask the question a

1 different way then. Did you respond to
2 something somebody else said to say that?
3 Did someone else say if this happens I'm
4 going to quit and you said me too, or did you
5 reflect on it and say I can't take this. If
6 this happens I'm going to have to quit, on
7 your own?

8 A My honest response to that is I do
9 not remember exactly what that chain of
10 events that would, you know -- again, it
11 sounds like something that I remember from
12 that conversation but, to answer your
13 question, I can't -- I really honestly can't
14 remember just how it got to that point.

15 Q Did you communicate this remark to
16 anyone other than the executive command staff
17 at any time?

18 A I don't believe so. Usually with
19 me, sir, what's discussed within the
20 executive command is -- stays there. I don't
21 recall that I did, no.

22 Q You remember very little but do you

1 remember anything else about these
2 discussions within the executive command
3 staff about the detail of Ms. Blyth?

4 A No, other than the fact that it was
5 a concern for us as a group at the time about
6 how the move of her right then and there as
7 it would have been probably for any one of us
8 to be moved from the executive staff at that
9 time, how it would have affected us
10 functioning in the force. That was the gist
11 of all of our concern, how was this going to
12 now affect us doing what we need to do.

13 Q Well, let me go back because I did
14 ask you how it would affect you performing
15 your function. Did you have an opinion that
16 Ms. Blyth being detailed away from the Park
17 Police was going to adversely affect any of
18 the other people on the executive command
19 staff's performance of their function?

20 A There would have been an effect on
21 everybody to lose a member of the team. Now,
22 adverse being, as I know it, looking at

1 adverse normally being a much more critical
2 effect, I can't say adverse but certainly an
3 effect, yeah.

4 Q There would be an effect?

5 A Oh, absolutely, yeah.

6 Q But an effect not adverse by your
7 reckoning as being significant or important?
8 I forget which word you used.

9 A Would the force stop functioning?
10 No. Could we -- would we be able to continue
11 to move forward? Yes. But still the point
12 is that to lose anybody at that time,
13 especially when we've been given these
14 mandates to try to move the force in a
15 certain direction and do the things that we
16 were tasked to do, to lose a member of the
17 executive team meant yeah, it would have been
18 something that we would have rather have not
19 -- probably rather not see happen.

20 Q To the extent that you were willing
21 to resign over it?

22 A Well, for me it wouldn't have been

1 resigning. It would have been retiring but I
2 understand what you're saying. But I would
3 probably -- if I made that statement then it
4 was probably one that I felt that I would
5 have possibly carried out back then, yeah.

6 Q Do you remember what the specific
7 projects were that --

8 A Ms. Blyth's performance?

9 Q Well, that Ms. Blyth was performing
10 that the detail would interfere with?

11 A I don't remember. I know that
12 there was a -- I remember a memorandum, an
13 e-mail, that was sent from the chief to
14 Mr. Murphy outlining those things. For me to
15 sit here right now and specifically tell you,
16 no.

17 Q Well, was there one of them in your
18 mind particularly important that you thought
19 was more important than the other, any one or
20 two that stick in your mind?

21 A Not at this point, no.

22 Q I'm going to shift in time again.

1 A Okay.

2 Q To March of 2003 at I think it's
3 called a leadership conference that the Park
4 Police held at some facility in West
5 Virginia.

6 A Yes, sir.

7 Q Did you attend this conference?

8 A Yes, sir.

9 Q At some point during that
10 conference we've been told there was a
11 meeting between Ms. Chambers and the majors
12 employed at the Park Police?

13 A That's correct.

14 Q Do you recall such a meeting?

15 A Yes, it was after one of our
16 afternoon -- evening sessions and yeah, we
17 did.

18 Q Were you present at that meeting?

19 A Yes, I was.

20 Q What was the purpose of the
21 meeting?

22 A I don't -- I believe the majors

1 requested the meeting because they wanted to
2 express to the chief their concerns about for
3 one thing for sure. The one thing I do
4 remember is they were concerned that they
5 were not being utilized to their full
6 capacity as that level of command in the
7 organization and that they were not being
8 given the opportunity to have input into the
9 decision-making process for the force, about
10 major decisions of the force.

11 Q Had you heard any of these kinds of
12 remarks from majors before, those you just
13 described?

14 A Oh, probably, yeah.

15 Q Is it fair to say that it didn't
16 come as a surprise to you that they had this
17 perception?

18 A I can't say it was a surprise, no.

19 Q Did you agree with them, that there
20 was some problem in communication between the
21 majors and the chief?

22 A I won't say necessarily the word

1 "agree." I do know that there had been an
2 appearance that there was -- the chief's
3 philosophy was kind of the upside down
4 pyramid in that she was concerned about
5 dealing -- you know, making sure that
6 everything that was done was done for the
7 benefit of those who were the most needed and
8 that was officers on the street.

9 And there were some decisions that
10 were made that necessarily majors were not
11 asked their opinion about it and decisions
12 were made within the executive staff. And I
13 can't say that I disagree or I agree with
14 their decision but, I mean, I -- but I'll say
15 this. I understand their desire to have
16 involvement in the process.

17 Q What occurred at the meeting?

18 A There was a dialogue. They
19 expressed their concerns. I believe -- I
20 remember -- I think I remember the chief, you
21 know, expressing back to them what her
22 philosophies were and things like that, and I

1 believe we -- well, I can't specifically say
2 I remember walking away from the meeting with
3 exactly what resolution there was other than
4 I don't believe we walked away from the
5 meeting with the sense that there was not
6 going to be possibly a continuation, so that
7 there may be, you know, like she heard you --
8 heard them and I think there was some
9 involvement with them in various different
10 things and future things and maybe again not
11 to the full extent that they may have wanted
12 or expected it but it was -- there was -- she
13 used some of the majors in various things as
14 far as when we started doing some of the icon
15 security I remember one major in particular
16 was brought in to actually sit in
17 consultation with us as we decided how we
18 were going to go about manning these
19 different icon posts and things like that,
20 how we would be able to -- oh, especially
21 when we were being dinged for times when we
22 weren't always -- our officers weren't always

1 at the places they were supposed to be, how
2 are we going to stem that tide, how are we
3 going to make sure these officers recognize
4 the importance of doing this, and make sure
5 that they're always there. At least one of
6 the majors was involved in that process. And
7 there were other different times when that
8 did occur.

9 Q Did there come a time in this
10 meeting when Chief Chambers made some remarks
11 concerning persons who had been taking
12 information to the Office of Inspector
13 General?

14 A I honestly don't remember the --
15 that kind of specificity in the meeting. I
16 just -- again, it's been a while ago.

17 Q Was there some time in the meeting
18 when Ms. Chambers said something to the
19 effect that some of the people present may
20 have been taking information to the Office of
21 Special Counsel?

22 A I'll say this. Those kind of

1 things may have possibly been in dialogue in
2 that meeting. I mean, it could be -- I think
3 it was kind of a I won't say bloodletting but
4 it was a very frank discussion about trying
5 to get some resolution about what the issues
6 were.

7 I don't remember the particulars.
8 I know that there were some concerns. Again,
9 that information I know was something that
10 the chief had concern about because I believe
11 that we have had those -- we had had those
12 discussions as the chief and assistant chief.
13 Whether or not those things were actually
14 said in that meeting I can't honestly
15 remember exactly, you know, that that
16 occurred. It may have.

17 Q At that meeting did Ms. Chambers
18 say words or words to this effect, and that's
19 no way to stay a major?

20 A I don't recall that, no. I can't
21 say that it didn't happen but I don't recall
22 it.

1 Q You said you had some discussions
2 with Chief Chambers concerning persons
3 bringing information to the Office of Special
4 Counsel. What do you recall about any of
5 those discussions?

6 A Okay. I don't know -- let me see.
7 I don't -- well, I know that there have been
8 I guess shortly from the beginning after the
9 chief came on board and I was as the
10 assistant chief, being one of her confidants,
11 that she had expressed some concerns that
12 even from the time that she tried when she
13 was first coming on the job that she felt
14 that folks were -- some folks were doing some
15 things to try to thwart her, not only her but
16 any outside chief from coming into the Park
17 Police. It was no secret that the force in
18 general was very displeased with the fact
19 that the National Park Service and the
20 Interior Department wanted an outside chief.
21 For me it was a philosophical thing, you
22 know. They're in a position to do what they

1 want to do.

2 When I competed for the position of
3 chief I didn't get it and that was okay. But
4 she expressed some concerns to that and we
5 never had specifics where she -- you know,
6 where she read to me chapter and verse that
7 this is happening other than the fact that
8 she felt that those things were happening.

9 So -- and I think she felt that it
10 continued even after she came on board, that
11 then people tried to I don't want to use the
12 word "sabotage" but at least tried to maybe
13 not necessarily make life as easy for her as
14 it possibly could have. Again, these are
15 conversations and I don't -- we never really
16 I think addressed a lot of particulars on it.
17 We just -- you know, general conversation.

18 Q Do you recall any specific
19 conversations with Chief Chambers concerning
20 complaints that have been made by employees
21 of the Park Police to the Office of Inspector
22 General?

1 A I can't recall any specific
2 complaints, no, specific conversations, no.

3 Q Can you recall in general any
4 conversations?

5 A They possibly happened. I can't
6 recall them, no.

7 Q Can you recall what Chief Chambers'
8 attitude was towards those employees who had
9 made reports or complaints to the Office of
10 Inspector General?

11 A I know what her attitude was toward
12 both who she felt had tried to derail her,
13 the hiring of her or anybody else was that it
14 was one, as it would have been with me, one
15 of not so nice and being upset about it.

16 Q Did she include in those people
17 those who had made complaints or brought
18 information to the Office of Inspector
19 General?

20 A I would have to imagine that that
21 would probably be something that would have
22 upset her. I don't -- I cannot remember for

1 sure specifically what. You know, I just
2 can't remember, sir. I don't want to give
3 you an answer that's not --

4 Q Well, I don't want an imaginary
5 answer either.

6 A No, it's not an honest answer so I
7 can't specifically give that, an answer -- a
8 definitive answer to that, no.

9 Q Did you at some time become aware
10 that Ms. Chambers was the subject of an
11 investigation by the Office of Special
12 Counsel?

13 A If that's in reference to -- the
14 one you're speaking of is in reference to the
15 hiring of the two deputy chiefs.

16 Q Well, that or any other that you
17 may be aware of?

18 A I'm aware of that one.

19 Q How did you become aware of that
20 one?

21 A I believe that -- at one point I
22 became aware of it because I had to be -- I

1 was deposed in that.

2 Q By whom?

3 A Office of -- a representative from
4 the Office of Special Counsel.

5 Q Did you have any conversations with
6 Chief Chambers about that investigation?

7 A Conversations about it?

8 Q Yes.

9 A Maybe in passing, just about the
10 concerns about, you know, where was it coming
11 from and specifically from the point of the
12 fact that I was one of the persons who was
13 involved in the, if you will, the selection
14 process for that, yeah, just general
15 conversation.

16 Q How were you involved in the
17 selection process?

18 A Because I was one of the two people
19 who conducted the interviews for the
20 applicants who applied for those two deputy
21 chief positions. The interviews were
22 conducted by myself and Chief Chambers.

1 Q Did you have a recommendation about
2 that selection?

3 A Yes, I did.

4 Q And what was it?

5 A My recommendation for -- there were
6 two positions, two deputy chief positions.
7 One was the chief of operations and my
8 recommendation for that one was the current
9 deputy chief of operations, Dwight Pettiford.
10 And my recommendation to her -- well, my
11 recommendation to her for the other position
12 was -- actually the dialogue that we had was
13 my concern that we try to select at least one
14 of the two positions as one from the outside
15 and one from within the ranks of those who
16 had competed within the organization.

17 And I voiced to her my concerns
18 that if you bring in -- you were an outside
19 chief. If you now bring in two outside
20 deputy chiefs it's really going to send not a
21 very great message to the officers -- I mean,
22 to those who -- at that rank of major to

1 compete.

2 And I made a recommendation. I
3 think I put two names on the table that I
4 thought out of the process of the three, the
5 two outsiders and the one person -- I mean
6 the one outsider and the two persons from
7 inside for her to at least consider and she
8 gave it consideration and then she selected
9 the other outside person, Deputy Chief Beam,
10 now Deputy Chief Beam.

11 Q Let me ask my question. It may
12 sound like the same question but it isn't
13 exactly. Do you recall any conversations
14 with Chief Chambers about who might have
15 caused this investigation by the Office of
16 Special Counsel?

17 A We may have had a conversation.
18 Again, I don't specifically recall that
19 conversation but yeah, it's highly possible,
20 the chief and the assistant chief, that we
21 would have had those kind of conversations.

22 Q Did she ever name any person she

1 thought might be behind this investigation or
2 any other investigation of her?

3 A Yeah, well, yeah, there's one name
4 that probably surfaced, yes.

5 Q What was that name?

6 A That was Major Mike Fogarty.

7 Q And what do you recall the context
8 in which that name came up?

9 A Well, to go back to the original
10 things, let me see. Well, Fogarty was not
11 somebody that the chief, I mean, she felt --
12 had a lot of confidence in. Mike Fogarty was
13 not one of the persons she had a lot of
14 confidence in.

15 Q I'm sorry. You said not a person
16 she had --

17 A Not a lot of confidence in as far
18 as somebody I guess that she trusted to be --
19 that served her -- how do you say this? I
20 guess performed his duties always I guess to
21 her satisfaction. I don't know if that's the
22 best way to --

1 Q Had Mr. Fogarty worked for you at
2 any point when you were acting chief?

3 A Michael worked for me a number of
4 times.

5 Q Did you have any reason to lack
6 confidence in him when he was working
7 directly for you?

8 A No, I did not.

9 Q Did you understand why Ms. Chambers
10 came to lack confidence in Mr. Fogarty?

11 A Well, yeah, I guess probably one of
12 the things is he was at the time the
13 commander of the administrative branch which
14 was oversight of all the services,
15 administrative services branch, payroll,
16 budget, and all those things, and I just --
17 they did not -- I know that they did not see
18 eye to eye on how budget matters should or
19 would be handled and there were some
20 head-butting there and I think it -- that at
21 some point that was -- when there was a
22 rotation of commanders one of the commanders

1 who was rotated within that command was Major
2 Fogarty. I don't know that it's a direct
3 correlation but certainly, you know, it was
4 -- he was moved along with several other
5 majors.

6 Q Let me refocus again. He was moved
7 along with several other majors?

8 A Uh-huh.

9 Q I'll get back to that.

10 A Okay.

11 Q But my specific question is do you
12 recall any remarks by Chief Chambers to the
13 effect that Mr. Fogarty might have been
14 behind some of these investigations of her?

15 A That's possible that that was that
16 concern because, I mean, there was almost
17 from the beginning there was a concern that
18 Mike was not somebody who had served -- had
19 done anything to support her coming on to the
20 force as the chief and may have even done
21 some things to try to prevent it.

22 Q There were concerns that

1 Mr. Fogarty had done some things to try to
2 prevent Ms. Chambers from being hired as
3 chief; is that what you're saying?

4 A Not necessarily her but any outside
5 chief.

6 Q Where did you hear this from?

7 A Just in passing conversations I had
8 with the chief.

9 Q Meaning Teresa Chambers?

10 A Yes.

11 Q So Mr. Fogarty may have done
12 something to try to prevent any outside
13 person from being hired, that information you
14 learned from Teresa Chambers. Is that what
15 you're saying?

16 A I believe that that's -- yeah.

17 Q Did she tell you what things
18 Mr. Fogarty was supposed to have done?

19 A No, I don't believe we had the
20 depth of discussion to that. I don't recall
21 that we did but I know that that was a
22 concern of hers is that there may have been

1 some actions on his part and possibly others
2 but I do remember his name, you know, to not
3 bring an outside chief in.

4 Q Did she say what those things were
5 that he might have done?

6 A I don't recall particulars but the
7 only thing he would have been in any kind of
8 a position it would have been possibly an
9 administrative area as far as possibly -- in
10 the administrative areas. I don't know
11 particularly.

12 Q Did you observe him doing anything
13 to interfere with the hiring of _____

14 A Did I observe? No. I have no
15 observation or knowledge of it.

16 Q Did you ever discuss this with
17 Mr. Fogarty?

18 A No.

19 Q Do you know if Chief Chambers ever
20 discussed this with Mr. Fogarty?

21 A I do not know.

22 Q Did Ms. Chambers believe that

1 Mr. Fogarty had done any of these harassment
2 incidents which had occurred to members of
3 the executive command staff? And by those
4 harassment incidents I'm talking about
5 destroying equipment and trashing things,
6 things like that?

7 A I never have any recollection of
8 the chief specifically saying that Mike
9 Fogarty had done any of those things.

10 Q Were you yourself the subject of
11 any of this harassment after she was hired?

12 A The one instance where -- the only
13 one I'm aware that I could possibly have
14 affected me was when myself and Deputy Chief
15 Pettiford discovered the nails that were
16 thrown all around the area where the command
17 -- there's an area where the command officers
18 park, the chief, the assistant, and the
19 deputies, park their vehicles. It's a
20 reserved area.

21 And we were leaving one evening,
22 myself and Chief Pettiford, and we were

1 standing in a block having a conversation,
2 just happened to look down and saw a couple
3 of nails there, more than, you know, you
4 would expect. And we investigated it further
5 and the nails were all around just the spaces
6 where the chief, the assistant chief, the
7 deputy chiefs park their vehicles. And I
8 know it was only there because, obviously
9 seeing that many, I got suspicious about, you
10 know, like what is this.

11 And I personally walked the rest of
12 that area where those cars are parked outside
13 of it on that same side and then the other
14 side where the other cars park, official cars
15 park, and that was the only area where those
16 nails were spread so it was apparent to me
17 that this was at least either the -- it was a
18 purposeful act -- it was too many for it to
19 be not purposeful and it was too confined an
20 area to be not purposeful that they were
21 thrown right in that area.

22 I am also aware of the -- it didn't

1 affect me but I was in the building on the
2 date that someone pepper-sprayed Chief
3 Pettiford's office door. Those two I am -- I
4 have some personal involvement in.

5 Q Let me go back to the nails a
6 little bit. You said that you examined the
7 scene pretty closely?

8 A Uh-huh.

9 Q Were the nails evenly distributed
10 over an area? Were they more in one place
11 than another?

12 A They were the -- okay, the area
13 where our cars are parked are clearly marked
14 off by white painted lines. Where it comes
15 down there's a space for all five or six of
16 those cars and all the nails that were out
17 there, and there were a number of them, and
18 to the point that they were spread out over
19 that entire area, they were all totally
20 within just that marked area. They were no
21 where else on that side of the parking lot on
22 the outside and then I even went to the other

1 -- there are two -- as you come down the road
2 you can park on two sides and I stepped
3 across that bay to the other side and
4 examined and the only place those nails
5 were -- I didn't check the other bays, just
6 that one -- the only place those nails were
7 was in that area of that bay where the
8 command staff parks their cars.

9 Q Did you suspect any individual or
10 individuals having done this?

11 A I suspected that someone had done
12 it purposefully. I mean, it was too
13 restricted and it was too many nails down
14 there and it was too -- over there, just that
15 area, for it not to have been. At least my
16 assumption was or my thought was that
17 somebody had done it on purpose, yeah.

18 Q It had to have preyed on your mind
19 that somebody in particular did that. I
20 mean, did you have any suspicions that fell
21 on any particular individual because of
22 something that had recently happened?

1 A No -- no.

2 Q It could have been anybody then?

3 A It could have been anybody, yeah.

4 But to me it would have had to have been
5 somebody -- for it to be there it would have
6 had to have been somebody with a particular
7 purpose in mind simply because it was in the
8 area where only command officials park their
9 vehicles. That's the only -- that's what
10 drew me to that conclusion because it was no
11 where else in the parking lot on that
12 particular bay.

13 MR. L'HEUREUX: Counsel, I don't
14 have any further questions of this witness.
15 I invite you if you want to ask questions.

16 MR. HARRISON: Sure, I do have
17 some.

18 MR. L'HEUREUX: Or do you want to
19 take a break first?

20 MR. HARRISON: Would you like to
21 take a short break first?

22 MR. L'HEUREUX: It's probably an

1 appropriate time to do that.

2 MR. HARRISON: Why don't we do
3 that?

4 (Recess)

5 EXAMINATION BY COUNSEL FOR APPELLANT

6 BY MR. HARRISON:

7 Q Good morning, Chief Holmes.

8 A Good morning.

9 Q Mick Harrison representing
10 Ms. Chambers. I have some questions for you
11 to follow up on the questions from
12 Mr. L'Heureux. You retired in March 2004?

13 A March 20, 2004, yes.

14 Q Was that a planned date of
15 retirement that you had planned for some time
16 or was it in any way expedited by any events?

17 A It was not planned per se other
18 than the fact that I had served 33 years on
19 the force. Even when I was selected as the
20 assistant chief I had advised Chief Chambers
21 that, you know, I was for sure good for a
22 year and anything after that it was any

1 possibility. I had a job opportunity became
2 available and I took it.

3 Q I take it that no one in the
4 National Park Service encouraged you to leave
5 at that point?

6 A Absolutely not. In fact they
7 didn't know until I told them.

8 Q And I understand from your answers
9 today that you yourself had competed for the
10 job of chief of the United States Park
11 Police?

12 A Yes, I did. I was one of I think
13 like seven finalists who went forward in the
14 process. I think it was seven, six or seven,
15 one of which myself and one was Chief
16 Chambers.

17 Q Apart from the finalists in the
18 whole universe of those who might have
19 applied do you know any other persons who
20 were from inside the US Park Police that had
21 applied for that job?

22 A Yes, I do, deputy chief, then

1 deputy chief, now retired, John D. Schamp.

2 Q Any others that you recall that
3 applied?

4 A We were the only -- there were only
5 three people eligible on the force. Only two
6 of us applied, one who was eligible did not
7 apply. That was now retired Deputy Chief Ed
8 Winkel. He did not apply to be.

9 Q So, for example, Mr. Fogarty would
10 not have been eligible at that time to apply?

11 A For the chief's position, no.

12 Q You were asked some questions by
13 Mr. L'Heureux about a teleconference on or
14 about November 26, 2003, in which Mr. Murphy
15 made some comments to Chief Chambers in his
16 view of her responsibility for the Park
17 Police not getting additional budgetary
18 increases. Do you recall that?

19 A Yes.

20 Q Do you recall or do you know
21 Mr. Bruce Shaffer?

22 A Yeah, Mr. Shaffer is the

1 Comptroller for the National Park Service.

2 Q And was Mr. Shaffer on this
3 particular telephone call?

4 A Yes, in the context, well, yeah, he
5 was at the conference room at the Park
6 Service. I think he was one of the persons
7 who was there.

8 Q So he could hear and he could speak
9 if he chose?

10 A They're always on speaker phone,
11 yeah.

12 Q When Mr. Murphy made his statements
13 that he blamed Chief Chambers for the US Park
14 Police only receiving a \$3 million increase
15 in their budget did Mr. Shaffer speak up and
16 say anything in regard to that topic at that
17 time?

18 A No.

19 Q Did you know at that time during
20 the call itself that Mr. Shaffer was
21 responsible for submitting an initial budget
22 request to the Department of Interior for the

1 US Park Police only about a \$3 million
2 increase?

3 A I know that -- I believe at the
4 time I knew that one had been submitted
5 originally for the \$3 million, yeah. I don't
6 know that Mr. Shaffer was the one who did it
7 but I believe I knew that it had been
8 submitted, yeah.

9 Q So did you believe that the chief
10 was responsible for that initial \$3 million
11 figure or someone else?

12 A I didn't believe that the chief was
13 necessary because, you know, all we can do is
14 forward the figures for the budget and it
15 goes into the pot like everybody else's for
16 the Interior. National Park Service, the
17 entire National Park Service budget, the net
18 budget is submitted. The only thing we ever
19 do, you know, at our level and most bureaus
20 levels is -- I mean organizations level is
21 you submit your request and your information
22 and they scrub it, they do what they need to

1 do with it, and that's just the process.

2 Q Was it your understanding at that
3 time that the chief had requested internally
4 for the fiscal year '05 budget that the US
5 Park Police should be receiving a greater
6 amount than \$3 million increase?

7 A Yes.

8 Q And I take it you don't know who
9 was responsible for that initial request
10 going to the Department of Interior for only
11 \$3 million?

12 A Personally, no. I mean, I know
13 it's submitted and it's probably submitted
14 through the Comptroller's office but I don't
15 know, you know --

16 Q From your personal knowledge?

17 A No. The only thing -- I mean, the
18 Comptroller is only going to submit what's
19 been approved by the director as far as I
20 know so --

21 Q You had a conversation with
22 Mr. Larry Parkinson after this telephone

1 call, I believe?

2 A Yeah.

3 Q Do you recall that?

4 A Yes, I do.

5 Q Did you mention to Mr. Parkinson
6 what Mr. Murphy had said about --

7 A Yes, I did.

8 Q What was his reaction?

9 A He was -- the biggest surprise for
10 him was that after I related what the
11 conversation was he was surprised that
12 Mr. Murphy had made those kind of comments in
13 an open, if you will, open setting, public
14 setting, with all the people across the
15 nation who were involved in that conference
16 call.

17 Q And did Mr. Parkinson say to you at
18 that time anything to the effect that he was
19 also surprised that Mr. Murphy would have
20 blamed the chief for that \$3 million increase
21 because it was actually the National Park
22 Service who had prepared the initial request

1 for the '05 budget without having input from
2 the Park Police force?

3 A That may have been the
4 conversation. I don't remember the
5 particulars of it but, I mean, again, he was
6 surprised. And the reason I talked to him
7 anyway was because I think I called him on
8 another matter and just somehow he was
9 supposed to have been involved in something.
10 He was at that point involved in our
11 budgetary matters and it was just a natural
12 phone call to him about something else and
13 oh, by the way because he needed to know
14 about what was getting ready to go on.

15 Q I'm going to show you an e-mail
16 that appears to be from you to Chief Chambers
17 and I have not made copies. I'll show it to
18 counsel first, and I just wanted to use it to
19 refresh your memory.

20 A Sure.

21 Q I'm not going to mark it at the
22 moment. I'm going to hand it to you. Just

1 take a moment and see if that refreshes your
2 memory on what Mr. Parkinson may have told
3 you after that November 26th telephone call.

4 A Okay.

5 Q Does that refresh your memory at
6 all?

7 A Yeah, yes.

8 Q And so, having your memory
9 refreshed, would you agree that Mr. Parkinson
10 mentioned to you at that time that he was
11 also surprised that Mr. Murphy had made those
12 comments in light of the fact that the
13 National Park Service of which Mr. Murphy is
14 the deputy director had originally submitted
15 a budget request for the US Park Police
16 without getting input from the force?

17 A Right, yes, it does.

18 Q Thank you. I take it from your
19 answer to Mr. L'Heureux but I'll ask you just
20 to be precise that you don't recall any
21 specifics that Mr. Murphy would have said in
22 that call that he thought the chief should

1 have done differently that he was criticizing
2 her for. Do you recall any of those
3 specifics?

4 A No, he had a very short
5 conversation and the gist of it is what I
6 noted in the e-mail.

7 Q You indicated Mr. Murphy spoke up
8 rather quickly in response to Terry
9 Carlstom's question, that he used a raised
10 voice, appeared to be excited, and that was
11 unusual for him. Is that correct?

12 A From my dealings with him, yes.

13 Q He's usually pretty low key?

14 A Pretty much, yeah. I have very
15 limited dealings with him but all occasions
16 I've dealt with him he's been pretty much --

17 Q Did Murphy appear defensive to you
18 in his remarks in that regard? Was he --

19 A No, he was just very matter of fact
20 in his statements. I don't think he was
21 defensive, no. He responded to the question
22 or the issue that was raised by Regional

1 Director Carlstom, and so I don't think I'd
2 call it defensive.

3 Q But excited with a raised voice?

4 A Yes.

5 Q Was Chief Chambers on this
6 telephone call?

7 A No, as I had stated earlier, no,
8 she was not. I was -- the reason I was on
9 the call was because she was not available
10 that day. She wasn't on active duty that day
11 and as her assistant chief and the acting
12 chief at that time I was the one who took the
13 call or who participated in the conference
14 call.

15 Q So you were there on the chief's
16 behalf?

17 A Yeah, I was in my office on the
18 speaker phone on the chief's behalf, right.

19 Q Basically representing the chief's
20 position?

21 A Yes. Also on the conference call
22 was, I believe, Shelly Thomas, who is our

1 financial -- works in our finance office.

2 Q And would the other participants in
3 the call such as Mr. Murphy have known that
4 Chief Chambers was not on the call and that
5 you were there instead?

6 A Sure, that's -- they knew that
7 going in. I mean, she always let them know
8 when she was going to be out and I'm probably
9 -- the normal procedure was she would have
10 let them know that I would be calling in her
11 stead so there was no surprises there.

12 Q At the time of the telephone call I
13 take it that the discussion about the \$3
14 million, I think you called a pass back was
15 from the OMB, do you know, or was it from the
16 Department of Interior?

17 A I think it was OMB. OMB does the
18 pass back. It had been submitted by
19 Interior, OMB had reviewed it, and they gave
20 the pass back.

21 Q And was it your understanding this
22 was for the fiscal year '05 budget?

1 A Yes.

2 Q Looking at the fiscal year you
3 would have been in, actually operating under
4 at that time, November 2003, I believe your
5 fiscal year --

6 A We were already at '04. We started
7 '04 on October 1, 2003.

8 Q Thank you. Did you know at that
9 point in time whether not for the new budget,
10 for '05 fiscal year, but for the fiscal year
11 budget you were in before the US Park Police
12 had enough money allocated for that existing
13 year to see their mission through?

14 A Well, it's difficult to say that
15 early in the fiscal year whether we had
16 enough. We had what we had. I mean, I think
17 it was somewhere in the ball park of \$78
18 million and we're talking a November
19 conversation. The budget year had just
20 started October 1st.

21 Q So it was early?

22 A Yeah.

1 Q You mentioned to Mr. L'Heureux that
2 there was a shortage of officers in the US
3 Park Police. Was that shortage in existence
4 as of the time of this call, November 26th,
5 2003? Were you short at that point?

6 A Yeah, Park Police I guess from a
7 historical perspective Park Police is always
8 -- we've always in my 30-some years -- well,
9 I won't say always but for a number of years
10 in my 30-some years on the force pretty much
11 operated below what some would call our
12 authorized strength or --

13 Q Recommended strength?

14 A Recommended strength or whatever
15 you want to call the figure. We never had
16 reached the numbers that anybody even ever
17 said that we could reach for a variety of
18 reasons.

19 Q So the shortage was of several
20 years duration and would you say that that
21 shortage still exists today?

22 A Absolutely.

1 Q What is your opinion as the
2 assistant chief of police at that time? What
3 impact would such a shortage of officers have
4 on the ability of the US Park Police to
5 protect the public on the parkways and the
6 various parks that the Park Police protect
7 and the ability to protect the national
8 monuments? How did you feel about the impact
9 of the shortage of officers on that mission?

10 A Well, having lived for so many
11 years with a shortage of officers, I mean, I
12 guess the best answer I can give you there is
13 that while we always recognize that we never
14 felt that we had the number of people we
15 needed to perform the duties I had a kind of
16 a saying that, you know, we were -- from that
17 aspect we were always, we, the Park Police,
18 were always our own worst enemy because no
19 matter what we said about the shortages
20 assignments were given, functions were done.
21 We always got the job done.

22 So from that point it became -- and

1 I understood that it became a difficult thing
2 for those from a budgetary point of view and
3 nonlaw enforcement personnel to hear you say
4 well, we're short and we need more people to
5 do the job but yet the job always got done.
6 I always kind of got -- you know, my personal
7 opinion -- got the impression well, wait a
8 minute. How are you going to be short but
9 yet, you know, you're doing the job? So, I
10 mean --

11 Q Well, let me ask you a different
12 way. Did you believe that the Park Police
13 were able, for example, to prevent traffic
14 fatalities on the parkways or were there
15 still some fatalities happening?

16 A There were.

17 Q Were there still crimes in the
18 parks on occasion?

19 A There were.

20 Q Did you perceive there to be a real
21 or was it an imaginary threat of a terrorist
22 attack on the national monuments?

1 A Oh, I have to certainly say that it
2 was the real possibility of that, absolutely.

3 Q Do you think the events of
4 September 11, 2001, and the terrorist attacks
5 then that included the attack on the Pentagon
6 and the apparently aborted attack on the
7 Capital with the Pennsylvania plane that was
8 downed changed the nature of the job of the
9 US Park Police?

10 A Well, not the nature of the job but
11 the level at which we had to do what we were
12 doing anyway.

13 Q So more demanding in the sense of
14 doing that protective role you always played?

15 A Yeah, we've always provided foot
16 patrols at all the monuments. I mean, I
17 started off as a foot patrol officer at many
18 of those monuments but the events of
19 September 11th certainly created a very new
20 and real need for us to increase and enhance
21 the number of -- our measures of --
22 everything that we did around those monuments

1 to protect them because they were a very real
2 possibility of them being a target.

3 Q In the questions that you were
4 asked by Mr. L'Heureux regarding the
5 discussions in August 2003 among the
6 executive command staff regarding the
7 potential detail of Ms. Blyth how would you
8 describe the position of the executive
9 command staff on that question? Were they of
10 many different minds? Were they unified in
11 one position? How would you describe that?

12 A As a group, as I stated before, I
13 think everybody had the expressed concerns
14 about all the things that we're being asked
15 to do and all the assignments that we got.
16 From an administrative point of view, from
17 information that needed to be passed back to
18 Interior -- I mean to the National Park
19 Service, a lot of it involving responding to
20 the NAPA study, there was a great concern by
21 all that you pull this cog out of this wheel.
22 What is it going to do because I mean, quite

1 honestly, there were some things that
2 Ms. Blyth was asked to do that personally, if
3 you gave them to me, it's not -- it was not
4 -- if you were my forte you know, I'm, you
5 know, I'm a cop and while I've got some
6 administrative skills it would not be in the
7 best interest for me to have tried to do
8 those things. So that's the context in which
9 I'm talking about. Yeah, it would have had
10 an effect on how and when things got done
11 but, again, as I stated to Mr. L'Heureux,
12 would it have stopped the force from running?
13 Nothing stops the force from running.

14 Q Understood.

15 A Yeah, 200 and some years old so --

16 Q It may have impacted on the
17 efficiency?

18 A Possibly, yes.

19 Q And perhaps short-term
20 effectiveness?

21 A Yes.

22 Q What was your position in regard to

1 Chief Chambers functioning as the chief of
2 police? Did you believe she was performing
3 in a way that, how shall I say, promoted the
4 efficient and effective performance of the US
5 Park Police mission?

6 A Yes.

7 Q And did you stand behind her in
8 that?

9 A Yes.

10 Q Do you recall ever having a
11 discussion with Director Mainella of the
12 National Park Service or Deputy Director
13 Murphy after the transfer of Ms. Blyth was,
14 how shall we say, reversed by Deputy Griles
15 in which you stated that if anyone could
16 essentially help the US Park Police
17 accomplish their mission it would be Chief
18 Chambers?

19 A The context as I remember the
20 context in which I made that statement was --
21 well, it was a meeting that had been called
22 by Director Mainella. She wanted to meet

1 with the executive staff of the Park Police
2 minus the chief.

3 Q Minus the chief?

4 A Yeah, and actually I was on my way
5 on vacation and I did the phone call. I did
6 a conference call from my car on the way to
7 my vacation and the other members of the
8 executive staff, Ms. Blyth, Deputy Chiefs
9 Pettiford and Beam, were all in the office at
10 Interior with the Director and the Deputy
11 Director.

12 Q I see.

13 A As I remember at that point, and
14 this was like -- this was probably around
15 September 2004, early September, 2004.

16 Q 2004, we're still approaching
17 September 2004.

18 A I'm sorry, 2003, September, 2003.

19 Q Yes, sir.

20 A And it was -- I mean, it was
21 apparent that there was already -- at that
22 time there was some chinks in the armor or

1 chinks in the relationship, if you will,
2 between the chief and the director and the
3 deputy director. And I don't know all the --
4 if it was philosophical, if it was all the
5 things like that, but, you know, it was
6 obvious that there were -- there was kind of
7 a -- the relationship was not as solid as it
8 had been prior to that.

9 And I don't remember the exact
10 thing but the director wanted to talk to us,
11 the executive staff, about -- kind of talk to
12 us about what was going on between her and
13 Mr. Murphy and the chief and I guess get our
14 input or give us an opportunity to express
15 what we felt about it, you know, and it was
16 about a -- actually about a two-hour
17 conversation. In fact it lasted so long I
18 almost -- I mean my battery on my cell phone
19 actually went out.

20 But the comment that you're talking
21 about was at the end of it just before I
22 signed off. My comment to the director and

1 Mr. Murphy was that my opinion was that the
2 chief and the director and Mr. Murphy were
3 all solid and accomplished leaders, that they
4 -- all of them as far as I knew did their
5 jobs well and, knowing just what I knew about
6 it, not knowing it all, it appeared that
7 there was some -- whatever the breach was
8 that had come between them the three of them
9 basically needed to -- my recommendation was
10 they needed to go somewhere and iron out
11 their differences because they were just too
12 good of leaders to let what it appeared to me
13 to be possibly some personal stuff infringe
14 on them doing what needed to be done for the
15 Park Police and for the National Park
16 Service.

17 And I think my closing comments was
18 at the time was look, if, you know, if you
19 can't get this done with Teresa Chambers
20 you're not going to get it done with
21 necessarily anybody. I think that was kind
22 of verbatim what I -- kind of -- it's just

1 what I said and, you know, the gist of what I
2 said because I felt that there was a team in
3 place between those three that could get it
4 done but they had to move past what I
5 perceived to be possibly some personal, and I
6 didn't say this but I guess in my mind maybe
7 even some ego things going on within that
8 little circle of three very astute,
9 knowledgeable, intelligent, capable people.

10 Q And those three were?

11 A Chief Chambers, Director Murphy --
12 I mean Deputy Director Murphy, and Director
13 Mainella. To me all of this hinged on those
14 three coming to some kind of meeting of the
15 minds and getting whatever they needed to get
16 settled between them, working relationships
17 or whatever, if the force was going to move
18 forward. Ben Holmes' personal opinion.

19 Q That's what I'm asking. I
20 appreciate your comments. Who told you this
21 meeting was requested or was to happen?

22 A Oh, I don't remember who. I mean

1 it was --

2 Q How did you find out?

3 A I don't remember. I mean, it came
4 -- obviously it had to come from somebody in
5 the director's office that the meeting was
6 going to be held, and I think it went to the
7 thing where hey, look, I'm going to be on
8 vacation. I'm leaving town. So they said I
9 could call in so it probably was set up by
10 either the director or Mr. Murphy's secretary
11 but I knew that the meeting was going to take
12 place. All of us knew we were supposed to,
13 you know, be a part of that.

14 Q And when did you first learn that
15 the chief was not intended to be a part of
16 that meeting, Chief Chambers?

17 A Probably at the time we were told
18 to be there because I think we were told that
19 it was a meeting with just us and she wasn't
20 so I don't know how many days ahead but I
21 knew when I called in for the meeting that
22 she was not going to be a participant in the

1 meeting.

2 Q Did anyone ask you to go out of
3 your way to not inform the chief that that
4 meeting was happening? Were you told not to
5 tell the chief?

6 A Oh, no.

7 Q So present, to your knowledge, at
8 the meeting would have been Director
9 Mainella, Deputy Director Murphy, Ms. Blyth,
10 Deputy Chief Pettiford, Deputy Chief Beam?

11 A Yeah, in that office setting and
12 then myself on the phone. As far as I know
13 -- I'll say this. As far as who was there
14 those were the only voices I recognized I
15 know as participating in the meeting. If
16 there was anybody else there --

17 Q You wouldn't have known?

18 A I would not have known. But I do
19 not believe and nothing has come to my
20 attention that would have indicated that
21 there was anybody else there but those
22 parties and then myself on a cell phone.

1 Q Do you recall who chaired the
2 meeting or orchestrated the discussion?

3 A The director started the meeting
4 off, I think.

5 Q Do you recall what the director,
6 Ms. Mainella, would have said either at the
7 beginning or at any point during that call?

8 A We talked about so much and, to be
9 quite honest with you, I mean, you know, I
10 don't -- I've given you basically the tenure
11 of the meeting is that it was kind of talking
12 to us to try to find out where do we go from
13 here and address I guess whatever -- their
14 perception of where things were and what they
15 wanted to do with the force and -- or not so
16 much what to do with the force but I guess it
17 was all centered around where we were or
18 where things were with them and Chief
19 Chambers.

20 Q Did anyone ask you or the other
21 participants if they had any problems with
22 Chief Chambers or concerns?

1 A I don't recall that that was a
2 direct question that was asked.

3 Q Apart from it being a direct
4 question do you believe that one of the
5 purposes of the meeting on the part of the
6 director or deputy director was to solicit
7 from the other participants any perceived
8 problems or concerns they had about the
9 chief?

10 A That's probably a fair statement,
11 yeah.

12 Q Did the issue of Ms. Blyth's
13 proposed detail by Mr. Murphy and its
14 reversal by Deputy Griles come up in that
15 conversation?

16 A You know, I don't remember the time
17 line on that, if that had even occurred. I
18 don't remember if that had occurred or not.

19 Q Which came first?

20 A Yeah, I'm not sure which had --
21 which occurred first.

22 (Discussion off the record)

1 THE WITNESS: I'll say this. I
2 don't recall the conversation that we had
3 that day touching on that particular thing.
4 I just don't remember which came first.

5 BY MR. HARRISON:

6 Q Let me ask you this. Do you
7 remember when you took your vacation?

8 A Yeah, it was early September 2003.
9 It was right around the first or second week
10 of September because it was right after Labor
11 Day.

12 Q And do you recall whether the
13 intervention by Deputy Griles to reverse the
14 transfer of Ms. Blyth happened on or just
15 before the day she was to report on her new
16 detail which would have been August 25, 2003?

17 A If that's what you're telling me.

18 Q Assuming that it was, your vacation
19 would have come after that and this call
20 would have come after that?

21 A Okay, I can accept that.

22 Q Did Director Mainella mention any

1 concerns of her own regarding Chief Chambers
2 on this call?

3 A Again, I don't remember verbatim
4 but it was a -- the impression that I'm left
5 with there is that, again, acknowledgement
6 that there was some problems with their
7 relationship and I think from us trying to
8 maybe -- from us get a sense of how to move
9 in a direction that would maybe even repair
10 that or they could move forward. I mean, it
11 wasn't -- and, again, it was a very
12 uncomfortable situation about, you know, us
13 all talking about our boss, actually our boss
14 and our bosses.

15 I mean, because if you think about
16 it all three of them are our superiors and it
17 was for me -- I don't know about the rest of
18 them but for me it was a rather awkward
19 situation but, you know, you do what you're
20 instructed.

21 Q Did Mr. Murphy raise any concerns
22 of his regarding Chief Chambers during that

1 conversation?

2 A Particular ones I can't say, no.

3 Q And I understand the limits of
4 memory with the passage of time. Let me ask
5 you a more general question. Do you have a
6 memory today apart from the details that you
7 had a sense from Mr. Murphy that he was
8 unhappy with the chief during that
9 conversation?

10 A I can't say unhappy because he -- I
11 don't think he or the director did not point
12 to us out any chapter and verse about here's
13 what she's done that we don't like or
14 anything like that. It was not that kind.
15 In fact actually I think we ended up -- they
16 were kind of soliciting information from us
17 and I think we ended up doing a lot because
18 as I remember she kind of -- the director
19 kind of started off with the questions since
20 I was the senior member there, kind of -- I
21 don't remember the exact question but it was
22 kind of for me, Ben, what do you think about

1 all of this, and, I mean, we just kind of
2 talked. I mean, I don't know that he
3 expressed anything in particular that the
4 chief has done this and we're dissatisfied
5 with that or anything like that, no.

6 Q And I take it it was Director
7 Mainella who invited you to speak perhaps
8 first among the group?

9 A Yeah.

10 Q How did she set the stage for that?
11 Did she say we have a general concern or we
12 have these specific concerns. What do you
13 think? I mean, when she asked you what you
14 thought she must have in some way said what
15 do you think about this?

16 A Yeah, and, honestly, that part I
17 can't remember. I know the meeting was about
18 the chief. It was about her performance. It
19 was about their relationship and those type
20 things and, you know, so, riding down the
21 road, so I didn't -- I mean, I obviously took
22 no notes and it's just, you know but again,

1 the gist of it when I come out of it was what
2 I said at the end was look, you guys got to
3 work this thing out for the good of the force
4 and for the service.

5 Q Did you get a sense in this
6 discussion with the director and deputy
7 director that they in particular were
8 reviewing options in their minds as to how to
9 proceed in regard to Chief Chambers?

10 A I can't -- no, I can't say that I
11 got a sense that they expressed to us that
12 they were doing anything like that.

13 Q They didn't say they were
14 considering some action against the chief at
15 the time?

16 A Oh, no.

17 Q Do you recall whether the deputy
18 chief or Ms. Blyth stated anything negative
19 or positive regarding Chief Chambers in that
20 call?

21 A I don't think anybody stated
22 anything negative.

1 Q You were asked by Mr. L'Heureux and
2 you described some of your own knowledge
3 about some events that I would classify as
4 instances of harassment of a kind, the nails
5 in the parking lot, the pepper spray on the
6 door. There were some other events I think
7 that occurred. They may not have affected
8 you personally that would fit in that same
9 category. Would you agree with that?

10 A There was one other one I was just
11 advised of but I'll not -- that was the one
12 where I think Deputy Chief Beam found one or
13 two used condoms on his -- either in the
14 vicinity of or on the back of his cruiser.
15 But that's only what was vocalized to me. I
16 didn't -- I had no personal witness or
17 knowledge of that.

18 Q You had been with the US Park
19 Police for how many years?

20 A At the time of my retirement 33
21 years and about three months, almost three
22 months.

1 Q These incidents of harassment that
2 we've talked about in part in this
3 conversation today, what time period were
4 they occurring in?

5 A The nail business occurred
6 sometime -- I don't remember the exact time
7 frame but probably sometime in the probably
8 mid year of 2003. I don't remember the exact
9 date.

10 Q So that would be about six months
11 or so, maybe less, before Chief Chambers was
12 placed on administrative leave?

13 A Yes, in that ball park, yes.

14 Q In your 33 years with the force
15 prior to your retirement had instances of
16 harassment of US Park Police officers or
17 officials occurred of this nature before this
18 set of events that you know?

19 A Probably.

20 Q Do you remember any?

21 A Do I particularly remember any?

22 Q Yes.

1 A Are you speaking about officers in
2 general or just command officials?

3 Q I would say command officials.
4 Well, let me ask you did you perceive that
5 the instances of harassment we're talking
6 about here maybe six months before Chief
7 Chambers was placed on administrative leave
8 were targeting command officials?

9 A The nail for sure, my opinion and
10 belief, again as I explained earlier about
11 the location of the nails and the specific
12 area in which they were deployed, in my
13 opinion that was as directed act towards cars
14 of the administrative staff -- I mean of the
15 command executive staff, yes.

16 Q And the condom incident was
17 specific to a member of the command executive
18 staff?

19 A As it was related to me, yes.

20 Q And the pepper spray on the door
21 knob was specific to --

22 A Specifically on Deputy Chief

1 Pettiford's door, yeah.

2 Q So there did seem to be a pattern
3 or several incidents targeted to command
4 executive staff members?

5 A Yes.

6 Q Had that happened before in your 33
7 years of experience?

8 A I don't particularly recall that it
9 had. I can't say that it hadn't.

10 Q Nothing comes to mind?

11 A No.

12 Q Did you have any theory of your own
13 as to why these events might be happening?
14 I'm not asking you to name anyone as a
15 suspect but as to the motive?

16 A In most of those instances the only
17 theory I could come up with if I have a
18 theory would be that obviously it was done
19 because somebody was displeased with things
20 that are going on or maybe the way the force
21 was being run. I mean, that's just, again,
22 that's my opinion. That's my theory. I mean

1 that's --

2 Q Did you understand that certain
3 members of the US Park Police force prior to
4 Chief Chambers being selected as the chief
5 and prior to the two deputies being selected
6 by Chief Chambers, all three from the
7 outside, were unhappy with the fact that all
8 three of those high level US Park Police
9 officers were basically coming from the
10 outside of the force and not promoted from
11 within?

12 A Yeah.

13 Q There was some dissatisfaction?

14 A Yes, and I understand that.

15 Q And, of course, you were competing
16 for in some sense the chief's position?

17 A No, not in some sense, I did
18 compete.

19 Q You did so you could have been
20 dissatisfied, too, but I assume you didn't
21 partake of any harassment yourself?

22 A No, I didn't.

1 Q And you wouldn't consider that to
2 be a proper response to not being selected
3 for a position?

4 A No.

5 Q The pepper spray incident, that was
6 actually on the office of a deputy chief?

7 A The interior door that goes -- the
8 office area -- two deputy chiefs are housed
9 in a suite of offices. There's an outer door
10 area where the secretaries sit, the
11 administrative executive assistants to those
12 two deputies, and then their doors into their
13 personal offices and it was on his door into
14 his office.

15 Q And were one or more individuals in
16 the building, how shall I say, affected in
17 any way by the pepper spray?

18 A A couple of the secretaries were
19 affected. I mean, pepper spray, you spray
20 it. It can get a little nasty.

21 Q Irritating?

22 A Yeah.

1 Q Is it a crime to release pepper
2 spray in that manner under those
3 circumstances?

4 A If we found somebody who was
5 responsible for it and they had discharged it
6 like that, destruction of property, it could
7 be -- it could be I'm sure a crime that could
8 be attributed to it, probably a misdemeanor
9 but I would say it's a crime. It certainly
10 would be a violation. If not a criminal
11 matter it's certainly a violation of United
12 States Park Police general orders and
13 policies and procedures.

14 Q If I walked up to a police
15 officer's vehicle and sprayed pepper spray on
16 their door knob with the vehicle occupied do
17 you think I'd be arrested?

18 A Disorderly conduct at a minimum.

19 Q Would the person who did that
20 pepper spray release have to have been
21 someone with security access to the building,
22 in other words a member of the police force?

1 A It should be but, as with all
2 security, there are always lapses and, I
3 mean, we have visitors in the building. If
4 it's done right it should have been somebody
5 who either had normal access or would have
6 been given authorized access as a civilian or
7 a visitor or something like that. But you
8 would expect that it would have been somebody
9 who --

10 Q The odds were within the force
11 itself?

12 A Yes.

13 Q Do members of the US Park Police
14 force get issued pepper spray?

15 A Yes, we do.

16 Q Did it ever come to your attention
17 that the chief's office itself had a security
18 breach and that somebody had accessed her
19 office and her computer without authority to
20 do so?

21 A Yes.

22 Q Do you know how many times that

1 might have happened?

2 A I don't recall how many but, I
3 mean, one is too many. That did eventually
4 cause us to have the -- have a security alarm
5 system placed in the office, the suite of
6 offices of the chief, on I think it was her
7 door and my door.

8 Q Is it fair to say that if a person
9 or persons responsible for these events,
10 pepper spray, nails, unauthorized access to
11 offices, and so forth, were identified,
12 caught, if you will, they could have expected
13 to have been terminated from their position?

14 A It's probably fair to say that
15 based on evidence and that kind of negligence
16 or that kind of a deliberate act and
17 certainly a removal would have been at least
18 -- a removal from the force would have at
19 least been considered and probably proposed
20 with the ultimate termination.

21 Q There would be due process
22 involved?

1 A Yeah, there's a due process in
2 that, yeah.

3 Q So the person or persons engaging
4 in these acts basically were taking a risk?
5 They had something to lose if they were
6 caught, perhaps their career?

7 A Yeah, that's a fair statement.

8 Q So is it fair to say that the
9 person or persons doing this either were very
10 upset and angry or they had something to gain
11 or felt they had something to gain from these
12 acts?

13 A I can't get into anybody's mind
14 about why they would have or wouldn't have
15 done it. I just can't do that.

16 Q Do you know what Mr. Michael
17 Fogarty's position was on the hiring of a
18 chief of the US Park Police from the outside?

19 A Major Fogarty, like many members of
20 the force, including myself, were upset about
21 the fact that the Interior Department of the
22 National Park Service had decided to go to an

1 outside chief. In fact what kind of, if you
2 will, added insult to injury when Chief
3 Langston retired in April 2001 at that time
4 the Park Police reported -- the Chief of the
5 Park Police reported directly to the regional
6 director for the National Capital Region.
7 Chief Langston retired that April. Chief --
8 I mean Mr. Carlstom, who was the regional
9 director, had already started the process for
10 selecting a new chief and actually those of
11 us who wanted to compete, I believe we had
12 already submitted our applications and a
13 message came down from the Interior
14 Department, actually came from the Interior,
15 not even from the Park Service.

16 If I remember it the memorandum
17 came from or whatever, e-mail, came from I
18 think it was Mr. Bob L— which basically
19 told Regional Director Carlstom to cease and
20 desist that process, that Interior and the
21 Park Service were thinking about going
22 another way with that, and then later on they

1 announced that the chief's position would be
2 open to all sources, that they were going to
3 be -- and it was very -- while they didn't
4 say it it was very clear that they were
5 looking for -- at least they were seriously
6 considering bringing in a chief from the
7 outside. I mean it was -- we were not
8 excluded from competing but, I mean, you
9 know, you stop the process, where you're
10 going to get an inside chief for sure and it
11 was -- the inference was -- is that they were
12 very seriously considering an outside chief.

13 Q And what office actually ended up
14 making the selection of the chief? I take it
15 it didn't turn out to be Mr. Carlstom who did
16 that?

17 A No, because at that point it had
18 also been decided that whoever the new chief
19 was that they were going to change the
20 reporting structure and elevate that position
21 to -- the chief would report directly to the
22 director of the National Park Service and

1 while the deputy director would be the day to
2 day operational report ultimately the chief's
3 position was reporting to the Office of the
4 director of National Park Service. So the
5 final selection was made -- well, I guess --
6 I don't know what the exact process was but
7 at least the director made a recommendation
8 and it was probably concurred with by someone
9 at the -- at least the assistant secretary or
10 deputy assistant secretary's position. But
11 as I understand it it was the director -- the
12 director's either selection or recommendation
13 that Chief Chambers get the position.

14 Q So when the reporting structure
15 changed for the chief of the US Park Police
16 which I take it would have been in February?

17 A February 2001 -- sorry, February
18 2002 when the new chief came on board.

19 Q That's when it was effective?

20 A The structure was effected with her
21 hire.

22 Q And I take it someone informed you

1 of that change in the command structure?

2 A Yeah, we were all informed, yeah.

3 Q Do you remember how you got that
4 word?

5 A Not particularly. I know at some
6 point there was something done in writing to
7 that effect.

8 I don't know if it was before or
9 after. I certainly heard it by, you know,
10 word of mouth or -- yeah.

11 Q And what was your understanding
12 once that change did take effect as to who
13 was the line authority for the chief of the
14 US Park Police? Who was the next step up in
15 line authority?

16 A Deputy Director Murphy.

17 Q And after that Director Mainella?

18 A Director Murphy, yeah -- I mean
19 Director Mainella, yes.

20 Q I take it you're familiar with the
21 fact that when the chief came on board she
22 effectuated a transfer Mike Fogarty from his

1 position over the US Park Police budget to
2 another position? Do you recall that?

3 A Yeah, he was transferred to
4 Commander of Criminal Investigations branch.

5 Q Do you know how Mr. Fogarty felt
6 about that transfer?

7 A Never discussed it with him.

8 Q What would Mr. Fogarty's duties be
9 in that new position of Criminal
10 Investigations branch?

11 A Just that it -- our Criminal
12 Investigations Branch is a nonuniformed
13 investigative function here in Washington
14 metropolitan Area. They're in charge with
15 investigating all levels of part one and part
16 two criminal offenses up to and including
17 homicides, burglaries, any -- if there is a
18 case where an officer originally takes the
19 case and a serious enough incident then the
20 Criminal Investigations Branch personnel,
21 detectives and investigators, who will be
22 responsible for any follow-up on that case,

1 if there's an arrest on it the prosecution,
2 presentation for court. It's a -- in fact
3 it's a position I served in for about five
4 years, Commander of Criminal Investigations.

5 Q Did Mr. Fogarty apply for one of
6 the two deputy chief positions when they were
7 open?

8 A He applied for both.

9 Q For both?

10 A Yeah.

11 Q And, of course, he received
12 neither?

13 A Correct.

14 Q As it turned out?

15 A Yes.

16 Q How did he feel about the fact that
17 he was not selected for a deputy chief
18 position?

19 A I don't -- I can only surmise how
20 he feels, the same way I would feel, upset
21 but I don't -- I never -- it's not anything I
22 ever discussed with him.

1 Q At what point in time, to your
2 knowledge, did the harassment incidents cease
3 if they ever did?

4 A I beg your pardon?

5 Q If they ever ceased.

6 A Again, the three basic incidents
7 that we talked about and then I guess if you
8 want to include the breaking-in of the
9 chief's office, the last event of those that
10 I'm aware of -- depends on when the incident
11 happened with Deputy Chief Beam's car. I
12 don't know when that happened but it was --
13 the last one that I know about a time frame
14 would be the pepper spraying of Chief
15 Pettiford's door.

16 Q And when was that approximately?

17 A It was sometime in 2003, probably,
18 I don't know, mid to late -- mid summer to
19 late fall, during fall, I would imagine.

20 Q So it may have been within maybe
21 two or three months of the chief being placed
22 on administrative leave?

1 A Possibly, yeah.

2 Q Do you recall ever asking Chief
3 Chambers a direct question whether there was
4 a future for Mike Fogarty on her team?

5 A I believe we had that discussion,
6 yeah.

7 Q Do you recall the chief's answer?

8 A In essence that she recognized the
9 talents that he brought to the table and that
10 I guess kind of the ball would be in his
11 court, that, you know, she would I guess kind
12 of needed -- I think had some -- there needed
13 to be a conversation between the two of them
14 to find out where they were and if in fact he
15 could come to the table and be a team -- I
16 guess a team player. But it was not ever
17 that it was not a possibility but certainly
18 it would have to be some insight on her part
19 that he could operate in a way she would need
20 him to operate as the chief of police and be
21 a member of her team. I think that's
22 generally.

1 Q So if Mr. Fogarty were to adopt
2 what the chief perceived maybe to be a
3 constructive attitude towards working on the
4 team that she wouldn't preclude his
5 participation? Is that fair?

6 A That's fair, yeah.

7 Q Do you recall being asked to attend
8 a meeting on or about December 5, 2003, with
9 Chief Chambers?

10 A Yes, I do.

11 Q And did you attend?

12 A Well, I attended, yeah, yes.

13 Q Just tell me what happened on that
14 day, if you could.

15 A Okay, we were -- the chief and I
16 think I both received an e-mail from
17 Mr. Murphy. It was around I guess December
18 maybe 2nd or 3rd stating that on the 5th that
19 he and the director wanted myself and Chief
20 Chambers to respond to their office I believe
21 at 4:00 o'clock on that Friday to discuss
22 some general Park Police issues.

1 And we were -- earlier that day we
2 were supposed to have attended a graduation
3 for one of our officials out of the FBI
4 National Academy. The chief inquired if that
5 would possibly interfere with that and
6 Mr. Murphy said no, we needed to be there
7 because that was the time that they needed
8 the meeting set.

9 And I think the chief later
10 e-mailed him and wanted to try to find out
11 who -- first of all since we're talking about
12 general Park Police issues if there's
13 anything we needed to do to prepare for the
14 meeting and those kind of things. And I
15 don't remember if he responded back or not
16 but at any rate I don't think we had -- there
17 was anything we needed to do other than just
18 kind of be there.

19 Q And so did you ever come to know in
20 advance of showing up at the meeting what was
21 expected of you in that meeting?

22 A No.

1 Q Walk us through your arrival at the
2 meeting and what happened?

3 A I guess prior to us responding up
4 there somehow we got a call. I don't know if
5 the chief got the call directly, whatever,
6 but we were instructed not to park out in
7 front of the Interior Department up on the C
8 Street side where we normally park and we
9 were directed to come into one of the
10 underground parking areas and come up to the
11 director's suite from there.

12 Q Was that unusual?

13 A Yeah.

14 Q And did you know why you were
15 directed to do that?

16 A No.

17 Q So what happened next?

18 A We arrived. The lieutenant from
19 the chief's office drove I think myself and
20 the chief and we were in the car, drove up
21 there. We went up and -- Beck accompanied us
22 up there and this was a little before 4:00

1 o'clock or —— after 4:00 and we were
2 waiting outside at the normal area anteroom
3 there waiting for the meeting to come up.
4 Mr. Murphy stepped out of his office and said
5 I'll be with you all in a few minutes.

6 And we waited and some other folks
7 went into Mr. Murphy's office. I don't
8 remember all who they were. Some of them I
9 think I remember. And went into his office
10 and at a later time, a few minutes after
11 that, Mr. Murphy came -- somebody came out
12 and called -- I believe it was Mr. Murphy,
13 called Chief Chambers in. And it was
14 Mr. Murphy and he said to me, Ben, I'll be
15 with you shortly. And she went into the
16 meeting and I stayed outside.

17 Q Did you get the impression you were
18 not welcome in the meeting at that time?

19 A I got the impression that the
20 deputy director told me he'd be with me and
21 so whether or not me being welcome --

22 Q That wasn't ambiguous? He didn't

1 want you to come in yet?

2 A Oh, no, it was clear that I wasn't
3 invited to the meeting.

4 Q Do you know a Mr. Hugo Teufel?

5 A Yeah, I do.

6 Q And was he present in the meeting?

7 A Yes, he was.

8 Q Do you know a Mr. Dave Davies from
9 Human Resources?

10 A Yes.

11 Q Was he present?

12 A Mr. Davies was there, yeah.

13 Q And was there one or more special
14 agents present?

15 A There was a female special agent,
16 Special Agent Pat Buccello. I believe she
17 was inside at the meeting. Then after the
18 chief went in a couple more gentlemen kind of
19 showed up hanging in the hallway area there
20 and one I knew as a special agent. I think
21 he had just newly arrived. I think it was
22 Don ——— who was newly assigned and there

1 was a gentleman I didn't know.

2 Q What did they do if anything?

3 A Kind of stood around outside of the
4 door and after a period of time I actually
5 went forward and I asked the young man I
6 didn't recognize if he was a special agent
7 and I asked him why was he there and if it
8 had anything to do with what was going on
9 inside the office and he kind of looked down
10 and said well, yeah, and I said well, why --
11 and I asked him why do you need to be here,
12 and his response to me was just in case, and
13 my response was basically what the hell does
14 that mean. And -- because then it was
15 becoming abundantly clear to me that
16 something was going on.

17 And I caught myself at that point
18 and I basically said to him and I backed off
19 because I said to him well, I'm sorry. I
20 said that because this is -- you're just
21 doing your job. And that was pretty much the
22 end of the conversation I had with them until

1 later on when I guess the meeting was
2 concluded and Chief Chambers came out of the
3 office and at that point Mr. Murphy invited
4 me in.

5 Q Did you notice anything different
6 about Chief Chambers when she exited the
7 meeting than when she went in?

8 A Yes, I did.

9 Q What was that?

10 A She had no badge and the first
11 thing I noticed was she -- her weapon had
12 been removed, was not in her holster.

13 Q Right. Did you make any
14 exclamation or reaction to that observation?

15 A I probably did.

16 Q And I take it it would have been
17 surprise and perhaps disappointment, some
18 exclamation to that effect?

19 MR. L'HEUREUX: Objection, leading.

20 MR. HARRISON: Well, I was trying
21 to be tactful.

22

1 BY MR. HARRISON:

2 Q Do you remember what you said?

3 A I don't remember the exact words
4 but it was probably something that my mom
5 would not have been proud of me saying.

6 Q I assumed as much.

7 A Yeah.

8 Q Thank you, sir. I take it you were
9 surprised by what happened to the chief at
10 that point?

11 A Yeah.

12 Q You had no warning prior to that
13 meeting that the chief was going to have her
14 police authorities removed?

15 A No.

16 Q So you were invited into the
17 meeting. What happened next?

18 A Came in. At that point Mr. Murphy
19 was there. I believe Hugo Teufel was still
20 there and Dave Davies was there and I believe
21 the first thing that Mr. Murphy asked me was
22 -- well, I think the first thing -- I don't

1 remember which happened first but I think
2 along the lines of the fact that -- I think
3 they told me that Chief Chambers had been
4 suspended and I asked them if they could tell
5 me why my chief had been suspended and they
6 told me it was a personnel matter and that
7 they could not discuss that with me and that
8 she was -- I guess she was free to tell me
9 whatever she chose to tell me but they could
10 not discuss the matter with me. And then the
11 next thing they asked me was if I felt that
12 with her stepping down if I was -- if I would
13 be comfortable serving as the acting chief of
14 police and my response basically was well,
15 it's not about my comfort. I'm the second in
16 command of the force and yes, I will serve in
17 that capacity.

18 Q Was any other statement made by any
19 party to that meeting while you were there?

20 A I think at some point after that
21 the director came --

22 Q Ms. Mainella?

1 A Ms. Mainella, Director Mainella,
2 came into her office and we had I guess a
3 discussion about what was going on and I
4 don't remember all of it at the time but, I
5 mean --

6 Q What was the gist?

7 A It wasn't anything about the chief.
8 I guess it was about where we go from here.
9 One of the things I think I remember
10 recommending to them is that somebody from
11 that office needed to very quickly get the
12 message to the rest of the force about what
13 had happened to the chief and I suggested the
14 possibility of a meeting where either the
15 director or the deputy director would come up
16 because I just didn't -- and I expressed it.
17 I didn't think it was my responsibility to be
18 the one to try to relay that message so I
19 asked them if they could do that and we
20 talked about a possible time.

21 This was a Friday and we talked
22 about a possible time the following week and

1 I think it was settled that we eventually had
2 that meeting which Mr. Murphy chaired on that
3 following Tuesday. One of the reasons --
4 actually here's another time I'm going to
5 take a trip. It was my birthday weekend and
6 I was on my way -- my wife and I were on our
7 way to New York for the weekend and we
8 weren't going to be back until Tuesday so I
9 asked him like if you have the meeting, first
10 of all, I think I need to be there as the
11 acting chief and if it would be possible to
12 have it on that following Tuesday, which it
13 was done at 1:00 o'clock that following
14 Tuesday. I came back a little bit early from
15 New York to attend that meeting.

16 Q Director Mainella, you indicated,
17 showed up after the chief had departed the
18 meeting?

19 A Uh-huh.

20 Q How much time would you say elapsed
21 between the time the chief left and when
22 Director Mainella showed up?

1 A Minutes. I mean, it was -- I don't
2 think it was probably any much more than --
3 certainly I don't think any more than five
4 minutes.

5 Q And do you think that was
6 coincidental that the director showed up
7 shortly after --

8 A That would be speculation on my
9 part, sir. I can't --

10 Q Let me ask you differently. Did
11 you observe Mr. Murphy make any telephone
12 calls after the chief left?

13 A I believe I remember him getting on
14 the phone, yeah.

15 Q Do you know whether he might have
16 called Director Mainella and said it was okay
17 for her to return?

18 A I know he got on the phone. I
19 don't know for sure who he talked to.

20 Q Do you recall what might have been
21 said in the call from his end?

22 A I don't particularly remember, no.

1 Q The events that happened to Chief
2 Chambers on that day, having her badge and
3 gun and police authority taken away, had you
4 seen that happen to a police official before?

5 A An official or just a police
6 officer?

7 Q Meaning not an officer, a higher
8 official?

9 A Within the United States Park
10 Police, no.

11 Q I take it you have observed that
12 happen to a police officer?

13 A I've done it myself, yes, sir.

14 Q And under what circumstances would
15 that occur?

16 A In most instances it's for -- that
17 they've either committed or alleged to have
18 committed some egregious either criminal act
19 or serious violation of the force policies or
20 general orders which would preclude them from
21 effectively going out and serving the public.
22 As an instance, well, something that, you

1 know, you're responsible for enforcing the
2 law and you break the laws that you're
3 responsible for enforcing it's kind of
4 difficult to put you out there because you
5 can be impeached as a witness.

6 So for certain serious crimes and
7 violations of policies and procedures of not
8 only the Park Police but the Interior
9 Department of the federal government we would
10 -- we suspend someone's police powers and
11 remove their weapons and badge.

12 Q Did you have any reason to believe
13 or understand that there was justification on
14 December 5th for removing Chief Chambers'
15 badge and gun at that time?

16 A I was given no justification or
17 indication. As I stated to you earlier, I
18 asked and I was told it was a personnel
19 matter and they couldn't discuss it with me.

20 Q Have you received any information
21 since that meeting that to your understanding
22 would justify the chief's badge and gun being

1 taken away at that time?

2 A Have I received any?

3 Q Yes, sir.

4 A I mean, it's my opinion but, I
5 mean --

6 Q Well, you're welcome to share it
7 with us.

8 A Well, I can't say that I have.

9 Q Before Director Mainella came and
10 you discussed with her how to proceed was
11 there anything else said in the meeting with
12 Mr. Murphy, Mr. Teufel, and Mr. Davies that
13 you haven't told us?

14 A Not that I recall.

15 Q You were present at the follow-up
16 meeting, I take it, on the next Tuesday or
17 so?

18 A Yeah, I believe that was the 8th.
19 Well, it was that following Tuesday.

20 Q The 5th would have been Friday, the
21 9th, apparently?

22 A Yeah, the 9th, yeah.

1 Q And did someone speak regarding
2 what had happened to Ms. Chambers in that
3 meeting?

4 A I believe the two persons from
5 Interior who intended that meeting, as I
6 remember, were Mr. -- Deputy Director Murphy
7 and I believe Mr. Larry Parkinson attended
8 that meeting also.

9 Q And what was said in that meeting
10 as you recall?

11 A I think they spoke generally of the
12 fact that, again, the chief had been
13 suspended. I don't know if they said with
14 pay but what her situation was, that I was
15 the acting chief of police, and they talked
16 generally about, you know, just moving
17 forward with the force and then spoke of the
18 support for the Park Police and the job that
19 the officers do and then I think at that
20 point they opened the meeting up for
21 questions. That's generally what happened.

22 Q Was there anything said in response

1 to questions that you remember?

2 A They answered every one of them.

3 Q Was there anything specifically
4 said about why this was happening to the
5 chief?

6 A No, again it's a personnel matter
7 and that was clear from the beginning. They
8 were not going to discuss the particulars of
9 her case or her -- that situation.

10 Q Was there any indication at that
11 time that Mr. Parkinson and I've forgotten
12 the other person you said was present --

13 A Mr. Murphy.

14 Q Mr. Murphy, did either of them make
15 any reference to them considering at that
16 time that Chief Chambers might be removed
17 from office or proposed to be removed?

18 A Well, no, they didn't but I
19 wouldn't have expected them to because,
20 again, they've already said this is a
21 personnel matter and they're not going to
22 discuss it so they wouldn't have discussed

1 that either way, no.

2 Q You were asked by Mr. L'Heureux
3 some questions about the detail of Ms. Blyth.
4 After the chief was suspended on December 5th
5 did you have any communication with anyone
6 regarding the issue of detailing Ms. Blyth?

7 A I'm sure within the force, I mean,
8 I'm sure the conversation with the chief
9 about it. I don't remember what the
10 particulars of the conversations were other
11 than --

12 Q Let me make my question more
13 specific. Did any of your superiors ever
14 discuss with you the issue of the detail of
15 Ms. Blyth after the chief was suspended?

16 A Oh, after the chief was suspended?

17 Q Yes, sir.

18 A No.

19 Q Do you know whether anyone ever did
20 detail Ms. Blyth after the chief was
21 suspended?

22 MR. L'HEUREUX: Objection to

1 suspension. There's no suspension that's
2 occurred in this case.

3 MR. HARRISON: Well, we just had
4 testimony to the contrary but your objection
5 is noted.

6 BY MR. HARRISON:

7 Q So, putting semantics aside and
8 I'll use the word "suspension" because that's
9 what I perceive happened with Chief Chambers,
10 do you know whether after the chief was
11 suspended there was any discussion about
12 detailing Ms. Blyth and whether she ever was
13 detailed?

14 A I was never party to any
15 discussions and no, she was not detailed.
16 She continued to work within the force.

17 Q Do you know whether Ms. Blyth's
18 duties changed in any way after Chief
19 Chambers was suspended?

20 A Originally, no.

21 Q And when you say "originally" what
22 do you mean?

1 A They changed somewhat --

2 Q Eventually?

3 A Yeah.

4 Q Over a period of time? Tell us
5 what you remember about the change, when it
6 occurred, what it might have been?

7 A Well, I don't -- well, I don't know
8 where you're going but, I mean, it's -- from
9 the time the chief was -- from December 5th
10 forward basically there were no changes in
11 her responsibilities and what she was tasked
12 to do. And the only place I know for sure
13 that a change occurred was on my retirement.

14 Q What was the nature of that change
15 at that time?

16 A Just the areas of responsibility.
17 She had an adjustment in the budget office
18 being -- coming out from under her control
19 and being -- well, from under her direct --
20 and then going -- being placed directly to
21 the office of the chief, the new acting
22 chief.

1 Q Who became the new acting chief at
2 that time?

3 A Deputy Chief Dwight Pettiford.

4 Q Was it the new acting Chief
5 Pettiford's decision to make that change in
6 Ms. Blyth's duties to take that budget
7 control out from under her?

8 A Okay, can I just -- can I ask a
9 question?

10 Q You can try. We may not be able to
11 answer it.

12 A Okay. You're moving into an
13 area -- I guess my -- well, is -- where does
14 this fit into the picture of --

15 Q The case?

16 A Yeah, because --

17 Q Can't tell you that.

18 A Oh, you can't tell me that?

19 Q Sorry.

20 A Because, I mean, you're asking me
21 things about what happened after.

22 Q Yes, and, trust me, we have a

1 reason to ask it but I'm not at liberty to
2 tell you before you answer.

3 A All right. Her duties, if you want
4 to put a pin at a point of time it would be
5 when I -- effective after I retired and I'm
6 -- and I am the one who made those changes as
7 the acting chief and the outgoing chief.
8 There's a memorandum to that effect.

9 Q So you would have initiated that
10 change as the outgoing chief?

11 A I initiated that change and prior
12 to initiating it I sent my recommended
13 changes up to the director's office and they
14 concurred with my changes, and a memorandum
15 was put into place for issue to the force
16 designating how the force would be managed
17 upon my retirement.

18 Q And I take it the director's office
19 that would be Ms. Mainella?

20 A I believe the person who signed off
21 on it was Mr. Murphy.

22 Q I see.

1 A Yeah.

2 Q Had anyone suggested, recommended,
3 or encouraged you to make a change in
4 Ms. Blyth's duties upon your retirement to
5 the effect that the budget responsibilities
6 would move to the chief?

7 A No.

8 Q That was your own initiative?

9 A Yes.

10 Q I'm taking from your testimony that
11 after the chief was suspended and you were
12 the acting chief that neither Mr. Murphy or
13 Director Mainella complained to you or put
14 any pressure on you to detail Ms. Blyth?

15 A No.

16 Q So I'm understanding that
17 correctly?

18 A That's correct.

19 Q As of the time of your retirement
20 had there been an effective --

21 A Can we take a --

22 MR. HARRISON: Absolutely.

1 (Recess)

2 BY MR. HARRISON:

3 Q Chief Holmes, when you became the
4 acting chief, which I take it was December 5,
5 2003, were you given any special instructions
6 or training regarding how to deal with the
7 media or the press?

8 A Was I given -- no.

9 Q Were you given any special
10 instructions or training on how to deal with
11 Congress at that time?

12 A No.

13 Q Were you given any special training
14 or instruction at that time on how to deal
15 with disclosing or not disclosing budget
16 information?

17 A No.

18 Q Had you been given any special
19 training in those matters prior to becoming
20 acting chief on December 5, 2003?

21 A Specific training, no.

22 Q Have you ever stamped any document

1 "law enforcement sensitive"?

2 A Personally, no.

3 Q Do you know of anyone in the US
4 Park Police who's ever physically stamped a
5 document "law enforcement sensitive"?

6 A Yes.

7 Q Who would that have been?

8 A I believe that when we -- any time
9 we do our special events packages for any of
10 the major demonstrations or things that we do
11 that if it's not stamped it's at least
12 included in there in the verbiage that the
13 information is law enforcement sensitive and
14 caution to the personnel using it to make
15 sure that it's not laid around and things
16 like that but yeah, we do use that term "law
17 enforcement sensitive."

18 Q You're not sure whether those
19 documents actually get stamped?

20 A I know it's on there. I mean, it
21 may get stamped.

22 Q These would be your plans for

1 special events?

2 A Any major special event that we --
3 especially those ones that are more
4 controversial like your demonstrations,
5 International Monetary Fund and those things
6 like that, not so much the events but the
7 demonstrations because it's particular
8 information that you don't want out to
9 participants of --

10 Q Like the police plans were handling
11 certain contingencies?

12 A Right, and our numbers and things
13 like that, yeah.

14 Q Did you ever get any training on
15 how to classify something as law enforcement
16 sensitive?

17 A No.

18 Q Have you ever read a policy that
19 defines "law enforcement sensitive" as a
20 term?

21 A I don't believe so, no.

22 Q Would you consider a fact that was

1 observable by members of the public by, say,
2 walking up to a monument and noticing the
3 number of police staff there to be law
4 enforcement sensitive?

5 A Just the fact that they could count
6 the numbers themselves?

7 Q Yes, let's say there were four
8 uniformed officers at the Washington Monument
9 and I walk up and I can see that. Would that
10 fact that there were four uniformed officers
11 be law enforcement sensitive?

12 A Just the fact that the four --

13 Q Yes.

14 A Only those four officers?

15 Q Yes, sir.

16 A I mean, common sense would kind of
17 dictate it wouldn't be to me.

18 Q Are you familiar with the police
19 communications radio conversion project or
20 something similar to that where there was
21 meant to be an upgrading of your
22 communications?

1 A Oh, absolutely, yeah.

2 Q Did that ever happen before your
3 retirement?

4 A Not before my retirement, I don't
5 think it's happened since.

6 Q Were you aware that a certain
7 number of millions of dollars were earmarked
8 to help that upgrading take place?

9 A I don't remember exact figures but
10 yeah, there was money earmarked for Park
11 Police for that project, yes.

12 Q Do you know whether that money has
13 been spent?

14 A I believe it has been if not spent
15 at least obligated.

16 Q For that purpose?

17 A I believe so.

18 Q Or some other purpose?

19 A I believe it -- I don't know.

20 Q Not sure?

21 A I believe it has been obligated for
22 the project but I can't tell you for sure.

1 Q Are you familiar with an
2 organization called the Organization of
3 American States?

4 A Yes.

5 Q Are you aware of any "complaint"
6 ever filed by the Organization of American
7 States regarding US Park Police?

8 A I'm aware of a situation. No,
9 there was not -- I don't believe there was a
10 complaint filed, no.

11 Q You've never seen such a complaint?

12 A No. I believe I know the incident
13 you're talking about but I don't believe it
14 was a complaint.

15 Q Were you ever interviewed by
16 members of the NAPA study team?

17 A Several times. Numerous times,
18 yes, both studies.

19 Q Were you ever interviewed by
20 members of the NAPA study team after Chief
21 Chambers was suspended on December 5th?

22 A Yeah, I was serving as the acting

1 chief of police then, yes.

2 Q Do you know when that might have
3 been?

4 A It was -- I don't remember exactly
5 but it may have been sometime in late
6 December or early part of 2004.

7 Q Do you know whether the NAPA team
8 expressed a desire at that time to interview
9 Chief Chambers?

10 A Yes.

11 Q Do you know who would have
12 expressed that desire?

13 A It was -- I think it was Ken Rider,
14 and we had a conversation and he expressed
15 that he wanted to get in contact with the
16 chief and the only thing I could tell him was
17 basically information that I knew about, that
18 he needed to contact the director's office to
19 give him -- because, first of all, I told him
20 under the -- what I knew about the situation
21 was that, first of all, I didn't think the
22 chief if he called her he wouldn't speak

1 directly -- she wouldn't speak directly about
2 that and he needed to clear that through the
3 Park Service director's office first.

4 Q So you did not yourself prohibit
5 him from contacting the chief?

6 A No.

7 Q But you did direct him to the
8 director?

9 A Yes.

10 Q Do you know what happened as a
11 follow-up to that; did he contact the
12 director?

13 A I don't know.

14 Q Did you happen to notice an article
15 in the Washington Post on December 2, 2003,
16 in which Chief Chambers was mentioned?

17 A Yeah, yes.

18 Q How did it come to your attention?

19 A I look at the newspaper every
20 morning before I go to work and usually try
21 to check for headlines and things that may
22 impact what we have to do that day or just

1 world events and I think that was my first
2 recollection of the article was when I saw
3 it.

4 Q So you noticed during your routine
5 review of the paper?

6 A Uh-huh.

7 Q Did anyone bring the article to
8 your attention during the course of the day
9 on December 2nd?

10 A I was talking -- it was pretty much
11 everything we talked about that day.

12 Q It was the hot topic that day?

13 A Yeah.

14 Q Did any of your superiors mention
15 it to you?

16 A The only superior who I talked with
17 about it was the chief.

18 Q You didn't talk to Mr. Murphy about
19 it?

20 A No.

21 Q Or Director Mainella?

22 A No.

1 Q Did you ever have occasion to talk
2 with Mr. Murphy at any time after December
3 2nd in which the article in the Post came up
4 in a conversation?

5 A A conversation with -- I don't
6 recall a conversation discussing that article
7 with Mr. Murphy, no.

8 Q Did you ever hear second hand
9 whether Mr. Murphy had made any remarks about
10 the article in the Post?

11 A No.

12 Q The same question for Director
13 Mainella, did you ever hear whether she had
14 made any remark about the Post article?

15 A No, and let me say this. I say no,
16 there's always the possibility but if
17 anything had come to me second hand I would
18 have just missed it anyway but no, to the
19 best of my recollection, no, I had no second
20 hand information from anybody nor anything
21 directly from them about that article.

22 Q Did you ever have a discussion with

1 Mr. Parkinson in which the Post article may
2 have come up?

3 A I don't recall having one. I'm not
4 saying I didn't but I don't recall having
5 one.

6 Q Did you ever discuss Chief Chambers
7 with Mr. Parkinson after December 5th when
8 the chief was suspended?

9 A Probably -- I don't believe so but
10 it's possible.

11 Q I'm taking from your answers but
12 correct me if I'm mistaken that you did not
13 discuss with Mr. Murphy anything regarding
14 the actions against Chief Chambers after her
15 suspension?

16 A When I was told on the 5th that it
17 was a personal matter and they would not
18 discuss it with me I never approached the
19 subject with anybody in my hierarchy again.
20 If they wanted me to know they would have
21 told me so I was -- that was not my
22 responsibility then. My responsibility then

1 was running the force.

2 Q And I take it that not only did you
3 not inquire but none of your superiors ever
4 broached the subject with you after that?

5 A No, and I didn't expect them to.

6 Q You came to know at some point, I
7 take it, that on or about December 17th or
8 18th that Mr. Murphy proposed to remove the
9 chief from her position. Did you come to
10 know that at some point?

11 A Yeah, I believe so. I think it was
12 -- I guess it was the news, I guess, the way
13 we found out about it, yeah.

14 Q No one of your superiors came and
15 talked to you personally about it?

16 A No, I don't believe so, no.

17 Q Did you ever talk about that
18 proposed removal with Mr. Murphy?

19 A No.

20 Q And no one else in the hierarchy, I
21 take it?

22 A No.

1 Q Were you ever given any training
2 regarding restrictions on what's called
3 lobbying Congress?

4 A I don't -- no, I don't believe
5 anything specific to that. I mean, unless
6 some of the things you're asking I may have
7 covered in the annual ethics --

8 Q Training?

9 A Yeah, training like that.
10 Specifically that, no, I don't recall ever
11 being -- attending any course.

12 Q In lobbying?

13 A Yeah.

14 Q Have you ever heard the term "anti-
15 deficient" in regard to the budget?

16 A Yeah.

17 Q Do you recall who might have
18 mentioned the term?

19 A I heard it throughout my career.
20 You can't -- I mean, "anti-deficient"
21 basically means at the end of the fiscal year
22 you've got to have either -- you've got to

1 balance the books or have money left over and
2 if you don't balance the books you're
3 anti-deficient.

4 Q And you're not supposed to be anti-
5 deficient?

6 A You're not supposed to be anti-
7 deficient. I've heard it from many quarters
8 mostly as I've gone up through the ranks
9 where I've had to be involved in the process.
10 I would say clearly from -- for sure from
11 deputy chief on you knew what "anti-
12 deficient" was. You knew you couldn't end
13 the year in the red.

14 Q Don't do that, aren't supposed to
15 do that?

16 A Yeah.

17 Q When Chief Chambers was chief she
18 had initiated certain inspections of security
19 at the icons, national monuments. Were you
20 familiar with the fact that she was having
21 those inspections done?

22 A Yes.

1 Q Do you know whether those
2 inspections continued after the chief's
3 inspection?

4 A I think for a period of time.

5 Q Have they ceased?

6 A I don't know for sure. I believe
7 so but I'm not absolutely sure.

8 Q They may have ceased after your
9 retirement?

10 A Yeah.

11 Q Was there anyone designated in the
12 US Park Police as the person who had the
13 authority or responsibility to classify a
14 document as law enforcement sensitive?

15 A I don't know. I mean, it's -- no,
16 I don't know.

17 Q Who was the chain of command for
18 you when you were serving as assistant chief
19 to Chief Chambers? What was your entire
20 chain of command as far as you can take it
21 step by step?

22 A Sure, Chief Chambers, Deputy

1 Director Murphy, Director Mainella, Deputy
2 Assistant Secretary for Fish, Wildlife, and
3 Parks --

4 Q Craig Manson?

5 A No -- well, yeah, Craig Manson,
6 yeah, he -- in fact he was the assistant
7 secretary, yeah, Deputy Assistant Secretary
8 Craig Manson. I think Mr. Manson answered to
9 -- I believe he answered to -- I don't think
10 _____ was in that, no.

11 Q Mr. Griles?

12 A Yeah, he may have gone directly to
13 Mr. Griles and then to the secretary.

14 MR. HARRISON: No further
15 questions. Thank you very much.

16 MR. L'HEUREUX: I have no further
17 questions, Mr. Holmes. I appreciate you
18 coming here and cooperating.

19 (Whereupon, at 11:55 a.m., the
20 deposition of BENJAMIN J. HOLMES
21 was adjourned.)

22 * * * * *

