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BEFORE THE  
MERIT SYSTEMS PROTECTION BOARD  
WASHINGTON REGIONAL OFFICE

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TERESA C. CHAMBERS,	x
	:
Appellant,	: Docket No.
vs.	: DC-0752-04-0642-I-1
	: Judge E.B. Bogle
DEPARTMENT OF INTERIOR,	:
	:
Agency.	x

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Thursday, August 26, 2004  
Washington, D.C.

DEPOSITION OF:

DAVID G. DAVIES,

a witness, was called for examination by counsel for the appellant, pursuant to Notice and agreement of the parties as to time and date, beginning at approximately 2:09 o'clock, p.m., in the offices of Public Employees For Environmental Responsibility, 2001 S Street, N.W., Suite 570, Washington, D.C. 20009, before Ronnie C. Palmer, a court reporter and Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

1 APPEARANCE OF COUNSEL:

2 For the Appellant:

3 KENTUCKY ENVIRONMENTAL FOUNDATION

4 BY: MICK G. HARRISON, ESQUIRE

5 128 Main Street

6 Berea, Kentucky 40403

7 859-321-1586

8 For the Agency:

9 McNAMARA & L'HEUREUX, ESQUIRES

10 BY: ROBERT D. L'HEUREUX, ESQUIRE

11 1522 King Street

12 Alexandria, Virginia 22314

13 703-535-3014

14 and

15 U.S. DEPARTMENT OF INTERIOR

16 OFFICE OF THE SOLICITOR

17 BY: JACQUELINE JACKSON, ATTORNEY-ADVISOR

18 1849 C Street, N.W.

19 Washington, D.C. 20240

20 202-208-6848

21 ALSO PRESENT:

22 Teresa Chambers

1	I-N-D-E-X	
2	Witness:	Page:
3	David Davies	
4	Examination by Mr. Harrison	4
5	- 0 -	
6	Exhibits: (Included in transcript)	Page:
7	Exhibit Number 1 marked for identification	
8	to the Davies deposition	71
9	(documents)	
10	- 0 -	
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1 WHEREUPON,

2 DAVID G. DAVIES,

3 a witness, was called for examination by counsel for  
4 the appellant, and after having been duly sworn, was  
5 examined and testified as follows:

6 EXAMINATION BY COUNSEL FOR

7 APPELLANT

8 BY MR. HARRISON:

9 Q State your name.

10 A David G. Davies.

11 Q What is your job position at this time?

12 A I am a division chief for the branch  
13 division of Labor and Employee Relations for National  
14 Park Service in the Washington office.

15 Q And how long have you been in that  
16 position?

17 A Since 2000.

18 Q Let me ask you first what are your duties  
19 in that position?

20 A Presently, I am the chair of labor  
21 employer relationship policy for the National Park  
22 Service. I oversee some operational responsibilities

1 for the Washington office, but primarily it's  
2 developing policies in employee relations.

3 Q Okay. So, would you take part in  
4 individual personnel decisions as a matter of course  
5 or would you not?

6 A I would take part upon request. That  
7 would be upon request of the Director or the Deputy  
8 Director or one of the associate directors. I would  
9 also take part if one of the specialist who worked  
10 for me asked for my assistance or I thought that they  
11 needed my assistance.

12 Q Okay. Now, since 2000 I believe you said  
13 you have been in this position. How many times have  
14 you been called for one of those reasons to take and  
15 act the part in an individual personnel action?

16 A Numerous times.

17 Q So, it's not unusual?

18 A Not unusual.

19 Q What's the most I don't want a name but  
20 the most recent action you have been involved with?

21 A A proposed suspension. I take it back.  
22 A removal.

1 Q And how recent is that?

2 A The decision was issued yesterday.

3 Q That's pretty recent.

4 A That's pretty recent.

5 Q Do you recall during your tenure working  
6 with the Department of Interior personnel any  
7 occasion arising when certain disciplinary actions  
8 were taken regarding the then chef of the United  
9 States Park Police, Teresa Chambers?

10 A Yes.

11 Q Did you play some role in any of those  
12 actions?

13 A In which actions?

14 Q Any of those disciplinary actions against  
15 Chief Chambers?

16 A Yes.

17 Q Which actions do you recall having played  
18 a part in?

19 A At the time the proposal to remove was  
20 being developed, I assisted in reviewing the action.

21 Q Essentially the formulation of the  
22 proposal to remove?

1           A           Yes.

2           Q           Do you recall any other involvement in  
3 any action against Chief Chambers?

4           A           For formal disciplinary matters, I don't  
5 recall anything.

6           Q           So I take it from your answer that you  
7 had no involvement in the issuance on December 2nd,  
8 2003, of an instruction to Ms. Chambers to have no  
9 further interviews with the media?

10          A           I don't think that was formal  
11 disciplinary action, but I was aware of it.

12          Q           Apart from what we decide to call it,  
13 were you involved in that instruction in any way?

14          A           I was aware of it, and I believe I  
15 discussed it with Deputy Director Murphy.

16          Q           Do you recall when you might have first  
17 discussed such an instruction with Deputy Director  
18 Murphy?

19          A           Shortly before the time that it was  
20 issued.

21          Q           Within an hour?

22          A           Within a day or the day before.

1 Q Do you recall what day it would have been  
2 issued?

3 A No.

4 Q Do you recall the circumstances that led  
5 to the issuance of that instruction to the Chief to  
6 have no further interviews?

7 A The conversations I would have had would  
8 have been the context of conversations that he was  
9 having with me and with members of the Solicitor's  
10 Office.

11 Q Okay.

12 MR. L'HEUREUX: Given that response, I  
13 have previously instructed this witness and will so  
14 instruct him here he is not to describe any  
15 conversation in which he participated in which the  
16 Solicitor was one of the participants or intended to  
17 be a participant. We're objecting and not producing  
18 information on that the attorney-client privilege and  
19 where applicable the work product exemption.

20 MR. HARRISON: Where applicable. Okay.

21 MR. L'HEUREUX: Let me explain that  
22 because it's liable to come again and again here. We

1 are taking the position if for example one of the  
2 personnel specialist was called by Mr. Murphy and  
3 asked to produce an outline or sketch out a draft of  
4 some document which he intended to send to the  
5 counsel for an opinion in that instance the personnel  
6 specialist was acting as the client's agent for  
7 purposes of creating a client communication to the  
8 attorney.

9           We're asserting a privilege over that  
10 communication. And the work product exemption where  
11 applicable to the document that we may be talking  
12 about.

13           On the other hand, we will not assert a  
14 privilege or exemption where Mr. Murphy, for example,  
15 or the principal, is communicating with the personnel  
16 specialists directly to seek input and do those  
17 things. There's no intention for the Solicitor to  
18 become involved, no intention, for any piece of paper  
19 that might be sent to the Solicitor for an opinion.

20           For example, if Mr. Davies and Murphy are  
21 having a communication in which the Solicitor is not  
22 intended by Mr. Murphy to be involved in any way,

1 then I will not instruct the witness in any way  
2 concerning that communication and we believe that  
3 you're free to look into it.

4 If on the other hand the purpose of the  
5 communication or the actual fact of the communication  
6 involved the Solicitor's seeking their opinion, or  
7 the Solicitor's communicating back what their  
8 opinions are, we will assert privileges over those  
9 communications. If I have made myself clear,

10 MR. HARRISON: I believe so. We'll find  
11 out as we go forward. I am going to ask the  
12 questions that I believe would be eliciting non-  
13 privileged information. And you will, of course,  
14 assert anything that you wish.

15 MR. L'HEUREUX: I do not have a grip on  
16 all these possible conversations. If he sense a  
17 problem, he will ask for consultation.

18 MR. HARRISON: I don't have a problem.  
19 Consultation on a subject would be a different  
20 matter.

21 BY MR. HARRISON:

22 Q Sir, I will be asking and please don't be

1   offended by the questions that I may not know whether  
2   they elicit information that will be privileged or  
3   what your counsel considered privileged. I will at a  
4   later point have the judge decide what is privileged  
5   and what is not privilege. If anything appears to  
6   you to be not privileged of course, give us the full  
7   answer if you would.

8                   Do you know from your memory whether you  
9   discussed -- and I am not asking at the moment what  
10  the discussion was -- whether you discussed the issue  
11  of the instruction to Chief Chambers regarding not  
12  talking with the media prior to the day it was  
13  issued?

14           A       Yes.

15           Q       And you seem relatively certain about  
16  that. Is there something that makes you relatively  
17  certain about the timing? I don't mean to talk you  
18  out of it. I'm just wondering.

19           A       I can remember having conversations about  
20  it.

21           Q       Those conversations come to mind in your  
22  memory?

1           A           I can remember seeing the Chief on  
2 television at some point either before or after those  
3 conversations.

4           Q           Okay.

5           A           So, I kind of knew the context in which  
6 the matter was being discussed.

7           Q           Understood. Do you believe that the day  
8 you saw the Chief on television was the day before  
9 the instruction was issued?

10          A           I don't specifically remember if it was  
11 before or after.

12          Q           Do you know whether the instruction might  
13 have been issued the same day as you saw the Chief on  
14 television?

15          A           It may have been.

16          Q           Did you have a discussion with Mr. Murphy  
17 in the absence of any attorneys regarding that  
18 instruction to the Chief not to have further  
19 interviews?

20          A           The only conversation I recall with Mr.  
21 Murphy before attorneys were present were me  
22 essentially cutting the conversation off and saying

1 that we needed to have the attorneys present.

2 Q Okay. Who initiated that conversation  
3 prior to the attorneys arriving? Was it you or he?

4 A He did.

5 Q Was this by telephone or in person?

6 A I don't know how he initiated it  
7 specifically.

8 Q When he basically cut the conversation  
9 off and said let's wait for the attorneys, were you  
10 with him in person at that time?

11 A Yes. I cut the conversation off.

12 Q Oh, you did. Okay. Do you know whether  
13 it was he or you who decided to bring the attorneys  
14 in at that point?

15 A I suggested it. He made the decision.

16 Q Prior to that point in the conversation,  
17 what had Mr. Murphy said to you?

18 A He said that he was concerned about  
19 conversations the Chief might have with the media  
20 concerning privileged budget matters.

21 Q Is that a quote do you think or a  
22 paraphrase?

1           A           It's a paraphrase.

2           Q           Was there any other issue of concern to  
3 Mr. Murphy stated at that time other than the budget  
4 matters?

5           A           It may have been, but I don't  
6 specifically remember any other ones.

7           Q           Had Mr. Murphy given you anything in  
8 writing on this issue you prior to the attorneys  
9 arriving?

10          A           No.

11          Q           Okay. Do you know whether Mr. Murphy had  
12 drafted something regarding that instruction prior to  
13 the attorneys arriving?

14          A           I don't know.

15          Q           Without telling me -- Well I guess you  
16 could since it's in the record. I leave it to you.  
17 Did you at some point see a written instruction that  
18 was to be given to the Chief of police regarding her  
19 future interviews with the media?

20          A           Before it was given to her?

21          Q           Before she received it.

22                       MR. L'HEUREUX: Just a minute.

1 MR. HARRISON: You want to step out?

2 MR. L'HEUREUX: I think we can do it  
3 here.

4 THE WITNESS: I probably did.

5 BY MR. HARRISON:

6 Q Do you recall drafting any part of that  
7 statement yourself?

8 A No.

9 Q Were you physically present when it was  
10 drafted?

11 A I don't recall being physically present  
12 when it was drafted.

13 Q Would you have personal knowledge of who  
14 had drafted it?

15 A No.

16 Q Did anybody ask you for a decision to  
17 approve or disapprove of that instruction in your  
18 capacity as a Human Resources person?

19 A It's not by my role normally to approve  
20 it or disapprove it. I would be consulted with it,  
21 and I would give my advice.

22 Q So, the answer would be no, not as I

1 stated the question?

2 A That's right.

3 Q Refining the question, that insight, were  
4 you asked to consult on the question of giving  
5 instruction to the Chief regarding further media  
6 interviews?

7 A Yes.

8 Q And I take it that request came from Mr.  
9 Murphy?

10 A Yes.

11 Q Were there any other agency officials  
12 involved in the discussion to your knowledge  
13 regarding the instruction given to the Chief about  
14 further media interviews other than yourself, any  
15 attorneys which I am not interested in at the moment,  
16 and Mr. Murphy?

17 A Dave Barna.

18 Q From the communications office?

19 A Uh-huh.

20 Q Anyone else?

21 A It was probably someone else in his  
22 office, but I don't recall specifically. And there

1 may have also been someone in the communication  
2 office from the Department. But specifically, I  
3 don't recall those persons.

4 Q Do you know a Mr. John Wright?

5 A No. His name isn't familiar to me.

6 Q Do you recall the substance of the advice  
7 that you gave as a Human Resources official on the  
8 question of the instruction to Chief Chambers  
9 regarding media interviews?

10 A I would have done it in the context of  
11 the attorneys being present.

12 MR. L'HEUREUX: You may answer.

13 THE WITNESS: Could you give me the  
14 question again.

15 BY MR. HARRISON:

16 Q Do you recall the substance of the advice  
17 that you gave to Mr. Murphy on the question of the  
18 instruction to Chief Chambers regarding further media  
19 interviews in your capacity as the Human Resources  
20 official?

21 A My advice to him would have been to pose  
22 the instruction in a manner to make it a legal

1 instruction. To make it such that it was specific  
2 enough so that it could be understood, that it was  
3 specific enough so that it was clear to her what she  
4 could do or what she could not do, and why he was  
5 giving it to her.

6 Q Was there any other substance to your  
7 advice other than what you have identified?

8 A Not that I can recall.

9 Q I take it you had occasion to read the  
10 final instruction at some point? Is that fair?

11 A Yes.

12 Q Did you in your opinion feel like that  
13 instruction met your criteria?

14 A I would need to look at it again.

15 Q At the time?

16 A At the time as I recall, yes. It did  
17 follow my advice.

18 Q Do you know how that instruction was  
19 delivered to the Chief?

20 A Specifically, no.

21 Q Do you know whether there was a plan to  
22 deliver it by e-mail, or otherwise, or by phone?

1           A           As best I can recall, it was a written  
2 instruction. It was going to be delivered by e-mail.

3           Q           Okay. From your memory, do you recall  
4 whether that instruction, as you read it, would have  
5 encompassed any restriction on communications with  
6 the Congress or Congressional staff?

7           A           I don't recall if that instruction  
8 discussed with her or not. She could speak to  
9 Congressional staff or not.

10          Q           And to be clear, in regard to what you  
11 mean by your answer, I believe you are saying,  
12 correct me if I'm mistaken, that you remember the  
13 instruction and you don't believe it encompassed  
14 communication with Congress? Is that fair?

15          A           I don't remember if it encompassed  
16 Congress.

17          Q           You're not sure, then?

18          A           I'm not sure.

19          Q           Okay. Do you recall being asked by Mr.  
20 Murphy to give him your advice as a Human Resources  
21 official regarding any proposed restriction on Chief  
22 Chambers' communications with Congress specifically?

1           A           After the attorneys were present, yes.

2           Q           Not before?

3           A           Not before.

4           Q           When the attorneys were present and I'm  
5 not asking yet for the substance of what was said but  
6 just the circumstance, when the attorneys did arrive,  
7 do you recall Mr. Murphy asking your opinion as the  
8 Human Resources person on any matter regarding  
9 communications with Congress that you addressed to  
10 him and not to the attorneys?

11                       MR. L'HEUREUX: No objection.

12                       THE WITNESS: Don't recall him  
13 specifically asking me.

14                       BY MR. HARRISON:

15           Q           Okay. That was my question. Now whether  
16 solicited or unsolicited. Do you recall once the  
17 attorneys arrived, did you offer advice as a Human  
18 Resources official to Mr. Murphy regarding any  
19 communication with the Congress? By communication,  
20 you did not address your comments to the attorneys  
21 but to Mr. Murphy?

22           A           Well at the time that we were -- we were

1 discussing that sort of thing, it would not have been  
2 specifically directed to someone. It would have been  
3 a group discussion. I wouldn't have specifically  
4 addressed it to Mr. Murphy or to the attorneys.

5 Q Okay. What you may have said may have  
6 been addressed to the group?

7 A Right.

8 MR. L'HEUREUX: I will interpose his  
9 answer to that question. If you want to know if he  
10 gave advice I will not object.

11 MR. HARRISON: Thank you. It will  
12 expedite matters.

13 BY MR. HARRISON:

14 Q Do you recall, Mr. Davies, whether you  
15 gave advice in regard to communication with Congress  
16 in that meeting?

17 A It would have been pretty similar to what  
18 I would have given in regard to the media.

19 Q Same basic criteria?

20 A Yes.

21 Q Do you know whether prior to the time you  
22 spoke with Mr. Murphy about this whether Mr. Murphy

1 had already communicated with Chief Chambers in any  
2 manner regarding her communications with the media?

3 A I don't recall specifically.

4 Q Do you recall an article coming out in  
5 the Washington Post on Tuesday, December 2nd, 2003,  
6 in which Chief Chambers was quoted and/or  
7 paraphrased?

8 A I probably could if I looked at the  
9 article.

10 Q I might be able to help you with that. I  
11 want to show you a document that has been marked  
12 previously both as Murphy Exhibit 7 and Hoffman  
13 Exhibit 2. I don't think we'll need to remark it at  
14 the moment and see if it refreshes your memory.

15 A I remember.

16 Q Okay. Do you recall this article coming  
17 out on December 2nd or thereabouts?

18 A Yes.

19 Q Now do you remember whether when you  
20 discussed with Mr. Murphy before the attorneys came  
21 to the discussion about instructing on her  
22 communication with the media whether this article had

1 been published yet or not?

2 A I don't remember.

3 Q I take it from your answer at least in  
4 your discussion with Mr. Murphy he had not made  
5 specific reference to this article to you?

6 A I don't remember him doing that.

7 Q Did you make any record of your  
8 conversation with Mr. Murphy on this occasion?

9 A No.

10 Q Do you know whether Mr. Murphy did?

11 A I don't know.

12 Q Was this the only occasion that you  
13 discussed the question of the Chief's communication  
14 with the media with Mr. Murphy?

15 A Discussed it with him afterwards with the  
16 attorneys present.

17 Q On the same day?

18 A Yes. Probably later that week, also.

19 Q More than one occasion?

20 A Yes.

21 Q Was there in those later occasions other  
22 than the attorneys who was present?

1           A           Communications staff people.  Dave Barna.

2   Possibly Steve Krutz.

3           Q           Okay.  Do you know what occasioned the  
4   need for further discussions later in that week on  
5   that same issue of communications with the media?

6           A           I remember there were other not  
7   specifically articles in the Washington Post but I  
8   remember seeing things on television.  It wasn't  
9   clear at what point they had been recorded.

10          Q           Do you recall reading the Washington Post  
11   article on the day that it came out?

12          A           Yes.

13          Q           Do you know whether you had done that  
14   before you arrived at work or afterwards?

15          A           Before.

16          Q           And did you read it as a matter of course  
17   or did someone bring it to your attention?

18          A           My wife brought it to my attention.

19          Q           When you came to the workplace, did you  
20   work on December 2nd, the day when the article came  
21   out?

22          A           Yes.

1           Q           When you arrived at the workplace, did  
2 anyone bring the article to your attention from that  
3 point on during the day?

4           A           Not that I specifically remember.

5           Q           And I take it you would tell me -- you  
6 would tell me even if you couldn't remember the name  
7 of the person?

8           A           If I could remember, I would tell you.

9           Q           You do not remember the events happening?

10          A           I don't remember.

11          Q           Did you express any concern yourself to  
12 anyone on December 2nd after reading the article as  
13 to any perceived improper contents?

14          A           No.

15          Q           Have you received anything in writing to  
16 your office that -- from anyone that asserts there  
17 was anything improper stated in this article?

18          A           At any time?

19          Q           Yes, sir.

20          A           There may have been something from Don  
21 Murphy to my office, but I don't specifically recall.

22          Q           Did Mr. Murphy or any other non-attorney

1 official of the Department of Interior ever verbally  
2 state to you that they perceived there was something  
3 improper in the statements in the article?

4 A I don't know if Don Murphy ever  
5 characterized it as improper, and I don't remember  
6 discussing it with anyone else who was not an  
7 attorney, or on the communications staff, or on my  
8 staff. That would be Steve Krutz.

9 Q What is Mr. Krutz' relationship to you in  
10 the hierarchy, I guess the staffing organization?

11 A He's an employee relations specialist,  
12 and he reports to me. I'm his supervisor.

13 Q Did Mr. Murphy ever state anything to you  
14 regarding his dissatisfaction or criticism of any  
15 comments in this article?

16 A He did in general, but I don't know  
17 specifically regarding this article. I don't  
18 remember any comments that were specific about this  
19 article.

20 Q Okay. So, you don't recall any occasion  
21 when he may have quoted a passage or referred to  
22 specific language in it and say this bothers me?

1           A           He may have done that.  If he were to  
2 break down to me, comment on this article or another  
3 or something broadcasted on television, I would have  
4 a hard time saying which one he talked about.

5           Q           I appreciate that.  Did you have ever  
6 read any prints on the Chief commenting on the media  
7 December 2nd, 2003, at any time?

8           A           I think there were things on the web page  
9 from either WTOP or one of the television stations.  
10 I don't know if you consider them prints.

11          Q           Fine line.  I'll assume it was printed on  
12 the screen when you saw it?

13          A           Right.

14          Q           It wasn't being spoken in an audio  
15 fashion?

16          A           That is right.

17          Q           I appreciate that answer.  I take it you  
18 did he review some printed summaries of nonprint  
19 media coverage on a web page?

20          A           Yes.

21          Q           And you recall apparently you remember  
22 WTOP radio was one?

1           A           I think so. I remember seeing it on  
2 television, too.

3           Q           Do you recall what station that might  
4 have been?

5           A           Either Channel 9 or Channel 5.

6           Q           Do you recall when you might have seen  
7 that television broadcast?

8           A           Yes. When I was working out in the  
9 exercise facility on Eye Street.

10          Q           Was this during the course of your  
11 workday?

12          A           Yes.

13          Q           And I take it it would have been on  
14 December 2nd?

15          A           It would have been either that day or  
16 later that week.

17          Q           You don't recall which?

18          A           I don't recall which.

19          Q           Any other nonprint media that you may  
20 have reviewed other than what you have identified  
21 regarding Ms. Chambers' comments on December 2nd?

22          A           That week, no.

1 Q Okay. I appreciate that qualification.  
2 Did you have occasion to review any nonprint media  
3 later in time regarding Ms. Chambers?

4 A Periodically since December.

5 Q Periodically? How many times do you  
6 think you looked at nonprint media that involved Ms.  
7 Chambers' statements?

8 A I would hope whenever they occurred that  
9 I was aware of them.

10 Q Had you asked anyone to bring them to  
11 your attention?

12 A No, I didn't.

13 Q Okay. And when you would have seen them,  
14 would it have been in your routine course of  
15 reviewing media or would it have been in some efforts  
16 specific to Ms. Chambers?

17 A Routine. I read a lot of newspapers.

18 Q So, would you have expected to have  
19 caught any articles for the most part?

20 A Yes.

21 Q Okay. Had anyone directed you to look  
22 for those articles regarding Ms. Chambers?

1           A           No.

2           Q           In terms of television coverage, did you  
3 review any television coverage of Ms. Chambers'  
4 remarks after that week of December 2nd that would  
5 have been recorded, broadcasted from the week of  
6 December 2nd?

7           A           No.

8           Q           Same question for radio broadcasts. Any  
9 recorded radio statements after that week of December  
10 2nd?

11          A           I think I looked at a WTOP transcript of  
12 a -- can't remember the name of the show. The one  
13 with Mark Plotkin, I think.

14          Q           Did you do that sort of out of your own  
15 interest or routine inquiry or did someone task you  
16 of doing that?

17          A           My own interest.

18          Q           How long have you worked in personnel at  
19 the Department of Interior?

20          A           Department of Interior about 15 years.

21          Q           Okay. Do you recall a prior occasion in  
22 which you were involved in consulting or in any other

1 way in a matter where an employee was given a written  
2 instruction to have no further media interviews?

3 A I'm aware of one other case where an  
4 employee was given instruction not to have other  
5 media interviews. I don't recall that I had a  
6 specific role in the case.

7 Q I appreciate that clarification. Are you  
8 at liberty to name the employee?

9 A Bob Jackson.

10 Q Okay.

11 A I think that's name of the employee.

12 Q Do you know what his job position was at  
13 that time?

14 A He was a ranger. I think he was at the  
15 time he was speaking to the media he wasn't  
16 technically employed. But he was a park ranger at  
17 Yellowstone.

18 Q Do you remember the time period that  
19 might have occurred?

20 A When he was an employee?

21 Q When he received the instruction.

22 A I remember reading about it in the L.A.

1 Times. I don't specifically recall when he got the  
2 instruction.

3 Q What time period did you read the story?

4 A December. I don't recall which year. It  
5 would have been within the last couple of years.

6 Q I'm assuming you had no knowledge of the  
7 case other than what you read in the newspaper. That  
8 fair?

9 A Up to the point where I read it in this  
10 newspaper, I didn't have any knowledge of it.

11 Q After reading it in the newspaper, did  
12 you gain further knowledge about the case other than  
13 from the newspaper?

14 A I think I discussed it with John Crowley  
15 who was the personnel officers.

16 Q Would he have a counterpart to you or  
17 subordinate? Do you know from a newspaper or  
18 chatting with your colleagues whether Mr. Jackson  
19 might have perceived himself to be a whistleblower?

20 A Yes.

21 Q Apart from that example, do you recall  
22 any others in your 15 years in personnel and the

1 Department of Interior where an employee was given an  
2 instruction in writing to not have interviews with  
3 the press?

4 A Yes.

5 Q What example would that be?

6 A Karl Kortum who was an official at San  
7 Francisco Maritime Museum.

8 Q Would you mind spelling his last name?

9 A K-O-R-T-U-M. And Karl is with a K also.

10 Q Thank you. And were you involved in that  
11 particular case or did you learn about it?

12 A I was involved in that particular case.

13 Q Okay. Did you initiate the instruction  
14 regarding the media to Karl or did someone else?

15 A He received the instruction in the  
16 context of several instructions about his conduct.

17 Q Were you instrumental in issuing about  
18 the press in that case?

19 A Instrumental? I don't know. I would  
20 have helped prepare the instruction, and given  
21 instruction and consultant to the superintendent of  
22 the park.

1           Q        I take it the superintendent may have  
2 initiated the idea of giving the instruction?

3           A        Yes.

4           Q        I don't want to intrude into someone's  
5 privacy in this question, but can you give us the  
6 gist of the conduct?

7           A        Mr. Kortum, and the superintendent, and  
8 several other officials at the park had disagreements  
9 about how the park was spending money in the  
10 restoration of ships. The ships essentially are the  
11 park and are the museum.

12          Q        So, was there a public controversy?

13          A        Yes.

14          Q        Is it fair to say that Mr. Kortum -- Am I  
15 saying that right?

16          A        Kortum.

17          Q        Mr. Kortum was making a public statement  
18 that may have been critical of the superintendent or  
19 policies of the park there?

20          A        Yes.

21          Q        Do any other examples come to mind? Let  
22 me ask you. Do you know the nature of the

1 instruction given to Karl in that case regarding  
2 talking to the media?

3 A It's quite a while ago. I can't remember  
4 specifically.

5 Q Is it fair to say that in some manner the  
6 instruction restricted Mr. Kortum, if I say it right,  
7 concerning communication with the media?

8 A Yes. I would also characterize it he had  
9 a rather abrasive manner with many people including  
10 the media. So, it was within the context of  
11 presenting himself in a civil manner in general.

12 Q Understood. And I didn't ask you, but I  
13 should. I'm assuming that the instruction given to  
14 Mr. Bob Jackson, as far as you know, was in the  
15 nature of limiting his or restricting his  
16 communication with the media?

17 A I was not specifically involved in that  
18 at the time. So, I don't specifically know what  
19 instruction it was he received.

20 Q I see. Was there some allegation by Mr.  
21 Jackson that his communications with the media were  
22 restricted or had attempted to be restricted?

1           A           As best I can remember, yes.

2           Q           I hate to ask, but any other examples  
3 come to mind?

4           A           Not that I can recall.

5           Q           In the course of advising Mr. Murphy on  
6 this issue of the instruction to Chief Chambers  
7 regarding speaking with the media, did you have  
8 occasion to present to Mr. Murphy any specific  
9 policy, written policy, that might have applied to  
10 the situation?

11          A           No.

12          Q           Did Mr. Murphy ever communicate to you  
13 what his goal was in issuing such an instruction to  
14 Chief Chambers regarding communication with the  
15 media?

16          A           Before the attorneys were present, no.

17          Q           And I'm assuming but correct me if I am  
18 mistaken, that any statement he might have made in  
19 that regard after the attorneys were present was  
20 addressed to the whole group and not to you  
21 personally?

22          A           They weren't addressed to me personally.

1           Q       Okay. Did you ever have occasion from  
2 the time of December 2nd, 2003, to the present to  
3 recommend to any person other than an attorney at the  
4 Department of Interior that the instructions to Chief  
5 Chambers regarding communication with the media be  
6 modified in any manner?

7           A       No.

8           Q       Do you know whether any person other than  
9 an attorney made a similar recommendation during that  
10 same time frame?

11          A       I don't know.

12          Q       Has anyone brought to your attention an  
13 accusation that after receiving instruction from  
14 Mr. Murphy that you were involved in regarding  
15 communications with the media that Chief Chambers  
16 violated that instruction?

17          A       I don't recall any.

18          Q       Do you recall having any involvement in  
19 any efforts to prepare a performance appraisal for  
20 Chief Chambers at any time?

21          A       No.

22          Q       Were you consulted on the decision by

1 Mr. Murphy to issue a notice to Chief Chambers on  
2 December 5th, 2003, that she could be placed on  
3 administrative leave?

4 A Yes.

5 Q Do you recall the first day you would  
6 have discussed that matter with Mr. Murphy? And I  
7 believe you recall December 5th was a Friday?

8 A Probably the 5th.

9 Q Okay. Do you recall whether it was a --  
10 what time of day you might have discussed that matter  
11 with him?

12 A In the morning.

13 Q Are you pretty certain it would not have  
14 been Thursday morning, the day before the Chief was  
15 issued the memo? I'm not trying to influence your  
16 answer. I'm just trying to clarify.

17 A It could have been.

18 Q Would there be any record of that  
19 communication or meeting regarding that  
20 administrative leave topic?

21 A Not that I am aware of.

22 Q Did you discuss it in Mr. Murphy's

1 office?

2 A We had at least one discussion. Yes.

3 Q In the statement time frame we're talking  
4 about?

5 A Right.

6 Q How many discussions total do you believe  
7 there were on this topic with you and Mr. Murphy?

8 A Just me and Mr. Murphy? I don't recall  
9 any -- any that were just me and Mr. Murphy.

10 Q How many total regardless of participants  
11 at least that you were a party to?

12 A Probably several. Maybe five.

13 Q Within what span of time do you think  
14 this is five communications took place?

15 A I remember conversations on Friday with  
16 attorneys and with communications staff.

17 Q Communications staff and attorney?

18 A Conversation with communications staff  
19 would be more whether we needed to communicate the  
20 matter to the press or not.

21 Q Were those meetings separate from the  
22 meeting with attorney?

1           A           No.  The attorneys were present the whole  
2  time.

3           Q           So, maybe five, approximately five  
4  conversations over the course of Friday and possibly  
5  one or more the day before?

6           A           Yes.

7           Q           Now who all was informed of the  
8  possibility that the Chief might be placed on  
9  administrative leave before the Chief found out?

10          A           Yes.  You want a list of people?

11          Q           I would.

12          A           Hugo Teufel, T-E-U-F-E-L.

13          Q           Jackie Jackson?

14          A           Jackie Jackson.  Bob Mau.

15          Q           Who is Bob Mau?

16          A           Bob was an attorney in the Solicitor's  
17  Office.

18          Q           I see.

19          A           Probably Steve Krutz, but Steve was not  
20  there on Friday.

21          Q           Steve was not at work on Friday?

22          A           That's right.

1 Q David Barna?

2 A It's possible. I don't think we  
3 discussed with Dave Barna whether to place the Chief  
4 on administrative leave.

5 Q I see.

6 A I think we have had discussions with Dave  
7 after decisions.

8 Q You mentioned there was communications  
9 staff as to whether the press should be informed was  
10 discussed. Do you recall what communications staff  
11 might have been involved?

12 A Dave Barna.

13 Q Would this have been before or after the  
14 Chief was notified?

15 A We had the discussion about whether to  
16 issue a press release before the Chief was notified.

17 Q In the discussion with the or let me ask  
18 you a different way. Do you think the communications  
19 personnel would have known from any source before the  
20 Chief was notified what type of action was to be  
21 taken against the Chief? In other words,  
22 administrative leave?

1           A           Yes. We would have told them that we  
2 were placing the Chief on administrative leave.

3           Q           Okay. So, apart from communications  
4 staff and attorneys, yourself, Mr. Krutz even though  
5 he might have been absent I assume he might have been  
6 kept in the loop. Is that fair?

7           A           Yes.

8           Q           Are there other individuals or categories  
9 of individuals who would have known that the Chief  
10 was to be placed on administrative leave prior to the  
11 Chief being told?

12          A           Possibly Lynn Smith, but I don't recall  
13 specifically telling him.

14          Q           Lynn Smith?

15          A           Lynn Smith is the Assistant Director for  
16 Human Resources, and he was my supervisor.

17          Q           Do you know whether Director Mainella  
18 would have known about the administrative leave prior  
19 to the Chief being told?

20          A           I don't know.

21          Q           Do you know whether any official higher  
22 than Director Mainella would have known about the

1 administrative leave prior to the chief being told?

2 A I don't know.

3 Q I take it you would not have known  
4 whether Mr. Parkinson would have known?

5 A I don't know.

6 Q Was administrative leave the only option  
7 considered by Mr. Murphy at the time of December 5th  
8 or prior to your knowledge regarding Chief Chambers?

9 A It was not the only possibility.

10 Q And you believe removal was discussed in  
11 some form prior to December 5th?

12 A Yes.

13 Q Was to your knowledge any other  
14 alternative discussed or contemplated by Mr. Murphy?

15 A Yes.

16 Q Do you know what those alternatives would  
17 have been?

18 A Reassignment, demotion, suspension  
19 probably although I don't remember that specifically.  
20 I remember talking about reassigning the Chief.

21 Q Were you informed by Mr. Murphy of any  
22 grounds being relied upon by Mr. Murphy for placing

1 the Chief on administrative leave at that time,  
2 December 5th or prior?

3 A I am not sure I understand. The grounds  
4 to place her on administrative leave?

5 Q Yes. Reasons, bases?

6 A He and I had discussions about that.

7 Q And do you recall what Mr. Murphy may  
8 have relied on in the way of reasons or grounds for  
9 placing the Chief on administrative leave?

10 A The basis for placing her on  
11 administrative leave was the sense that she should  
12 did not continue on as the Chief while in  
13 disciplinary action was about to be proposed against  
14 her and while the matter was being investigated and  
15 that there weren't other alternatives to reassign her  
16 or to temporarily put her on some other sort of duty  
17 that would work well.

18 Q Okay. Had Mr. Murphy made a  
19 determination that the Chief could not function in  
20 her role as Chief pending further inquiries into  
21 future disciplinary actions?

22 A I think he thought it would compromise

1 the effectiveness of the Park Police to have her  
2 continue as the Chief while there was a pending --  
3 while the matter was being investigated.

4 Q Is it always the case in your experience  
5 within the Department of Interior in your 15 years at  
6 least that when a proposed disciplinary action is  
7 being contemplated and even before it has been  
8 formally issued that the employee is taken out of  
9 their duties and placed on leave? Is that always the  
10 case?

11 A Is that always the case?

12 Q Yes.

13 A I would say it is not. It is done if  
14 someone is a high-level-management official and in  
15 some cases other employees, too.

16 Q Are you saying it's always done in the  
17 case of a high-level-management official?

18 A No. I'm not saying it's always done.

19 Q Can you recall other instances where a  
20 high-level-management official has been removed from  
21 their duties because a proposed disciplinary action  
22 is being contemplated prior to the proposed action

1 being issued as a proposed action?

2 A Yes.

3 Q Are you able to identify examples?

4 A The former superintendent. I believe  
5 it's Sisson National Park.

6 Q And I take it from your answer that that  
7 person was removed from their duties prior to any  
8 proposed disciplinary action being issued?

9 A Yes.

10 Q And do you recall why that would have  
11 been in that case?

12 A There were questions about the financial  
13 integrity of the park and his management of projects.

14 Q Is it fair to say and correct me if I'm  
15 misreading what you're saying. Is it fair to say  
16 that there was a concern in that case that if a  
17 future investigation were to show financial  
18 irregularities that the Department didn't want to be  
19 in a position of having left the person in a position  
20 of responsibility over finances in the interim and  
21 have something else happen?

22 A Yes.

1           Q           Do you recall any other examples that  
2 come to mind of a high-level-management official  
3 removed prior to a proposed disciplinary action being  
4 issued?

5                   MR. L'HEUREUX: Counsel, did you mean to  
6 say being removed prior to the disciplinary?

7                   BY MR. HARRISON:

8           Q           My precise question was prior to proposed  
9 disciplinary action being issued. At least, that is  
10 what I intended.

11                   MR. L'HEUREUX: You asked if high-  
12 level-management official being removed before  
13 disciplinary action was taken.

14                   BY MR. HARRISON:

15           Q           Do you recall the question, sir?

16                   MS. JACKSON: I would like to add do you  
17 mean removed or placed on administrative leave which  
18 is quite different?

19                   MR. L'HEUREUX: That was my point.

20                   MR. HARRISON: Let me restate my  
21 question.

22                   BY MR. HARRISON:

1           Q           Do you recall any other examples than the  
2 one you have given of the superintendent at Sisson  
3 perhaps of a high-level-management official being  
4 removed from their duties prior to a proposed  
5 disciplinary action being issued?

6                       I believe you understand when I say  
7 removed from their duties it does not mean fired. It  
8 means taken out of the active performance of their  
9 job.

10          A           I can recall them being removed from the  
11 performance of their job while they were under  
12 investigation.

13          Q           That appears to be a slightly different  
14 question that I asked you. Would you agree?

15          A           Yes.

16          Q           And I'm interested in that. But let's  
17 start with my question and then go to yours. Are  
18 there any other examples that precisely answer my  
19 question that you can think of?

20          A           I can't recall any.

21          Q           Now, I appreciate; your offer of  
22 information that there may be examples where

1 officials were removed while they were under  
2 investigation.

3 I'm assuming that when you say under  
4 investigation you mean under investigation for either  
5 a criminal act, a possible wrongful shooting in the  
6 case of a police officer, or some other serious  
7 misconduct which might have the opportunity to be  
8 repeated if the person were not to be immediately  
9 removed. Is that a fair description?

10 A Yes. Those would be examples. Yes.

11 Q In the case of Chief Chambers in her  
12 being placed on administrative leave on December the  
13 5th, I take it that you understand and recall that  
14 there had not been any proposed removal issued  
15 regarding Chief Chambers as of December 5th. Is that  
16 correct?

17 A Yes.

18 Q And I believe you probably recall that  
19 the proposed removal of Chief Chambers occurred on  
20 December 17th, and you may or may not know but served  
21 the next day on the 18th. Is that consistent with  
22 your memory?

1           A           Yes.

2           Q           Okay. Did Mr. Murphy ever communicate to  
3 you that he was accusing Chief Chambers of any  
4 misconducts that involved financial mismanagement or  
5 any sort of dangerous conducts that if she were not  
6 immediately removed from her duties harm might occur  
7 to terms of loss of funds or loss of life?

8           A           Yes.

9           Q           What in that regard specifically did Mr.  
10 Murphy allege?

11          A           He was concerned about discussion of  
12 staffing levels within the Park Police in the media  
13 and whether that could potentially compromise public  
14 and officer safety by having those discussions.

15          Q           Okay. Did Mr. Murphy indicate to you  
16 that his instruction to the Chief that you  
17 participated in to have no further interviews with  
18 the media was not sufficient to guard against that  
19 eventuality that actual removal from duty was  
20 required?

21          A           Would you ask me the question again.

22          Q           Yes. I understand your answer to be that

1 Mr. Murphy communicated to you his concern that  
2 further communications with the media by Chief  
3 Chambers might disclose staffing information that he  
4 perceived might result in some harm. And I believe  
5 you're implying because of some act by a criminal or  
6 terrorist in response to security-related  
7 information.

8 My question to you is did Mr. Murphy  
9 explicitly say in regard to that concern given that  
10 he was issuing an instruction to Chief to have no  
11 further communications with the media and an  
12 instruction you participated in formulating. Did Mr.  
13 Murphy tell you that he believed that instruction was  
14 not sufficient to guard against harm of the type he  
15 was concerned about and that it would be necessary to  
16 remove the Chief from her duties immediately to guard  
17 against that harm?

18 A Yes.

19 Q Did Mr. Murphy in any way elaborate as to  
20 why his instruction to the Chief to not speak to the  
21 media would not be sufficient protection?

22 A I think he was concerned or said that he

1 was concerned with whether she would follow his  
2 instructions.

3 Q You recall him communicating something to  
4 that effect?

5 A Yes.

6 Q Did Mr. Murphy show you any document that  
7 identified any classification of security  
8 information, national security classification, such  
9 as top secret, secret or confidential, or something  
10 called in a different category, law enforcement  
11 sensitive. Did Mr. Murphy show you any documents  
12 that reflected that this Chief has, in fact,  
13 disclosed any information that was protected by some  
14 classification?

15 A No.

16 Q Other than what you've explained to us  
17 today, did Mr. Murphy give you any other stated  
18 reasons or grounds for placing the Chief on  
19 administrative leave on December the 5th?

20 A No. Not that I recall.

21 Q Do you know in what forum the Chief had  
22 spoken that Mr. Murphy was concerned had released

1 what he perceived to be staffing information that  
2 might be security related? The Washington Post,  
3 television, radio, or some other form?

4 A I think the Washington Post.

5 Q You seem to be somewhat uncertain about  
6 that.

7 A I'm uncertain because there were several  
8 media forums.

9 Q And you're not recalling what Mr. Murphy  
10 may have either stated or had in his mind?

11 A Right.

12 Q Do you know whether any Department of  
13 Interior official with the Park Service or otherwise  
14 was asked to approve Mr. Murphy's decision and place  
15 Chief Murphy on administrative leave?

16 A No.

17 Q Now, you don't know if someone else was  
18 asked?

19 A I don't know that anyone else was asked.

20 Q Okay. Do you know whether anyone above  
21 Mr. Murphy in a position of authority was informed of  
22 the decision by Mr. Murphy to place Chief Chambers on

1 administrative leave on December 5th?

2 A I don't know of anyone else.

3 Q At the time the decision was made  
4 December 5th or slightly before to place Chief  
5 Chambers on administrative leave, do you know the  
6 duration of the Chief being made on administrative  
7 leave that was anticipated by Mr. Murphy or by you at  
8 that time?

9 A No. It would have been until the matter  
10 was resolved.

11 Q That was your understanding, or Mr.  
12 Murphy's, or both?

13 A Both.

14 Q At the time the Chief was placed on  
15 administrative leave on December 5th, what was your  
16 understanding would be the subsequent process to  
17 resolve that matter?

18 A That whatever investigation was ongoing  
19 would be completed and decision would be made as to  
20 whether to issue a proposal and what that proposal  
21 would be. And whatever action would be affected on  
22 that proposal one way or the other.

1           Q        Did you know yourself what investigation  
2 or inquiry was ongoing at that time?

3           A        Yes.

4           Q        What was the nature of that inquiry?

5           A        The basis for the proposed removal was  
6 what the investigation led to.

7           Q        Okay. So, there was an administrative  
8 leave decision with an inquiry apparently in progress  
9 at that time. That inquiry proceeded and led to the  
10 proposed remove decision?

11          A        Right.

12          Q        And do you know who was involved in  
13 performing that inquiry?

14          A        Don Murphy, Steve Krutz, myself to a  
15 lesser degree.

16          Q        Any other or others to your knowledge?

17          A        No.

18          Q        And in performing your role in that  
19 inquiry, did you ever personally interview Chief  
20 Chambers to get her side of the story?

21          A        No.

22          Q        In performing Mr. Krutz' role of that

1 inquiry, did you understand, he's your  
2 subordinate -- did you direct him to interview Ms.  
3 Chambers to get her side of the story?

4 A No.

5 Q Do you know whether Mr. Krutz on his own  
6 initiative interviewed Ms. Chambers to get her side  
7 of the story?

8 A Not aware that he did that.

9 Q Do you know whether Mr. Murphy  
10 interviewed Ms. Chambers to get her side of the story  
11 during this inquiry which would have been, as I  
12 understand it, of a duration shortly before December  
13 5th carrying through December 17th?

14 A I am not aware of whether he did it or  
15 not.

16 Q Did you ever direct anyone to interview  
17 Ms. Chambers as part of that inquiry?

18 A No.

19 Q Do you know whether anyone did so, made  
20 such a direction?

21 A I don't know of anyone who did so.

22 Q Do you have some water or do you need

1 some?

2 A Got some.

3 Q Was there a formal plan for how such  
4 inquiry would be carried out and duties distributed  
5 across Mr. Murphy, yourself, and Mr. Krutz?

6 A Formal plan, I am not aware of a formal  
7 plan.

8 Q Were you assigned a particular role or  
9 did you take on a particular role in that inquiry?

10 A No. My role was primarily was to act for  
11 Steve while Steve was absent.

12 Q So, Mr. Krutz would have had the primary  
13 role to inquire at least for the Human Resources  
14 Office and in his absence you might try to fill in  
15 for him?

16 A Yes.

17 Q Do you know whether Mr. Murphy was  
18 relying on Mr. Krutz to perform the bulk of that  
19 inquiry or whether Mr. Murphy was taking on a  
20 substantial responsibility for that inquiry himself?

21 A I don't know.

22 Q Do you know what steps Mr. Krutz engaged

1 in in performing his steps in that inquiry?

2 A Specifically, no. He acted -- gave him  
3 general directions, and he acted within those  
4 directions. General directions would be to provide  
5 the service to Don Murphy and to perform his duties  
6 as an employee relations specialist.

7 Q That's pretty general.

8 A That's pretty general.

9 Q Okay. So when you directed Mr. Krutz to  
10 perform -- provide services to Don Murphy, was there  
11 any context or words added so that the nature of the  
12 service to be provided was made clear?

13 A Steve has been an employee relations  
14 specialist for quite a while. So, no. I don't get  
15 into specifically providing him instructions to  
16 handle a case. I count on him to be able to do that.

17 Q If I understand your testimony,  
18 essentially you were asking Mr. Krutz to perform a  
19 support role, Human Resources support role, of a  
20 traditional nature or routine nature in proposing a  
21 support for an official inquiry into disciplinary  
22 action?

1           A           Yes.

2           Q           You according to your instruction you  
3 were not giving any unusual instructions in regard to  
4 this case?

5           A           No.

6           Q           Did you have occasion to interview any  
7 fact witnesses in regard to Ms. Chambers' eventual  
8 proposed removal yourself?

9           A           No.

10          Q           Did you take on any task of reviewing of  
11 documents relating to the eventual proposed removal  
12 of Ms. Chambers?

13          A           No.

14          Q           Your role I take it was primarily  
15 supervisory in nature with an occasional fill-in for  
16 something with regard to Mr. Krutz?

17          A           Yes.

18          Q           Do you recall what you might have filled  
19 in for Mr. Krutz in regard to?

20          A           I filled in for him on the December the  
21 5th, and in preparing a memorandum for administrative  
22 leave.

1 Q And I take it you sat in on the meeting  
2 on December the 5th in which Chief Chambers was given  
3 her administrative leave memo by Mr. Murphy?

4 A Yes.

5 Q Do you recall Chief Chambers asking in  
6 that meeting for an explanation of the reasons why  
7 she was being placed on administrative leave?

8 A Yes.

9 Q Do you recall the contents of that  
10 administrative leave memo?

11 A Pretty much. Yes.

12 Q Do you recall that it did not specify the  
13 grounds for Ms. Chambers being placed on  
14 administrative leave other than noting that there  
15 might be an inquiry after which a disciplinary action  
16 might be proposed?

17 A Yes.

18 Q So, no grounds other than that?

19 A That's right.

20 Q Do you know whether there was any version  
21 or draft of that administrative leave memo different  
22 than the final version given to Ms. Chambers?

1           A           Probably was.  But specifically, I  
2  couldn't say that there was.

3           Q           Do you recall yourself ever drafting more  
4  than one version of that memo?

5           A           I probably did, but I specifically don't  
6  remember whether I did or not.

7           Q           If you had, would you have retained the  
8  original drafts?

9           A           No.

10          Q           Do you know what might have become of  
11 those?

12          A           I would have, as I rewrote them, I  
13 wouldn't have saved the original drafts.

14          Q           So, you did not maintain a record of the  
15 drafts yourself?

16          A           No.

17          Q           Did any of your drafts or let me ask you.  
18 Were there any drafts of the documents authored by  
19 any person other than you to your knowledge?

20          A           Consulted with Ms. Jackson.  Other than  
21 that, I don't recall specifically -- her specifically  
22 writing a different draft.

1 Q Putting attorneys aside, would there have  
2 been any other author of the administrative leave  
3 memo?

4 A No.

5 Q Okay.

6 A Other than Don Murphy.

7 Q And what do you mean by that?

8 A Don Murphy signed the memo. He may have  
9 made some changes to it. In that sense, he would  
10 have been an author, too.

11 Q I see. And I appreciate that. So, do  
12 you know were you given a copy of the administrative  
13 leave memo that was actually handed to Chief  
14 Chambers?

15 A Yes.

16 Q Do you recall whether or not Mr. Murphy  
17 had, in fact, changed your draft or any party had?

18 A Anyone who changed it changed it in  
19 discussion with me.

20 Q Discussion with you?

21 A Yes.

22 Q So, the final version would have been one

1 you had seen and essentially approved?

2 A Yes.

3 Q The form of that memo administrative  
4 leave given to Chief Chambers on the 5th, was it a  
5 standard form, something that may have been used in a  
6 number of other employees' cases?

7 A No.

8 Q Was it created sort of uniquely for this  
9 particular action?

10 A I don't know that I would characterize it  
11 that way, that it was uniquely created. I didn't  
12 have a prior draft that I was working from.

13 Q Had you yourself issued an administrative  
14 leave memo to employees in your 15 years in Human  
15 Resources?

16 A I have.

17 Q Did it look like the Chief's memo, your  
18 prior memos?

19 A Yes.

20 Q Okay.

21 A It would be similar.

22 Q And do you recall the circumstances where

1 you may have placed others on administrative leave?

2 A We had a proposed disciplinary action  
3 against them or if we had an investigation ongoing  
4 concerning them.

5 Q Would that be basically within the  
6 parameters we discussed earlier today?

7 A Yes.

8 MR. HARRISON: Let's take a five-minute  
9 break for comfort. Let me grab that memo, and we'll  
10 talk specifics when we get back.

11 (Off the record.)

12 BY MR. HARRISON:

13 Q Let me show you, Mr. Davies, what has  
14 been marked previously as Exhibit 2 to Mr. Murphy's  
15 deposition. I have got some copies here. Take a  
16 moment to look at that. Actually, let me have it  
17 back for a second.

18 I have a marked copy of this. Exhibit 8  
19 to Murphy's deposition. Sorry. See if you recognize  
20 that. Does it look familiar?

21 A Yes.

22 Q What do you understand it to be?

1           A           Notifies the Chief being placed on  
2 administrative leave indefinitely.

3           Q           Dated December 5, 2003.

4           A           Dated December 5.

5           Q           Do you recall having read and approved  
6 this particular version of this memo?

7           A           Yes.

8           Q           You note the second paragraph there you  
9 were not to perform official business, represent  
10 yourself as a representative of the U.S. Park Police,  
11 operate a government-owned vehicle, or wear the U.S.  
12 Park Police uniform until further notice. Do you see  
13 is that?

14          A           Yes.

15          Q           The portion that talks about not  
16 representing yourself as a representative of the U.S.  
17 Park Police, do you think that is standard language  
18 for your administrative leave memos?

19          A           No.

20          Q           Okay. If a person were put on  
21 administrative leave say in other examples with which  
22 you're familiar, are they entitled until they might

1 eventually be removed to say they are still an  
2 employee of the agency?

3 A Yes.

4 Q The second sentence in the first  
5 paragraph. This action is taken pending the  
6 completion of a review of your conduct that may  
7 result in a proposal for disciplinary action.

8 Do you believe at the point in time in  
9 which this was written that there was still a  
10 possibility that Mr. Murphy might take no  
11 disciplinary action?

12 A Yes.

13 Q And do you think that it is fair to say  
14 that the decision to take some future disciplinary  
15 action was based on the result of the inquiry that  
16 was pending?

17 A Yes.

18 Q Other than Mr. Murphy and Mr. Krutz, are  
19 you aware of any person who played a principal role  
20 in that inquiry? I know you indicated you played a  
21 probably non-principal role in that inquiry. Was  
22 there any other party who played a principal role in

1 that inquiry?

2 A I don't know who else would have played a  
3 primary role.

4 Q So, none to your knowledge?

5 A Not to my knowledge.

6 Q Do you know Ms. Bee Chester?

7 A Yes.

8 Q Did she play any role in this inquiry to  
9 your knowledge?

10 A Not to my knowledge.

11 Q Now at the time of this December 5th  
12 memo, I believe you said you were filling in for  
13 Mr. Steve Krutz at the time?

14 A Right.

15 Q That implies that Mr. Krutz had been  
16 appointed as the Human Resources person to work on  
17 whatever action was to be proposed by Mr. Murphy  
18 regarding Chief Chambers?

19 A Yes.

20 Q Did you assign Mr. Krutz to that task or  
21 did someone else?

22 A I did.

1           Q           And would there have been anyone else in  
2 Human Resources who could have been assigned had you  
3 chosen to do so?

4           A           Yes.

5           Q           Was there a particular reason that Mr.  
6 Krutz was assigned or was it somewhat random and  
7 routine that he was assigned?

8           A           He was the most senior employee relations  
9 specialist, and that was his primary role. There are  
10 other people who could have been assigned, but he  
11 would have been the first choice.

12          Q           Because of his experience?

13          A           Yes.

14          Q           And perhaps the -- the high-level nature  
15 of this particular action?

16          A           Yes.

17          Q           Okay. Did you have any concerns when you  
18 assigned Mr. Krutz to do this inquiry with Mr. Murphy  
19 that he might, he, Mr. Krutz, might have a conflict  
20 of interest?

21          A           No.

22          Q           Has it ever come to your attention since

1 December 5th that Mr. Krutz might have a conflict of  
2 interest?

3 A No.

4 Q Okay. When you were present on December  
5 the 5th of 2003 at the meeting in which Ms. Chambers  
6 was handed this memo by Mr. Murphy, do you recall Ms.  
7 Chambers making some reference to a complaint she had  
8 filed regarding Mr. Murphy?

9 A I don't recall it.

10 Q Okay. Do you recall making any inquiry  
11 at that time as to whether a complaint had been filed  
12 by Ms. Chambers regarding Mr. Murphy maybe as a  
13 follow-up?

14 A At that time, I didn't make an inquiry.

15 Q Have you since made an inquiry into that  
16 question?

17 A I wouldn't characterize it being an  
18 inquiry.

19 Q Have you since received information  
20 pertinent to that question?

21 A Yes.

22 Q And what was that?

1           A           Shortly after. I don't recall whether it  
2 was the proposal or whether the administrative leave  
3 notice, but shortly after in that time period I had  
4 information that she had made a complaint.

5           Q           Okay. What was the nature of that  
6 information?

7           A           I don't recall whether I read it in the  
8 newspaper or whether I heard it from someone else who  
9 was involved in the case. But it was that she had  
10 previously filed a complaint against Don Murphy.

11          Q           Did anyone ever show you that complaint,  
12 the document?

13          A           They probably did, but I specifically  
14 don't remember.

15          Q           If they had shown it to you, do you think  
16 you would have read it?

17          A           Yes.

18          Q           Do you recall having any concern upon  
19 reading it that there might be a need to have someone  
20 other than Mr. Krutz perform the inquiry regarding  
21 Ms. Chambers?

22          A           No.

1           Q           Who did you understand the complaint that  
2 you may have been shown and may have read was in  
3 regard to?

4           A           Don Murphy.

5           Q           Any other parties?

6           A           No.

7                        (Off the record.)

8                        BY MR. HARRISON:

9           Q           Mr. Davies, did you know whether  
10 Mr. Steve Krutz was mentioned by name in Ms.  
11 Chambers' complaint of December 2nd, 2003, that you  
12 recall referencing Mr. Murphy?

13          A           I don't know.

14          Q           Let's mark this document as Davies  
15 Exhibit Number 1. Two pages. Take a moment, Mr.  
16 Davies, and see if you remember reading this in the  
17 past. And if you recognize it.

18                        (Davies Exhibit No. 1 was  
19                        marked for identification.)

20                        Does it look familiar?

21          A           I am familiar with the situation. I am  
22 not familiar with this.

1           Q           To the best of your recollection, you may  
2 not have read this before?

3           A           No.

4           Q           How did you become familiar with the  
5 situation? Other than by reading this document.

6           A           I remembered the situation involving Don  
7 Murphy and unprofessional comments, and allegations  
8 about it. I'm not familiar with that. The  
9 allegations about the disciplinary record for Chief  
10 Chambers that I'm somewhat familiar with.

11          Q           Are you familiar with it to the extent  
12 that you knew Chief Chambers had complained about how  
13 it was handled?

14          A           Not through her.

15          Q           Otherwise?

16          A           I think I don't recall when it occurred.  
17 It may have occurred after -- after she was placed on  
18 administrative leave. But I was aware that she had  
19 complained that the letter was faxed to the Park  
20 Police personnel office.

21          Q           Okay. Do you recall how you learned  
22 that?

1           A           No.

2           Q           I take it in reading through this letter  
3 today, you've noticed the mention of Mr. Steve Krutz'  
4 name?

5           A           Yes.

6           Q           Do you read this memo to be expressing  
7 Ms. Chambers' dissatisfaction with the way Mr. Murphy  
8 and Mr. Krutz handled that particular exchange of  
9 information regarding her disciplinary in the  
10 personnel record.

11          A           I read it to be she's dissatisfied in how  
12 they were handling it. In terms of who did what,  
13 that part is not quite as clear to me or who's  
14 responsible.

15          Q           I am determining that might take an  
16 inquiry of some kind. Do you know whether this was  
17 ever investigated, this complaint?

18          A           I believe Steve mentioned it to me at  
19 some point.

20          Q           Did he let you know that it had been  
21 investigated?

22          A           He told me what happened.

1 Q Do you recall what he said?

2 A He said that the Chief had been issued I  
3 think it was a letter of reprimand. It may not have  
4 been. But it was a letter of counselling, letter of  
5 warning. Some letter concerning a memo she, the  
6 Chief, issued concerning fund raising.

7 And I think it was after a Park Police  
8 officer had been killed in the line of duty. And  
9 she issued a letter saying if you wanted to be  
10 supportive of this group which is being supportive of  
11 the officer that that would be a good thing. And  
12 that constituted fund raising on behalf of that group  
13 and was improper and violation of ethics rules.

14 Q Mr. Krutz told you this or was that your  
15 conclusion?

16 A I think it was in the letter.

17 Q It was in the letter?

18 A The letter, the discipline letter the  
19 Chief got. I'm going by my recollection.

20 Q I understand.

21 A And Don Murphy had issued her a letter  
22 telling her that you couldn't do this type of fund

1 raising. And if it was a letter of reprimand, a copy  
2 of it would have gone into her personnel file for  
3 whatever the duration of the letter was. And the  
4 record.

5                   And then Steve received an inquiry from  
6 somebody for a copy of any disciplinary matter that  
7 had been issued against the Chief and then provided a  
8 copy of that letter.

9           Q           And Steve told you that he did that?

10          A           Yes.

11          Q           Did Steve ever tell you that the Chief  
12 had complained about him doing that?

13          A           I don't remember how I found she  
14 complained about it.

15          Q           But you're remembering since you are not  
16 remember reading this letter by some other source you  
17 found out that the Chief was unhappy and had  
18 complained in some form about it?

19          A           Yes.

20          Q           Do you have any idea when you would have  
21 first learned that?

22          A           No.

1 Q Do you think it would have been before or  
2 after December the 5th, 2003?

3 A I don't know.

4 Q Do you think it would have been before or  
5 after December 17th, 2003?

6 A I don't know.

7 Q Do you think it would have been before or  
8 after July 9th, 2004?

9 A It would have been before July 9th, 2004.

10 Q Do you know whether it would have been  
11 before or after March of 2004?

12 A I don't know.

13 Q I take it you are not aware whether this  
14 letter of complaint ever got investigated or do you  
15 know?

16 A I'm not aware of it ever being  
17 investigated.

18 Q Would you expect to have received a copy  
19 of this complaint either because it was about  
20 Mr. Murphy, an employee of the Department, or because  
21 it mentioned one of your staff?

22 A Not necessarily.

1           Q           You don't think it was unusual for you  
2 not to receive a copy of under those circumstances?

3           A           It would be unusual for me to receive a  
4 letter that complained about Don Murphy because  
5 he's -- he is my -- eventually he's my supervisor.  
6 So, I couldn't investigate or direct an investigation  
7 of him.

8                        To the extent that it talks about Steve  
9 Krutz, I could look into that. If someone had asked  
10 me where to direct this, I would have directed it  
11 probably to the IG.

12          Q           No one did ask you I take it?

13          A           Nobody asked me.

14          Q           Now to the extent it does reference Mr.  
15 Krutz, would it still have been kept within your  
16 jurisdiction to inquire into?

17          A           Probably would not because whatever Steve  
18 was -- whatever the complaint was about Steve it  
19 seems pretty intertwined with Don Murphy.

20          Q           Why do you say that? Based on this  
21 letter. Isn't it possible that Mr. Murphy made an  
22 error allegedly in retaining this document in the

1 file and that Mr. Krutz made a separate and  
2 independent error in providing it to a third party?

3 A It's possible.

4 Q Is it your normal policy to have a member  
5 of the personnel office investigate and advise on a  
6 proposed personnel action against an employee when  
7 that employee has a pending complaint against that  
8 very Human Resources staff person? Do you follow  
9 that?

10 A No.

11 Q It's a bit long. I'll try it again.  
12 Maybe I'll break it up. Is it your normal practice  
13 if you know and realize in this case I think you're  
14 telling me you did not know.

15 But is it your normal practice if you  
16 were to know that a member of your staff in Human  
17 Resources had a complaint pending against and by an  
18 employee to allow that same person to be the Human  
19 Resources investigator and adviser on a proposed  
20 action against the complaining employee?

21 A It would depend upon the nature of the  
22 complaint.

1 Q There are times when that would be okay?

2 A Probably most times it would be okay I  
3 would think.

4 Q You don't think that someone such as Mr.  
5 Krutz might have a motive to discredit someone who  
6 had complained against him?

7 A I think the nature of Mr. Krutz' position  
8 is such that people complain about him quite a bit.  
9 The fact someone complained about him wouldn't  
10 necessarily lead me to say that he should not be  
11 involved in any matters concerning him.

12 Q You don't have a policy that requires  
13 personnel decisions be made by an unbiased decision  
14 maker?

15 A Yes.

16 Q You do have such a policy?

17 A The decision maker should be unbiased.  
18 Yes.

19 Q That is consistent with your policy?

20 A Yes.

21 Q So, are you saying that an employee that  
22 works for you and has been complained about by

1 another employee is not at least potentially biased  
2 by the fact that he has been complained about --  
3 about an employee at least in regard to proposed  
4 disciplinary actions regarding the complaining  
5 employee?

6 A You threw out the decision maker. I mean  
7 your prior question.

8 Q That may technically be correct. I  
9 suppose depending on the circumstances. But in this  
10 case, you have described Mr. Krutz and Mr. Murphy as  
11 the two primary parties who conducted the inquiry  
12 that led to the proposed removal.

13 So, let's refine the question. Are you  
14 saying that you have a policy whereby the decision  
15 maker should be unbiased but the parties conducting  
16 the inquiry and giving the advice on which the  
17 decision is based don't have to be unbiased?

18 A The decision maker needs to be unbiased.  
19 The decision maker in the Chief's case was not Don  
20 Murphy or Steve Krutz.

21 Q The proposing official was?

22 A That's right.

1           Q           So shouldn't the proposing official be  
2 unbiased or there is no requirement for that?

3           A           I think it would be difficult to  
4 establish that the proposed official doesn't have  
5 some bias one way or the other since most of  
6 proposing officials are the supervisors of the people  
7 issuing the proposal about.

8           Q           Clearly they are taking the position on  
9 disciplinary action, if that's what you mean. But  
10 that doesn't mean they have an independent complaint  
11 filed against them. That is a different type of  
12 bias. Would you not agree?

13          A           I suppose. Frankly when I read the  
14 letter, I think the complaint is unsubstantiated  
15 anyway.

16          Q           You conducted an investigation into it to  
17 determine that?

18          A           If everything in the letter is true, I  
19 don't think the complaint is justified.

20          Q           Okay. You've read it thoroughly and have  
21 concluded that in this space of the five minutes you  
22 spent on it today?

1           A           Yes.

2           Q           Now if it were -- let's say if you were  
3           correct for purposes of argument that it had no  
4           substantive merit, you don't think that the employee  
5           that has been complained about perhaps even unjustly  
6           complained about might have a bias against the person  
7           who unjustly complained of him?

8           A           It might.

9           Q           I take it that during the time Mr. Krutz  
10          performed this inquiry with Mr. Murphy that led to  
11          the proposed removal of Chief Chambers you were aware  
12          during that entire inquiry that Mr. Krutz had been  
13          mentioned in this complaint by the Chief. Is that  
14          correct?

15          A           I didn't know Mr. Krutz had been  
16          mentioned in the complaint and he was conducting the  
17          inquiry.

18          Q           That was my question. Do you know  
19          whether Mr. Krutz knew during that time?

20          A           I don't know if he knew.

21          Q           You don't know?

22          A           I don't know if he knew.

1           Q           If Ms. Chambers had come to you and  
2 asked -- had she known Mr. Krutz was the primary  
3 investigator on this with Mr. Murphy, had she come to  
4 you and asked that he be replaced by someone that she  
5 had not complained about, do you know what you would  
6 have done at the time?

7           A           It would depend upon why she said that he  
8 should be removed.

9           Q           If she had said because she had a pending  
10 complaint against him. If that was her basis and she  
11 was concerned that he might harbor ill feelings  
12 against her for filing that.

13          A           It would depend upon what the nature of  
14 the complaint was.

15          Q           I mean this complaint.

16          A           I would not have removed him.

17          Q           Because you believe this complaint is  
18 unfounded?

19          A           The complaint is that he faxed a copy of  
20 her, essentially a compromised her privacy. And I  
21 don't think he was involved in faxing the letter or  
22 compromising her privacy.

1           Q           I think that's a detailed version of what  
2 I said, that you found her complaint was unfounded  
3 for the reasons you just stated?

4           A           Right.

5           Q           So, the fact that Mr. Krutz might have  
6 been unhappy with Ms. Chambers for having filed that  
7 complaint perhaps even because it was unfounded in  
8 the way you described, would not have been a basis  
9 for replacing him? Are you sure you would not have  
10 replaced him for that reason?

11          A           If he led me to believe that he was  
12 unhappy with Chief Chambers because she had filed a  
13 complaint against him, I might have replaced him.

14          Q           I take it since this letter is probably  
15 new to you as of today you have never asked Mr. Krutz  
16 that question; how he felt about this complaint?

17          A           I think he and I discussed it.

18          Q           This letter?

19          A           Not the letter but the matters discussed  
20 in the complaint, that he had faxed the discipline  
21 letter or letter of reprimand.

22          Q           Did you discuss specifically what I'm

1 asking you about in a moment which is how he felt  
2 about the Chief having complained about him?

3 A I don't recall.

4 Q What is your policy in regard to  
5 disclosing disciplinary actions regarding an official  
6 to that official's subordinates?

7 A I don't think we have a policy. I am not  
8 aware of a policy.

9 Q It is perfectly fine for personnel in  
10 your office to show unofficial subordinates what  
11 disciplinary action was taken regarding that  
12 official?

13 A No.

14 Q Yet there is no written policy on that to  
15 your knowledge?

16 A In terms of subordinates, there is not a  
17 policy about disclosing information.

18 Q Not a specific to subordinates?

19 A There is not a policy specifically to  
20 subordinates.

21 Q Is there a more general policy that would  
22 encompass subordinates?

1           A           I don't know that there is a specific  
2 policy, but certainly a practice and certainly  
3 consistent with the Privacy Act you do not disclose  
4 information about someone unless they have a basis  
5 for that disclosure.

6           Q           That would include information regarding  
7 disciplinary actions?

8           A           Yes.

9           Q           Are you familiar with general order 70?

10          A           Yes.

11          Q           What is it?

12          A           At the time that it -- I prepared the  
13 administrative leave letter, I was more familiar with  
14 it than I am right now with it.

15          Q           Who would have issued it?

16          A           The general order? I don't know.

17          Q           Where would it normally be maintained, a  
18 copy of it maintained?

19          A           Park Police would maintain copies of the  
20 general orders. And I believe that they would also  
21 have the Solicitor's Office maintain copies of  
22 general orders. Whoever maintains records within the

1 Department of Interior.

2 Q Who is governed by general order 70?

3 A I believe it's the Park Police.

4 Q Do you know whether general order 70 is  
5 specific to some topic or issue?

6 A No.

7 Q Do you recall how general order 70 came  
8 to your attention in the context of the December 5th  
9 administrative leave memo regarding Chief Chambers?

10 A Yes.

11 Q Can you tell me?

12 A I went through the general orders to see  
13 if there were orders that concerned disciplinary  
14 matters and what to do when a disciplinary matter was  
15 proposed against a Park Police officer.

16 Q Do you know whether or not general order  
17 70 regarded all disciplinary matters for Park Police  
18 or only those that might involve some I guess you  
19 would call incidents like a potentially unjust  
20 shooting or something like?

21 A I don't know. I would need to review the  
22 order again.

1           Q           Do you know whether there have been other  
2   complaints by other parties regarding Mr. Krutz'  
3   activities?

4           A           Ever?

5           Q           In your tenure.

6           A           I can't recall any at this time.

7           Q           When did you first assign Mr. Krutz to  
8   work on Ms. Chambers' potential disciplinary actions?

9           A           Beginning of December or the end of  
10   November 2003.

11          Q           Could it have been the end of November?

12          A           It could have been.

13          Q           Do you know whether it was before or  
14   after the Washington Post article that I showed you?

15          A           I don't know.

16          Q           You know what prompted you to assign Mr.  
17   Krutz at all to that matter at that time?

18          A           My supervisor, Lynn Smith, asked me to  
19   assist Don Murphy or assign someone to assist Don  
20   Murphy concerning matters, disciplinary matters  
21   concerning the Chief. I assigned Steve at that  
22   point.

1 Q Was that request by your superior in  
2 writing?

3 A No.

4 Q By telephone?

5 A It may have been. It was verbal. I  
6 don't recall whether it was by telephone.

7 Q Was anyone present when you received it?

8 A I don't recall anyone being present.

9 Q Did you make any record of that request?

10 A No.

11 Q Did you make any record of your  
12 assignment of Mr. Krutz to that task?

13 A No.

14 Q Is that normal for you?

15 A Yes.

16 Q Do you maintain a calendar of meetings  
17 and appointments?

18 A I do now.

19 Q Did you in December of 2003?

20 A I may have.

21 Q Might you have recorded a meeting with  
22 your superior in which she talked about that request

1 to you to assign someone?

2 A I doubt that I would have.

3 Q Can you rule it out? Can you rule out  
4 the possibility?

5 A I wouldn't rule it out as a possibility.  
6 It's possible.

7 Q Was anything mentioned to you by your  
8 superior at that time as to why Mr. Murphy might be  
9 in need of that assistance?

10 A I didn't specifically recall him doing  
11 that. It would not be unusual for him to say to  
12 contact Don Murphy and he had a matter that he wanted  
13 to talk to me about.

14 Q So, Mr. Smith, I believe it is, would not  
15 normally give you the details?

16 A That's right.

17 Q Do you recall following up with Mr.  
18 Murphy on that before you assigned Mr. Krutz?

19 A I don't recall.

20 Q Did you ever learn the specifics of why  
21 that request was made of you at that time? In other  
22 words, why Mr. Murphy needed someone at that

1 particular time to help him?

2 A I would have had to. Yes.

3 Q Do you recall what those specifics were?

4 A What subsequently became the basis for  
5 the proposed removal. Whether that was communicated  
6 to me by Mr. Smith, or Mr. Murphy, or even by Steve,  
7 I don't recall.

8 Q Did anyone ever mention to you that Ms.  
9 Chambers had communicated to a Congressional staff  
10 member in November or December of 2003?

11 A Don Murphy did.

12 Q Do you recall when he might have first  
13 told you that?

14 A Not specifically. No.

15 Q Would it have been prior to the  
16 administrative leave memo being issued?

17 A Yes.

18 Q Did Mr. Murphy ever mention to you any  
19 issue regarding Ms. Chambers that had to do with the  
20 Organization of American States?

21 A Yes.

22 Q Do you recall when Mr. Murphy would have

1 first mentioned that topic to you?

2 A It would have been shortly before the  
3 administrative leave letter.

4 Q Okay.

5 A So, it would have been like the 4th, or  
6 the 5th, or something like that.

7 Q Was that the same communication in which  
8 communication with Congress or Congressional staff  
9 member may have been mentioned?

10 A I don't know if it was the same  
11 communication. It would have been around the same  
12 time.

13 Q Okay. Did Mr. Murphy mention to you any  
14 issue regarding the detailing of a Ms Pamela Blyth in  
15 regard to Chief Chambers?

16 A Yes.

17 Q Do you recall the first time you would  
18 have been told about that issue by Mr. Murphy?

19 A No.

20 Q Do you know whether it would have been  
21 prior to or after the December 5th administrative  
22 leave memo?

1           A           Prior.

2           Q           Do you recall Mr. Murphy mentioning to  
3 you an issue regarding two of Chief Chambers' deputy  
4 chiefs having to take a psychological exam?

5           A           Yes.

6           Q           And do recall when that issue would have  
7 first been mentioned to you by Mr. Murphy?

8           A           Specifically, no.

9           Q           Do you recall whether it would have been  
10 before or after the December 5th administrative leave  
11 memo?

12          A           Before.

13          Q           Is it fair to say that the issues I have  
14 just asked you about; the communication with  
15 Congress, the detail of Ms. Blyth, the Organization  
16 of American States, were issues that Mr. Murphy  
17 considered concerns and dissatisfactions he had in  
18 regard to Ms. Chambers?

19          A           Yes.

20          Q           Do you know whether at any time prior to  
21 July 9th, 2004, when Ms. Chambers was issued a final  
22 removal whether any of the documents reflecting

1 actions against Ms. Chambers, whether final or draft,  
2 were ever sent outside of the Department of Interior  
3 for review?

4 A I am not aware of that.

5 Q Had that been done, would that have been  
6 normal procedure?

7 A It would have been unusual to have that  
8 done.

9 Q What would be the specifics of a  
10 procedure that would not be unusual that would  
11 involve sending out an action document, draft or  
12 final, outside the agency?

13 A Consulting with the Office of Personnel  
14 Management.

15 Q OPM?

16 A Uh-huh.

17 Q Okay.

18 A If we had employed somebody as a  
19 consultant or outside counsel, to have them review  
20 it.

21 Q Do you know whether there was any  
22 consultant employed regarding Ms. Chambers' case by

1 anyone in the Department of Interior prior to July  
2 9th, 2004? I'm not speaking of attorneys at the  
3 moment?

4 A Not speaking of attorneys?

5 Q Excluding attorneys?

6 A I am not aware of anyone else.

7 Q Would it be usual or unusual for an  
8 agency to send out a proposed action, draft or final,  
9 to another federal agency other than OPM?

10 A It depends.

11 Q On?

12 A What the issues were in the case.

13 Q Okay.

14 A If the issue concerns an unfair labor  
15 practice, it might go to FLRA. The Federal Labor  
16 Relations Authority. If it concerned whistleblowing,  
17 it might go to the Office of Special Counsel  
18 depending on whether they were investigating the  
19 matter. It might go to some other investigatory body  
20 if they were doing some kind of investigation.

21 Q If it were a matter that would fall  
22 within that agency jurisdiction, it would not be

1 unusual to send it to them?

2 A Yes.

3 Q Any other examples that you can think of  
4 where it would not be unusual?

5 A I can't think of any now.

6 Q Can you think of any category where it  
7 would not be unusual to send out a proposed action to  
8 another agency? Let's say it was an agency that had  
9 no jurisdiction over the matter. Would that be  
10 unusual?

11 A Yes. That would be unusual.

12 Q Do you know when Ms. Chambers was first  
13 placed on notice that Mr. Murphy had a concern  
14 regarding her communicating with Congress or a  
15 Congressional staff member?

16 A No.

17 Q Do you know the timing of Ms. Chambers'  
18 alleged communication with Congress or Congressional  
19 staff member that was of concern to Mr. Murphy?

20 A I can't recall right now. I think it was  
21 not too far before the administrative leave memo.

22 Q Are you speaking days, weeks?

1           A           Within the last month.

2           Q           Within the last month. Okay. Do you  
3 know when Ms. Chambers was first placed on notice by  
4 Mr. Murphy of his concern regarding the detailing of  
5 Pam Blyth?

6           A           No.

7           Q           Do you know when the issue of a detailing  
8 of Ms. Blyth first arose?

9           A           Specifically, no.

10          Q           Do you at least understand that some  
11 weeks or months had passed prior to December 5th,  
12 2003, since Mr. Murphy had raised that concern with  
13 the Chief?

14          A           Yes.

15          Q           Do you know when Mr. Murphy's concern  
16 with any issue regarding the Organization of American  
17 States as it related to Ms. Chambers first arose?

18          A           No.

19          Q           Do you know when Ms. Chambers might have  
20 first been put on notice that Mr. Murphy had such a  
21 concern?

22          A           No.

1 Q Do you know when the issue regarding the  
2 psychological exams of two deputy chiefs first arose?

3 A Specifically, no.

4 Q Do you understand that it was some weeks  
5 and perhaps months prior to December 5th?

6 A Yes.

7 Q Do you know when Mr. Murphy first  
8 communicated to Ms. Chambers his concern regarding an  
9 allegation that Ms. Chambers had failed to follow an  
10 order of his regarding that matter?

11 A When he --

12 Q First told Ms. Chambers of that specific  
13 concern.

14 A I don't know specifically.

15 Q Do you know whether he ever did?

16 A I wasn't a witness to it. So far as I  
17 know, I think he told me about it at one point.

18 Q That he had given Ms. Chambers an order  
19 to do something that was not obeyed?

20 A Yes.

21 Q Do you recall when that would have been?

22 A In December of 2003.

1 Q Have you seen a final order, draft,  
2 performance appraisal for Ms. Chambers?

3 A Not that I can recall.

4 Q Do you know whether Mr. Murphy ever  
5 drafted one?

6 A I don't know.

7 Q If he did, it would have been without  
8 input from you I take it?

9 A That's right.

10 Q Did anyone ever inform you what Ms.  
11 Chambers said or alleged to have said to a  
12 Congressional staff person in November of 2003?

13 A What she said? November of 2003?

14 Q Yes, sir.

15 A I don't recall. No.

16 Q Did anyone ever mention to you in the  
17 month of November of 2003 any concern about  
18 communication with the Congressional staff member by  
19 Ms. Chambers?

20 A I don't recall that. No.

21 Q Have you ever reviewed a November 28th,  
22 2003, memo written by Ms. Chambers to Director

1 Mainella that would have expressed a very specific  
2 concern about the potential for loss of human life or  
3 loss and destruction of one of the icons, national  
4 monuments, due to the lack of staffing and funding of  
5 the United States Park Police?

6 A I may have, but I don't specifically  
7 recall reviewing it.

8 Q Had you reviewed it, would you remember  
9 when it would have been that you would have reviewed  
10 it?

11 A No.

12 Q Do you know a person by the name of  
13 Debbie Weatherly?

14 A Do I know her? No.

15 Q Do you know of her?

16 A Yes.

17 Q Do you understand she's a staff member  
18 for Congress?

19 A Yes.

20 Q Did you ever speak with Ms. Weatherly in  
21 the course of actions against Ms. Chambers?

22 A No.

1 Q Do you know whether Mr. Krutz did?

2 A He may have. I don't know.

3 Q Do you know whether Mr. Murphy did?

4 A I don't know that he did.

5 Q Has it ever come to your knowledge as to  
6 what position Ms. Weatherly took, if any, on whether  
7 any action should be taken against Ms. Chambers?

8 A I don't know.

9 Q Have you ever been shown a December 2nd,  
10 2003, e-mail sent by Ms. Chambers to Debbie  
11 Weatherly?

12 A I may have, but I don't specifically  
13 recall.

14 Q Do you recall seeing any e-mail from Ms.  
15 Chambers to Ms. Weatherly that would have stated a  
16 concern about the potential and anticipated loss of  
17 life, and loss of an icon, and national monuments as  
18 result of a continuing failure to staff and fund the  
19 U.S. Park Police?

20 A I don't specifically remember seeing  
21 that.

22 Q At the time that you approved the

1 administrative leave memo being issued and I hope I'm  
2 not presuming that you did approve it. I believe you  
3 said you did approve it. Did you approve it being  
4 issued or simply the form of it?

5 A I think I'm not clear on the word  
6 approve.

7 Q Let me be clear about it. Did anyone ask  
8 you to authorize or condone the issuance of that memo  
9 or veto it as compared to simply assisting them in  
10 the formulation of it? Do you understand the  
11 distinction I'm asking?

12 A I wouldn't have veto power. I would have  
13 influence over the content and whether it was issued.

14 Q So, you wouldn't be able to say I approve  
15 it or I disapprove it, but you could strongly advise  
16 on its content?

17 A Yes.

18 Q All right. And I'm taking from your  
19 answer but correct me if I'm misunderstanding that  
20 strongly advising on the content or advising on the  
21 content would not include expressing an opinion as to  
22 whether or not it should be issued at all?

1           A           I could issue an opinion as to whether it  
2 should be issued at all.

3           Q           Do you know whether you did so in this  
4 case?

5           A           My advice was to issue it.

6           Q           And do you recall on what basis you  
7 personally decided to give that advice? What  
8 motivated you to do so?

9           A           The circumstances were such that -- that  
10 the Deputy Director Murphy did not have confidence in  
11 the Chief continuing as the Chief while the  
12 investigation and what would probably be a proposed  
13 disciplinary action were issued, and he wanted an  
14 alternative to have her continue.

15                        After looking at the alternatives, that  
16 was the alternative that seemed to be the best.

17           Q           Was there any other basis for you  
18 offering that opinion?

19           A           No.

20           Q           Had Mr. Murphy not expressed his concern  
21 with the Chief continuing to perform her duties in  
22 the interim and a desire that she not, would you have

1 offered an opinion that this memo for administrative  
2 leave should have been issued?

3 A Yes.

4 Q So, I take it then contrary to what you  
5 just told me there is some other basis for that  
6 opinion?

7 A What do you mean?

8 Q Well, I had asked you first what your  
9 basis was for offering the opinion that  
10 administrative leave memo should have been issued to  
11 Chief Chambers at that time.

12 You explained it. As I understood it,  
13 that basis was Mr. Murphy was uncomfortable with  
14 Chief Chambers continuing to perform her duties  
15 during the interim of the inquiry that might lead to  
16 a proposed disciplinary action against her and that  
17 he preferred that she not continue to perform her  
18 duties during that interim. Am I understanding you  
19 so far?

20 A Right.

21 Q Okay. And that you did not really -- you  
22 were unable to find any other alternative that would

1 satisfy Mr. Murphy's concerns in that regard other  
2 than administrative leave. Is that correct so far?

3 A Right.

4 Q I don't recall you identifying any other  
5 basis for proposing administrative leave or offering  
6 the opinion that it should be issued. I don't  
7 believe you testified to any other basis at this  
8 time?

9 A If he were not of the opinion that she  
10 should have been placed on administrative leave, in  
11 general I would have supported any high-level  
12 management official who had those type of  
13 responsibilities be placed on administrative leave  
14 while they were undergoing that type of investigation  
15 that would probably lead to a proposed disciplinary  
16 action.

17 Q Would you do that as matter of routine in  
18 any case fitting that description?

19 A Well, I would not characterize it as a  
20 matter of routine. I don't think it routinely comes  
21 up. But yes. That would be my advice.

22 Q In any case that fit that description?

1 A Yes.

2 Q Let's be clear about your criteria for  
3 cases fitting that description. It would have to be  
4 a high-level official is one criteria. Yes?

5 A Yes.

6 Q It would have to be an anticipated  
7 proposed disciplinary action?

8 A Right.

9 Q That is another criteria?

10 A Yes.

11 Q It would have to be a plan to do an  
12 inquiry prior to issuing that proposed decision I  
13 take it or not? Is that not a criteria?

14 A It would be a criteria.

15 Q What other criteria would you add, if  
16 any, to the circumstances under which you would  
17 support administrative leave being issued?

18 A If the duties of the position were such  
19 as that the public good could be compromised by the  
20 person continuing on.

21 Q Okay. Any other criteria that you would  
22 add to the list?

1           A           No, but the last one I would take pretty  
2 broadly.

3           Q           So, any circumstances that might in a  
4 broad sense compromise the public good?

5           A           Yes.

6           Q           If the person remained in office?

7           A           Right.

8           Q           Now, did someone communicate to you any  
9 specific reason to believe that Chief Chambers  
10 remaining in office during this inquiry would have  
11 compromised the public good in any specific way?

12          A           In a specific way?

13          Q           Yes, sir. X, Y, or Z would happen if we  
14 don't immediately take Chief Chambers out of these  
15 duties.

16          A           I believe the primary reason was that Don  
17 Murphy felt as though he did not have confidence in  
18 her continuing in the position and continuing to lead  
19 the Park Police at that point.

20          Q           In general or regarding specific actions  
21 he thought the Chief might do?

22          A           In general.

1           Q           Now, I thought you told me earlier today  
2 that Mr. Murphy was specifically concerned that the  
3 Chief might go to the press again notwithstanding his  
4 instructions not to? Did I hear you correctly?

5           A           I don't know if that compromised the  
6 public good or not.

7           Q           I see. So, did Mr. Murphy identify  
8 anything specific to you that he expressed in any  
9 words that meant to you Chief Chambers was likely to  
10 engage in conduct that would compromise the public  
11 good?

12          A           He didn't identify any specific behavior  
13 that he foresaw.

14          Q           So, your opinion in this case would have  
15 been based on a more general concern?

16          A           Yes.

17          Q           And I take it from that that any time a  
18 supervisor or superior official came to you  
19 anticipating proposing disciplinary action against a  
20 high-level official and had a general concern about  
21 that official that you might support administrative  
22 leave?

1           A           It would depend upon the official and  
2 what the duties of the position are, but yes.

3           Q           Okay. You are not asserting at the  
4 moment that you personally believe that there was  
5 something specific that you anticipated Chief  
6 Chambers doing that would compromise the public good?

7           A           That is right.

8           Q           Meaning?

9           A           I did not anticipate anything  
10 specifically that she would do.

11          Q           I take it no one other than Mr. Murphy  
12 gave you any specifics in that regard, either?

13          A           I don't recall anyone doing that.

14          Q           What involvement did you have or let me  
15 ask you this.

16                    At some point in time did someone notify  
17 you that the inquiry had been completed regarding  
18 Chief Chambers after she had been placed on  
19 administrative leave?

20          A           No.

21          Q           No. Not even as of today?

22          A           Did someone formally notify me that the

1 inquiry had been completed?

2 Q Yes, sir.

3 A No one.

4 Q Mr. Krutz never came up to you and said I  
5 finished my investigation, for example?

6 A No. He did not say that.

7 Q And nothing that meant that?

8 A When he said that the proposal was ready  
9 to be issued, I assume that meant that the inquiry  
10 was completed.

11 Q Your answer is fair, but I'm not asking  
12 you to assume. I'm asking what was stated by Mr.  
13 Krutz or someone else. Mr. Krutz didn't say he  
14 finished his inquiry?

15 A He didn't say that.

16 Q But there did come a time when Mr. Krutz  
17 approached you and said that proposal was ready or we  
18 have a proposal ready or something to that effect?

19 A Yes.

20 Q When was that?

21 A Sometime before it was issued.  
22 Specifically, I couldn't tell you a date.

1 Q How many or when was it issued? Do you  
2 know?

3 A December the 17th.

4 Q Sounds about right. How many days before  
5 that do you think Mr. Krutz told you the proposal was  
6 ready?

7 A Probably within the week before that.

8 Q Do you know whether any activities were  
9 planned to be conducted after that point in time  
10 before the formal issuance of that, any discussions,  
11 interviews, meetings? Any other steps?

12 A After the proposal was issued?

13 Q No, sir.

14 A Before the proposal was issued?

15 Q Before the proposal was issued on the  
16 17th but after Mr. Krutz told you it was basically  
17 ready.

18 A I am not aware of any activities after  
19 that.

20 Q Do you know whether there was any  
21 communication with Chief Chambers after Mr. Krutz  
22 told you the proposal was ready but prior to it being

1 issued?

2 A I am not aware of that.

3 Q Did you see the proposal in writing at  
4 the point Mr. Krutz told you it was ready?

5 A No.

6 Q Was it explained to you in substance by  
7 Mr. Krutz at that time, the proposal?

8 A No.

9 Q Were you told essentially the outcome?  
10 In other words, what action was to be proposed?

11 A Yes.

12 Q What was that?

13 A Proposed removal.

14 Q Was anyone present other than you and Mr.  
15 Krutz at that time?

16 A No.

17 Q Was there a record made of that  
18 conversation?

19 A No.

20 Q Did you make any remark in response?

21 A I think I asked him if it had been  
22 reviewed by the Solicitor's Office.

1 Q Did you make any other comment?

2 A I asked him if Don Murphy had reviewed  
3 it.

4 Q If Don Murphy had reviewed it?

5 A Uh-huh.

6 Q And what did he say?

7 A He said that it had. That he had.

8 Q Did you ask for anything further or make  
9 any further comment?

10 A No.

11 Q Did Mr. Krutz indicate his approval or  
12 disapproval of that particular proposed action at  
13 that time?

14 A His approval?

15 Q His personal opinion. Was he in favor of  
16 the action? Was he opposed to it? Did he not  
17 express anything, sentiment either way?

18 A He didn't express a sentiment either way.

19 Q Did you understand from his communication  
20 that he is the one who had determined to forward a  
21 proposed removal and Mr. Murphy had reviewed it and  
22 approved it?

1           A           I understood him to -- that the proposal  
2 had been developed by him, had been finalized by the  
3 Solicitor's Office, and reviewed by Mr. Murphy.

4           Q           Okay. Do you know whether Mr. Murphy had  
5 told Mr. Krutz what Mr. Murphy expected to be the  
6 outcome? In other words, that Mr. Murphy wanted a  
7 proposed removal?

8           A           No. I don't know that.

9           Q           How many different versions of the  
10 proposed removal letter have you seen?

11          A           Two to three.

12          Q           Have you maintained any of them?

13          A           No.

14          Q           Not even the final?

15          A           No. I have not maintained the final,  
16 either.

17          Q           Do you know whether they're maintained in  
18 the files of the Human Resources Office?

19          A           Yes.

20          Q           That would be each of the versions?

21          A           The final version is maintained in the  
22 Human Resources Office.

1 Q Do you know about the earlier versions?

2 A I don't know.

3 Q Do you know what steps were taken to  
4 process the proposed removal into a final removal  
5 decision after Mr. Krutz made that notice to you?

6 A No.

7 Q Were you involved in that process?

8 A No.

9 Q Not in any way? Not advising? Not  
10 filling in for Mr. Krutz?

11 A No.

12 Q Who in Human Resources, if anyone, played  
13 a role in the process that happened subsequent to Mr.  
14 Krutz informing you that there was a proposed removal  
15 decision ready through the period up to the final  
16 removal decision issuance on July 9, 2004?

17 A As far as I know, just Steve Krutz.

18 Q And you understand that Mr. Krutz was  
19 actively involved for that remaining process?

20 A Yes.

21 Q And do you know what steps he took during  
22 that period?

1 A No.

2 Q Do you understand that he was involved in  
3 working with the reviewing or deciding official,  
4 Mr. Paul Hoffman, on that matter?

5 A Yes.

6 Q Did you direct him to do so?

7 A No.

8 Q Was he assigned to do so?

9 A Yes. I would have assigned him to do it.  
10 I didn't direct him to do it.

11 Q I understand. So, he was assigned by  
12 you to work with Mr. Hoffman on that final decision  
13 process?

14 A Yes.

15 Q Okay. Had someone asked you to assign  
16 someone for that purpose?

17 A No.

18 Q Would that be a routine thing to do?

19 A Yes.

20 Q Have you reviewed any versions, final or  
21 otherwise, of the final removal decision issued to  
22 Ms. Chambers?

1           A           I reviewed the final.

2           Q           Okay. Let me show you a document  
3 previously marked as Hoffman Exhibit 3 and see if you  
4 recognize it.

5           A           I recognize the document.

6           Q           Is this the version that you reviewed or  
7 is it perhaps a version that was created after your  
8 review?

9           A           This is the version I reviewed.

10          Q           Okay. If you will look to the bottom or  
11 let me ask you this. Did you review any version of  
12 this document that preceded it, any prior version?

13          A           No.

14          Q           If you look at near the bottom of that  
15 first page, I believe you'll see a reference. If I  
16 could borrow counsel's copy, I can direct you  
17 specifically to the bottom paragraph, the second  
18 sentence.

19                        After making the determination about  
20 facts in this case, I have decided to sustain all the  
21 charges in the removal proposal. Do you see that?

22          A           Yes.

1           Q           Do you know whether, in fact, the  
2 reviewing deciding official, Mr. Hoffman, did, in  
3 fact, make determinations about facts in this case?

4           A           Do I know it? No. I don't know it.

5           Q           Okay. I take it from that but correct me  
6 if I'm mistaken that you have never reviewed any  
7 findings of fact written by Mr. Hoffman on this case?

8           A           I have not.

9           Q           Do you know if any person has reviewed  
10 any findings of fact by Mr. Hoffman on this case?

11          A           I don't know.

12          Q           Do you know whether Mr. Hoffman may have  
13 made a draft of this document prior to that had  
14 findings of facts stated in it?

15          A           I don't know that.

16          Q           No one told you either way?

17          A           No.

18          Q           Okay.

19          A           I reviewed the final copy.

20          Q           All right. Is it the responsibility of  
21 Human Resource personnel in your understanding of the  
22 policy of your office to substantively change or

1 delete findings of fact made by a reviewing or  
2 deciding official in a decision document?

3 A I don't think we have a policy either way  
4 on that matter.

5 Q Do you know whether or not Mr. Krutz  
6 deleted a number of specific findings of fact that  
7 Mr. Hoffman wrote and found from a version of this  
8 decision document?

9 A No. I don't know that.

10 Q Do you know whether any person may have  
11 done that?

12 A I don't know that.

13 Q I take it you yourself were not asked to  
14 approve or condone any such deletion of findings of  
15 fact?

16 A I was not.

17 Q Is it your understanding that an employee  
18 who is to be proposed to be removed is entitled to a  
19 statement of the reasons for the proposed removal?

20 A Yes.

21 Q Is it your understanding that an employee  
22 who is to be given a final removal decision is

1 entitled to a statement of the reasons for that final  
2 decision?

3 A Yes.

4 Q You had filled in for Mr. Krutz on  
5 December 5th for that meeting in which Chief Chambers  
6 was given the administrative leave notice, as I  
7 remember your testimony. Were you involved in  
8 determining the nature of communications to be given  
9 to Ms. Chambers in order to get her to come to that  
10 meeting?

11 A I don't specifically recall that. No.

12 Q Do you know whether or not Ms. Chambers  
13 was told of the purpose of the meeting prior to her  
14 arriving in Mr. Murphy's office on December the 5th?

15 A She was not.

16 Q Was that a conscious decision?

17 A Yes.

18 Q Do you know who made that decision?

19 A Don Murphy.

20 Q Do you know whether Mr. Murphy  
21 communicated with Ms. Chambers and gave her some  
22 other reason for showing up to his office at that

1 time?

2 A I don't recall that.

3 Q Do you know whether any person may have  
4 communicated to Ms. Chambers and given her some other  
5 reason for showing up in Mr. Murphy's office at that  
6 time?

7 A No. I don't know that.

8 Q I want to show you a document that has  
9 been marked as Murphy Exhibit Number 11 and just ask  
10 you if you have seen it before. Please share with  
11 counsel if they need to see it. I only have one copy  
12 handy at the moment.

13 A I don't recall seeing this before.

14 Q Do you know whether on the date of that  
15 communication, December 3rd, Mr. Murphy was  
16 contemplating placing Chief Chambers on  
17 administrative leave?

18 A Yes, he was.

19 Q How would you have known that?

20 A He discussed it with me.

21 Q By December 3rd?

22 A I'm sorry. I have the date wrong. He

1 discussed it with me on the 5th.

2 Q So, do you know whether or not he would  
3 have been considering an administrative leave action  
4 as of that date, December 3rd?

5 A I don't believe he was considering it at  
6 that point.

7 Q Let me show you a document marked as  
8 Murphy Exhibit 10 which is an e-mail from Mr. Murphy  
9 to Ms. Chambers in response to -- an e-mail from Ms.  
10 Chambers to Mr. Murphy and ask if you have seen that  
11 before. You can show it to your counsel.

12 A I don't recall if I saw it before.

13 Q Do you see a statement by Mr. Murphy  
14 there that explains that his instructions to Chief  
15 Chambers regarding not having meeting interviews is  
16 essentially a broad one that would encompass any  
17 interviews?

18 A Yes.

19 Q Is that language that you consulted with  
20 Mr. Murphy on?

21 A I was aware that he did it, but I don't  
22 recall consulting with him about it.

1 Q All right. Is it the policy of your  
2 office that a deciding official on a personnel action  
3 is allowed to conceal their actual findings of fact  
4 from the employee affected by the action?

5 A No. That's not our policy.

6 Q Do you know a Ms. Diane Dason?

7 A Yes. I know of her. I don't know her.  
8 I have met her.

9 Q Was she at one point the superintendent  
10 for the Statue of liberty?

11 A Yes.

12 Q Do you know whether any personnel action  
13 occurred in regard to her?

14 A Yes.

15 Q And do you know whether she might have  
16 been arrested for an alleged assault on a police  
17 officer?

18 A I have read the report of her assault.  
19 So, yes.

20 Q Do you know whether Ms. Dason was placed  
21 on administrative leave?

22 A I believe that she was.

1           Q           Do you think she was? You are not aware  
2 that she was temporarily reassigned?

3           A           I know that she was reassigned.

4           Q           You're not sure whether she might have  
5 been placed on leave in addition?

6           A           I believe that she was placed on leave  
7 after the -- after the arrest. I don't recall  
8 whether it was administrative leave or whether she  
9 was on some other version of leave, whether she was  
10 on sick leave or annual leave.

11          Q           Was she required to be on some kind of  
12 leave during the inquiry into her alleged offense?

13          A           I don't recall whether she was required  
14 to be on leave. As best I can recall, she was on  
15 leave, and that may have been at her request.

16          Q           She may have been reassigned, and she may  
17 have taken leave?

18          A           Yes. My recollection is she had some  
19 health problems and was on leave for that.

20          Q           I see. Thank you.

21                       (Off the record.)

22                       BY MR. HARRISON:

1           Q           Mr. Davies, when the decision was made to  
2 place Chief Chambers on administrative leave, was  
3 there any discussion between you and Mr. Murphy or  
4 other non-lawyer officials as to the potential risk  
5 to Chief Chambers as a pretty well-known police  
6 official in this area if she were to be removed of  
7 her badge and her gun on short notice without  
8 planning, for example? That she might be put in a  
9 vulnerable position during her? For example, her  
10 travel home on that particular day?

11           A           Yes.

12           Q           And apparently the decision was made to  
13 relieve her of her badge and gun nonetheless?

14           A           Yes.

15           Q           Had you taken any position on that matter  
16 yourself?

17           A           My position was to treat her in  
18 conformance with the general order what we thought  
19 was treating her in conformance with general orders.  
20 Essentially to treat her as we would any other Park  
21 Police officer.

22           Q           Under general order 70 was it?

1           A           Yes.

2           Q           Have you ever been involved in another  
3 case with a police officer, federal police officer,  
4 that did not involve some alleged act of violence I  
5 guess I would say? Perhaps wrongful shooting where  
6 the officer was required to give up their weapon and  
7 their badge pending investigation?

8           A           Yes.

9           Q           I don't need the person's name but  
10 context?

11          A           This is quite some time ago. But the  
12 then chief ranger of Yosemite National Park was --  
13 had a proposal of misuse of government vehicle and  
14 proposed suspension of 30 days.

15          Q           The suspension was for the use of the  
16 government vehicle?

17          A           Yes, misuse.

18          Q           Do you know what the misuse was? Just  
19 driving it?

20          A           The misuse was driving it. He was  
21 driving it someplace he was not authorized to do and  
22 was told he was not supposed to do that and went

1 ahead and did it anyway.

2 Q I see. Were you aware of any  
3 disciplinary actions against police officers during  
4 the pendency of which the officer was not relieved of  
5 the badge and gun? I would include park rangers in  
6 that if they have badges and guns.

7 A I haven't been involved in any cases that  
8 did not involve removing the badge and gun. Most of  
9 the time I worked with the deciding official and not  
10 with the proposal official. So at the time the  
11 proposal was issued, my experience with that is  
12 relatively limited.

13 Q You would not necessarily know for those  
14 cases. Understood.

15 MR. HARRISON: Thank you, Mr. Davies. We  
16 have nothing further unless counsel has a question  
17 for you.

18 MR. L'HEUREUX: No questions.

19 (Whereupon, at approximately 5:08 o'clock,  
20 p.m., the above deposition ended and  
21 signature was waived.)

22 \* \* \* \* \*

## 1 CERTIFICATE OF NOTARY PUBLIC

2 I, Ronnie C. Palmer, the officer before whom  
3 the foregoing proceedings were taken, do hereby  
4 certify that the foregoing transcript is a true and  
5 correct record of the proceedings; that said  
6 proceedings were taken by me stenographically and  
7 thereafter reduced to typewriting under my  
8 supervision; and that I am neither counsel for,  
9 related to, nor employed by any of the parties to  
10 this case and have no interest, financial or  
11 otherwise, in its outcome.

12

13 My commission expires:

14 February 28, 2009

15

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17 \_\_\_\_\_

18 NOTARY PUBLIC IN AND FOR THE

19 DISTRICT OF COLUMBIA

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