

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
Washington Regional Office

TERESA C. CHAMBERS,	x
	:
Appellant,	: Docket Number
vs.	: DC-1221-04-0616-W-1
	:
DEPARTMENT OF INTERIOR,	:
	:
Agency.	x

Washington, D.C.

Tuesday, August 10, 2004

DEPOSITION OF:

FRANCES P. MAINELLA,

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 9:14 o'clock, a.m., in the offices of the Public Employees for Environmental Responsibility, 2001 S Street, Northwest, Suite 570, Washington, D.C. 20009, before Catherine S. Boyd, a Court Reporter and Notary Public in and for the District of

1 Columbia, when were present on behalf of the
2 respective parties:

3

4 APPEARANCE OF COUNSEL:

5 For the Appellant:

6 KENTUCKY ENVIRONMENTAL FOUNDATION
7 BY: MICK G. HARRISON, ESQUIRE
8 128 Main Street
9 Berea, Kentucky 40403
10 (859) 986-7565

11 For the Agency:

12 McNAMARA & L'HEUREUX, ESQUIRES
13 BY: ROBERT D. L'HEUREUX, ESQUIRE
14 1522 King Street
15 Alexandria, Virginia 22314
16 (703) 739-1339

17 and

18 U.S. DEPARTMENT OF THE INTERIOR
19 BY: JACQUELINE JACKSON, ESQUIRE
20 Attorney-Advisor
21 Division of General Law
22 Office of the Solicitor
1849 C Street, Northwest
Washington, D.C. 20240
(202) 208-6848

19

20

21

--continued--

22

1 APPEARANCE OF COUNSEL: (cont)

2 ALSO PRESENT

3 TERESA CHAMBERS, Appellant
4 RICHARD CONDIT, ESQUIRE
5 JEFFREY P. RUCH
6 STEVE ELDRIDGE
7 GABRIEL BENITEZ, Public Employees for
8 Environmental Responsibility

9 ELIZABETH BOGLE, ESQUIRE (Via telephone)
10 Administrative Law Judge
11 Merit Systems Protection Board

12 - 0 -

13 I-N-D-E-X

14 Witness: Page:

15 Frances P. Mainella

16 Examination by Mr. Harrison 25

17 - 0 -

18 Exhibits: (Included with transcript) Page:

19 Exhibit No. 1 for Identification
20 to the Mainella Deposition 245
21 (Memo dtd 11/28/03 to Mainella
22 fr Chambers)

23 - 0 -

1 TELEPHONE CONVERSATION WITH JUDGE BOGLE

2 MR. L'HEUREUX: And the agency is
3 unwilling to go forward under these
4 circumstances, and we would like to discuss this
5 with you and get a ruling if possible.

6 JUDGE BOGLE: The problem is I'm working
7 off site today, so if you filed something with my
8 office, I haven't seen it, either.

9 I'm trying to figure out how we can
10 remedy that.

11 Have you faxed something to my office?
12 Is that what you're saying?

13 MR. L'HEUREUX: It was, it was
14 hand-delivered to the, to the Board's office, the
15 regional office, yesterday afternoon, about 3:30
16 or so.

17 JUDGE BOGLE: Okay. I have not seen it.
18 I can have them fax it to me, and we can have
19 this discussion later, but I'm reluctant to have
20 it without having seen what you filed.

21 MR. HARRISON: Understood, Judge. This
22 is Mick Harrison for Ms. Chambers.

1 We have just now received the service of
2 the motion by fax.

3 We really haven't had a chance to digest
4 it, either.

5 We obviously would oppose a protective
6 order if it were to limit public access to the
7 information in the case, so I guess we would
8 defer to Your Honor's suggestion on how to
9 proceed.

10 I get the impression that Mr. L'Heureux
11 does not want to proceed until the issue is
12 resolved.

13 MR. L'HEUREUX: That's correct.

14 JUDGE BOGLE: Okay. Well, I mean we can
15 talk about it site unseen, or we can reschedule
16 this for a later time when you and Mr. Harrison
17 and I have had a chance to look at what the
18 agency has filed.

19 If you want to talk about it now, I
20 guess you'll have to explain to me in a little
21 more detail what the issue is.

22 MR. HARRISON: Well, I don't know if Mr.

1 L'Heureux has a preference.

2 I certainly prefer to read things before
3 I represent my client's interest on them.

4 JUDGE BOGLE: Okay.

5 MR. HARRISON: And possibly have at
6 least a half hour to do legal research, so I
7 would, I guess would suggest we reconvene today
8 at Your Honor's convenience after you've had a
9 chance to read the motion, and I will take
10 advantage of the time to do so myself.

11 JUDGE BOGLE: Mr. L'Heureux, how long is
12 this motion?

13 MR. L'HEUREUX: Well, it's about, about
14 13 pages to the last page, Your Honor.

15 MR. HARRISON: But most of it's probably
16 not at issue for the moment.

17 MR. L'HEUREUX: No. The motion is quite
18 broad. It seeks protective orders in a number of
19 areas.

20 This is a fairly narrow focus of maybe a
21 page and a half or two pages of argument.

22 JUDGE BOGLE: Okay. What do you

1 propose? The length of it may be a problem for
2 me to get it faxed, but certainly I will do the
3 best I can, as will my office, and Mr. Harrison,
4 you want to read it, too, and what, how long do
5 you propose or what time do you propose we
6 reconvene?

7 MR. HARRISON: Well, Your Honor, it
8 wouldn't take more than an hour for the appellant
9 to be prepared to speak to the issue, but it may
10 take longer for Your Honor.

11 I would defer to Your Honor's schedule.

12 JUDGE BOGLE: If we're going to just
13 deal with a very narrow part of it, maybe we can
14 reconvene in an hour.

15 How would that be?

16 MR. L'HEUREUX: That's acceptable to us,
17 Your Honor.

18 JUDGE BOGLE: All right. Do you want me
19 to call this number again in an hour?

20 MR. HARRISON: That would be fine.

21 JUDGE BOGLE: Okay. Will do. Talk to
22 you then.

1 MR. HARRISON: Thank you. Off the
2 record.

3 (The deposition was recessed at
4 approximately 9:15 a.m., to resume at
5 approximately 10:15 a.m. the same day.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

1

2

3

4

5

6

7

8

9

10

11 TELEPHONE CONVERSATION WITH JUDGE BOGLE (Resumed)

12 (10:30 a.m.)

13 MR. HARRISON: Judge Bogle?

14 JUDGE BOGLE: Yes.

15 MR. HARRISON: Hi. Mick Harrison here,
16 and Bob L'Heureux is with me.17 JUDGE BOGLE: Okay. I'm aware that you
18 faxed a response I guess to this, Mr. Harrison?19 MR. HARRISON: We just faxed some case
20 law, Your Honor.21 We have not had time to draft a
22 response.

1 JUDGE BOGLE: Okay. And it's coming to
2 me right now, but obviously I have not had a
3 chance to review it.

4 Let's start with a better description of
5 the problem because I have your motion, Mr.
6 L'Heureux, but it appears to have been filed in
7 advance of the problem, so what's the problem
8 today?

9 MR. L'HEUREUX: Well, the problem today,
10 Your Honor, is that we, we filed a motion because
11 we suspected that something like this might
12 happen, but we discovered this morning when we
13 went to begin the deposition that a person was
14 present who was not an employee of, of Mrs.
15 Chambers' or Ms. Chambers' attorneys.

16 He has been identified to us as a
17 recorder and somebody who is going to write a
18 book.

19 We are concerned because we believe that
20 this deposition is going to, to necessarily
21 involve the difficult discussion of sensitive law
22 enforcement and possibly sensitive other budget

1 information which we're prepared to discuss, but
2 we do not want made public at this time or even
3 at any time.

4 JUDGE BOGLE: Okay. And Mr. Harrison,
5 what has your research showed?

6 MR. HARRISON: Well, Your Honor, we have
7 identified what appears to be the controlling law
8 on the question, and that would start with
9 regulations 5 CFR 1201.72 and 1201.74, which Mr.
10 L'Heureux cited in his motion, but there is also
11 the case law from federal courts, which basically
12 implements the rule established in The Seattle
13 Times.

14 The Seattle Times was a 1984 Supreme
15 Court case which I actually have somewhere in
16 front of me, or had in front of me.

17 Yes. Here it is. And Your Honor, that
18 citation if you would like it is 467 US 20,
19 Seattle Times versus Rhinehart, 1984, Supreme
20 Court, and then more recent decisions applying it
21 and interpreting it in the District Court for the
22 District of Columbia would be Alexander versus

1 FBI.

2 That would be June 1998, and I have --
3 that's a 186 FRD 60 citation.

4 And another District Court case
5 interpreting The Seattle Times rule and applying
6 it in a similar situation, which was a protective
7 order sought regarding public dissemination of
8 deposition material was Abrigan, A-B-R-I-G-A-N,
9 versus Hull, H-U-L-L.

10 JUDGE BOGLE: Okay, but stated briefly,
11 what is The Seattle Times holding?

12 MR. HARRISON: The gist is that there
13 has to be a good cause showing by the movant, the
14 person seeking the protective order.

15 There is a presumption that the
16 information in the pretrial process is public,
17 including depositions.

18 There are First Amendment interests at
19 stake.

20 The burden is on the movant to show the
21 good cause, and it's basically the judge's
22 discretion to determine whether the good cause

1 has been shown.

2 I can give you the gist of the rule
3 here.

4 JUDGE BOGLE: Well, let me ask you this
5 question.

6 Are we talking about attendance at a
7 deposition, or are we talking about dissemination
8 of the deposition transcript?

9 MR. HARRISON: Well, I guess that would
10 be a question for the movant to answer.

11 MR. L'HEUREUX: We, we would like both
12 issues addressed, Your Honor, but the obvious one
13 right now is attendance at the deposition.

14 JUDGE BOGLE: But what are, what do the
15 two of you have to say on whether this court case
16 talks about attendance at a deposition or
17 dissemination of the transcript?

18 MR. HARRISON: Well, Your Honor, I
19 haven't found in the one hour I have had to
20 review the case law a case which actually
21 involved an issue where a party sought to
22 restrict attendance and a decision was made on

1 that question.

2 The case law I have is about public
3 dissemination.

4 JUDGE BOGLE: Okay. Well, let me just
5 say like you, I've had very limited opportunity
6 to look at this issue.

7 I'm not particularly comfortable ruling
8 on it.

9 I've had a limited opportunity, but it's
10 clear to me that you need some guidance so that
11 you can proceed.

12 Like you, I've looked at the Board
13 regulations.

14 I've looked at the Federal Rules of
15 Civil Procedure.

16 I don't find anything in either of those
17 sources that would create a right of anyone other
18 than the immediate parties to be present at a
19 deposition, so I think that's the starting point.

20 The Board's regulations really don't
21 speak to it, but the Federal Rules make very
22 clear that the judge has authority to place

1 limits on the depositions even for such things as
2 possible embarrassment or annoyance, so it's
3 clear to me that there is the ability to place
4 limits on the deposition attendance.

5 I've given this some thought. I've got
6 the appellant -- the agency's motion. I'm
7 receiving now your response, Mr. Harrison, but
8 you're telling me it's mainly case law anyway.

9 MR. HARRISON: It is.

10 JUDGE BOGLE: In my mind, there can be
11 no real positive from allowing, opening this up
12 to the media to attend, and there are potential
13 negatives.

14 As Mr. L'Heureux has stated, there
15 certainly are things that may be asked at
16 deposition, which as you both know, may have to
17 be answered even though at a hearing, they could
18 be validly objected to.

19 So I think that being required to give
20 deposition testimony under those circumstances
21 with the media present is a significant
22 disadvantage.

1 So for those reasons, and given the
2 limited amount of time I've had to really address
3 this issue, I would rule that the media cannot be
4 present for the deposition.

5 Now there is a second question which I
6 think you both recognize, and that is once a
7 deposition testimony is taken, how can it be
8 disseminated.

9 I think that that's best put off for a
10 later day.

11 Both the Federal Rules and the Board's
12 regulations obviously to me encourage the parties
13 to cooperate and try to work this out.

14 Up until this moment, you told me that
15 you had been quite successful in cooperating in
16 your discovery effort.

17 I want to point out to you that
18 yesterday I issued the hearing order setting
19 hearing for the day that we agreed upon, but it
20 sets other days as well, and one of them is the
21 date for the completion of the discovery, so with
22 the issuance of that order, you're now working up

1 against a time limit, and for that reason, I
2 guess you have more, more reason than before to
3 try to cooperate and get the discovery
4 accomplished that you want.

5 Venturing into other territory here that
6 is raised by Mr. L'Heureux's motion and not
7 making a ruling at this time, but in the, in the
8 interest of fostering cooperation between you, I
9 would say that I have had other cases where
10 appellants felt that high-ranking officials such
11 as the agency had had relevant information and
12 wanted to depose them.

13 The way we have dealt, generally dealt
14 with that, and I toss it out for you to talk
15 about and think about, is to first send those
16 officials a limited number of interrogatories to
17 see if any interrogatory responses would indicate
18 that despite the fact that he didn't take the
19 action, they would have some deposition testimony
20 to give.

21 So you apparently are approaching a
22 disagreement on whether Secretary Norton,

1 Parkinson, and Teufel should give, be required to
2 give depositions.

3 Let me suggest to you that you might be
4 able to agree upon a limited set of
5 interrogatories, questions for them to see if
6 that provides a basis for going further and
7 allowing their depositions.

8 So that's basically what I have to offer
9 to you this morning.

10 As I said at the outset, I'm not
11 comfortable doing this under these circumstances.

12 There's one other thing I wanted to
13 point out to you because you would have no reason
14 to be aware of this -- when you file something
15 with the regional office, it doesn't reach me
16 very quickly because we enter everything into a
17 computer file, so you can't really expect that if
18 you drop something off at three o'clock in the
19 afternoon, I will necessarily see it before the
20 end of that day, so that's kind of why this has
21 come up so suddenly.

22 It wasn't brought to my attention

1 yesterday.

2 If it had been, I would have had a
3 little more time to work with it, but so that's,
4 that's the practical side of why this came up the
5 way it did.

6 MR. HARRISON: Your Honor, this is Mick
7 Harrison.

8 I would like to ask if Your Honor would
9 consider the decision you're making on short
10 notice today prior to our filing any written
11 response, I would like to ask if you consider it
12 to be a temporary decision pending a written
13 response from the appellant, which we really
14 haven't had the benefit of.

15 My reading of this case law is that a
16 prior restraint of this type before any showing
17 that the information being inquired into or being
18 answered would in fact cause any concern, under
19 the rules is improper, under the controlling law,
20 and it seems to me since we have 10 to 18 total
21 depositions, depending on what is approved, yet
22 to happen, that we would like at least, Your

1 Honor, to have our written response considered
2 before Your Honor makes a call for the remaining
3 depositions.

4 JUDGE BOGLE: Fair enough. I would be
5 happy to consider your written response.

6 MR. HARRISON: Thank you.

7 JUDGE BOGLE: Let me just comment on
8 this 10 to 18 witnesses.

9 As you know, this is a fairly recent
10 modification of the Board's regulations, but it
11 is consistent with the Federal Rules.

12 I know that I have a request to expand
13 beyond ten witnesses.

14 Do I have a response on that?

15 MR. L'HEUREUX: It's contained in this
16 same motion, Your Honor.

17 JUDGE BOGLE: Okay. So I can, once I
18 get Mr. Harrison's response to this motion, I'll
19 have everything I need to take a look at the
20 rulings you have requested to date, is that
21 right?

22 MR. HARRISON: That's almost right, Your

1 Honor.

2 I believe Mr. L'Heureux is contemplating
3 filing something eventually that requests
4 invocation of the 30-day suspension procedure.

5 MR. L'HEUREUX: We expect to file
6 something today, unilateral request.

7 The appellant will oppose it or would,
8 certainly will not join in it anyway.

9 I don't know if they will oppose it.
10 That's up to them, but we're going to request it
11 be placed on suspension because of the large
12 number, the prospective large number of witnesses
13 that, that appear to be destined for hearing in
14 this case.

15 JUDGE BOGLE: But the suspension process
16 is for discovery and/or settlement.

17 What reason are you giving?

18 MR. L'HEUREUX: Discovery, Your Honor.

19 JUDGE BOGLE: So you're not talking
20 about the prospective number of witnesses to
21 testify?

22 You're talking about the, the requested

1 18 depositions, is that what you're saying?

2 MR. L'HEUREUX: That's right, Your
3 Honor, and there are at least twice that many
4 prospective witnesses that have been identified
5 by the appellant.

6 JUDGE BOGLE: You know, let me just put
7 you both on notice I have every expectation of
8 limiting these witnesses to ten.

9 I mean this is a fairly recent change in
10 the Board's regulations. I have to assume they
11 made the change because they felt that that would
12 be the appropriate limitation in all but very
13 extraordinary cases.

14 Now I haven't sat down with this to see
15 whether this fits the definition of a very
16 extraordinary case, but you know, even if it
17 does, 18 is well beyond, almost double what the
18 Board has included in its regulations, so I, I
19 have, I am more inclined to work with you to see
20 if we can't get these depositions taken and/or
21 limited than I am to put the case on suspension,
22 particularly if the appellant opposes it.

1 MR. HARRISON: Thank you, Your Honor.

2 JUDGE BOGLE: Okay. So Mr. Harrison, we
3 can consider this a temporary ruling given the
4 way it's come up.

5 I would be happy to receive a response
6 from you.

7 When will you make a response?

8 MR. HARRISON: Well, let's see. We have
9 depositions scheduled for tomorrow and the next
10 day.

11 Friday would be good.

12 JUDGE BOGLE: Okay. We're scheduled to
13 talk on Monday about your settlement progress,
14 correct?

15 MR. HARRISON: I believe that is
16 correct.

17 MR. L'HEUREUX: That is correct, Your
18 Honor.

19 JUDGE BOGLE: So if I have everything on
20 Monday, I will attempt to get you a written
21 ruling as soon as, as I possibly can, so Friday
22 would be, would be a good filing date.

1 MR. HARRISON: Thank you, Your Honor.

2 JUDGE BOGLE: Anything else?

3 MR. L'HEUREUX: That's all, Your Honor.

4 JUDGE BOGLE: All right. Again, I'm
5 hopeful that you, your cooperation will continue,
6 and we can get this case set for hearing on the
7 date that we previously agreed upon.

8 MR. HARRISON: We'll do our best, Your
9 Honor.

10 MR. L'HEUREUX: Thank you for your time,
11 Your Honor.

12 Thank you for your ruling.

13 (The telephone call was concluded, and
14 Mr. Eldridge left the deposition.

15 Judge Bogle was no longer a participant
16 in the deposition.)

17

18

19

20

21

22

1 purposes of the legal team only, and we agree on
2 the record that that recording will be kept in
3 our custody, and there will not be any access to
4 it by any other party pending the judge's ruling
5 on those matters as per our telephone call with
6 the judge today.

7 Let's start by getting some background.
8 You have the good fortune or bad fortune to be
9 the first person deposed in this case, so I'll be
10 asking you some background questions that may not
11 have to be asked of other people about how the
12 agency works and so forth.

13 I understand you're the director of the
14 National Park Service?

15 A. Yes, sir.

16 Q. Okay. And what does the director of the
17 National Park Service do?

18 A. Well, I'm responsible for the operations
19 of the National Park Service, which includes our
20 388 units.

21 Q. Okay.

22 A. It also involves obviously the Park

1 Police.

2 Q. All right.

3 A. It involves our, a lot of dealing with
4 partnerships, with programs such as the land and
5 water conservation program.

6 It involves rivers and trails. It
7 involves cultural and natural resource issues,
8 and all that is focused on, regarding the mission
9 of the National Park Service, which is to protect
10 legal impaired, but also make sure there's an
11 enjoyment by the population.

12 Q. All right. And you indicated 388 units.
13 What would be a unit exactly?

14 A. A unit could be -- it doesn't always
15 have the name national park, for example.

16 The Washington Monument is a unit of the
17 National Park Service.

18 Q. Okay.

19 A. Where also you have Acadia National
20 Park, which actually has the name national park,
21 but you would -- so you have historic sites.

22 There's numerous recognitions or titles

1 that go with each of those parks, most of which
2 have been set by Congress.

3 Q. I see. So essentially you're in
4 charge -- correct me if I'm wrong -- of all the
5 national parks, all the national monuments, and a
6 number of other units which fall within the
7 purview of the National Park Service?

8 A. I am the responsible entity done in
9 cooperation with my leadership.

10 Q. Okay. Now that's something I want to
11 clarify.

12 How does that work? If there is a
13 decision to be made of some import regarding a
14 national park or monument, are you at liberty to
15 do that -- how shall I say -- unencumbered by
16 anyone else's advice or direction?

17 A. Well, obviously I serve the Secretary of
18 Interior.

19 I serve the Assistant Secretary, Craig
20 Manson, and those oftentimes I do reference with.

21 I always try to receive the facts of an
22 issue. This is where my leadership team helps

1 me.

2 The final determination usually rests
3 with me.

4 Q. All right. And the Secretary of the
5 Interior would be Ms. Gale Norton?

6 A. That's correct.

7 Q. And Assistant Secretary Manson, can you
8 tell me who that is and what his responsibility
9 is?

10 A. That's Assistant Secretary Craig Manson,
11 and he's the Assistant Secretary for Fish,
12 Wildlife and Parks.

13 Q. And he would be, is he in a line
14 authority over you?

15 A. Yes, he is.

16 Q. And then the Secretary above him?

17 A. Yes.

18 Q. All right. Is there anyone in a line
19 authority above you other than Secretary Norton
20 and Assistant Secretary Manson?

21 A. Well, Deputy Secretary Steve Griles
22 would also serve.

1 Normally, though, I report directly to
2 Craig Manson.

3 Q. Okay. Now pardon my ignorance of the
4 designations within the department.

5 An assistant secretary is above or below
6 a deputy secretary?

7 A. Okay. A deputy secretary, Steve Griles
8 is a higher level than a --

9 Q. Assistant?

10 A. Assistant.

11 Q. Okay. It would be the Secretary, then
12 would be Deputy Secretary Griles, and then the
13 Assistant Secretary Manson?

14 A. And then the assistant secretary, and
15 then bureau chiefs.

16 Q. I see. Okay. And are you at the level
17 that would be called a bureau chief?

18 A. I am.

19 Q. You are? Okay. And are those folks
20 routinely called directors, are they routinely
21 called chiefs, or some of each?

22 A. In the National Park Service, you're

1 called director.

2 Q. I see. All right. You mentioned a
3 leadership team I believe.

4 What is that exactly?

5 A. Leadership team, the National Leadership
6 Council, is made up of seven regional directors.

7 Each of your -- the National Park
8 Service is divided into seven regions.

9 Q. Okay.

10 A. Then your associateships in the
11 Washington office, which is dealing with such as
12 natural resources, partnerships, and you have --
13 let's see -- natural resources, cultural
14 resources, partnerships.

15 Then you have the budget, our
16 comptroller.

17 Now we have Park Police chief.

18 Q. Um-hm.

19 A. We also have the associate for visitor
20 and resource protection, and of course also our,
21 we have our associate for administration, and we
22 have our IT person.

1 Q. IT would be?

2 A. What do we call them? We call them CIO.

3 It's CIO, but it's the --

4 Q. What's the nature of the job?

5 A. It's doing Web sites.

6 Q. Okay.

7 A. You know.

8 Q. Technology?

9 A. Technology.

10 Q. Thank you.

11 A. And then in addition, we have our two
12 deputy, my two deputies, and myself to serve on
13 that.

14 Q. All of those folks would comprise what
15 you refer to as the Leadership Council or the
16 leadership team?

17 A. Right.

18 Q. And these are folks that advise you and
19 all of which are under you?

20 A. Correct.

21 Q. And your two deputies would be whom?

22 A. Donald Murphy.

1 Q. Okay.

2 A. And Randy Jones.

3 Q. And what is the distinction, if any,
4 between the duties of Mr. Murphy versus Mr.
5 Jones?

6 A. They each have different areas of
7 responsibility.

8 Randy is typically responsible for
9 every-day operations, meaning, you know, just
10 general operations of parks.

11 Also he has the cultural resources under
12 him, the natural resources and administration.

13 Q. Okay. And Mr. Murphy as distinguished
14 from Mr. Jones would do what?

15 A. He is responsible for the associateships
16 dealing with protect, visitor resource
17 protection, visitor and resource protection, Park
18 Police.

19 He's responsible for the associateship
20 on partnerships, the associateship on facilities.

21 I don't know if I mentioned that one in
22 my listing, but the associateship for facilities

1 and planning.

2 Q. Okay.

3 A. And he also has the IT.

4 Q. Okay.

5 A. And I don't know. I may be, in either
6 case be leaving something out on those.

7 Q. Understood. If I were to go look at a
8 document or look for a document within the
9 department that would define Mr. Murphy's
10 responsibilities versus Mr. Jones as you just
11 described them to me, would I find such a
12 document?

13 A. You should.

14 Q. Do you know what it would be called?

15 A. I think it would be the organizational
16 chart.

17 Q. Okay. Does the chart actually define
18 like areas of responsibility?

19 A. I would have to go back and look on
20 the -- it shows what types of people report.

21 Q. Okay. Now I get the impression you
22 would be Mr. Murphy and Mr. Jones' immediate

1 superior?

2 A. I am.

3 Q. So if there was a performance issue that
4 came up regarding them, would you be the one who
5 would deal with that?

6 A. Typically, unless otherwise guided by
7 attorneys.

8 Q. Okay. Do you do performance appraisals
9 for Mr. Murphy or Mr. Jones?

10 A. Yes.

11 Q. Okay. And have you given Mr. Murphy an
12 appraisal recently?

13 A. I would need to go back and check on
14 that.

15 I don't remember.

16 Q. Okay. Do you recall whether you've ever
17 given Mr. Murphy an evaluation of his
18 performance?

19 A. I don't remember.

20 Q. Okay. How long has Mr. Murphy been
21 under your direction?

22 A. It would be maybe not quite three years.

1 Q. Okay. Turning to Mr. Jones, do you
2 recall ever giving Mr. Jones a performance
3 appraisal of any kind?

4 A. I don't remember.

5 Q. And has Mr. Jones been working for you
6 about the same time period?

7 A. A little less.

8 Q. Less?

9 A. Little less.

10 Q. And if a performance issue arose
11 regarding your own position, the director of the
12 National Park Service, would there be someone who
13 would evaluate your performance?

14 A. I would assume it would be the
15 assistant, you know, it would be Craig Manson or
16 assistant secretary.

17 Q. Okay. Have you ever received a
18 performance appraisal from Mr. Manson?

19 A. I don't recall.

20 Q. Okay. Now if I were to go and seek out
21 a document that would describe the various duties
22 that you have stated that you are responsible

1 for, would I find such a document?

2 A. There should be a general information
3 sheet of our responsibilities per job
4 description.

5 Q. Okay. General information sheet, is it
6 called a job description?

7 A. I would expect that's what it's called.
8 That's what most are called.

9 Position descriptions I think is the
10 term.

11 Q. And who maintains custody of that?

12 A. Usually our associate for
13 administration.

14 Q. Okay. And who would that be in this
15 particular case?

16 A. Right now, we do not have a permanent
17 person in that slot.

18 Dick Ring has retired, so we have
19 acting. Jim Poole has been named our regular
20 acting person in administration.

21 Q. How do you spell Jim's last name?

22 A. P-O-O-L-E.

1 Q. Thank you. And so you would expect
2 there would be a position description for the
3 director of the National Park Service?

4 A. I would expect that there was.

5 Q. Okay. And you would expect there to be,
6 or would you not, a position description for the
7 deputy director position that Mr. Murphy holds?

8 A. Yes.

9 Q. And that would it be identical to or
10 different from a position description for the
11 position Mr. Jones holds?

12 A. It would be different because they have
13 responsibilities.

14 Q. Okay. Have you ever seen, actually seen
15 documents that is a position description for Mr.
16 Murphy?

17 A. I don't recollect.

18 Q. How about for Mr. Jones?

19 A. I don't recollect. We did -- his
20 position was advertised, so I assume that.

21 Q. There was one?

22 A. Yes. There must have been.

1 Q. Okay. Have you ever written a
2 communication to Mr. Murphy, I guess a memo,
3 letter, e-mail, where you attempted to lay out
4 for his benefit your expectations of what his
5 responsibilities were?

6 A. I don't recollect doing that.

7 Q. How about for Mr. Jones?

8 A. I don't recollect that other than what
9 might be in the job description.

10 Q. And I'm assuming, but correct me if I'm
11 wrong, that the position description you're
12 talking about may have preexisted your tenure as
13 director of the National Park Service?

14 They wouldn't have been something you
15 wrote yourself, for example?

16 MR. L'HEUREUX: Objection to the form of
17 the question.

18 BY MR. HARRISON:

19 Q. You may answer. He'll state his
20 objections.

21 If you understand the question, you can
22 answer.

1 If you don't understand, ask me for a
2 clarification.

3 A. These positions, because they are
4 different than the previous administration's,
5 must have had new responsibilities written.

6 I don't know that I personally would
7 have written those descriptions.

8 Q. Okay. So you were thinking when the
9 administration of which you're a part took
10 office, essentially some description would have
11 been written?

12 A. Right.

13 Q. Including for your own position?

14 A. Exactly.

15 Q. Okay. To clarify your answer, I think I
16 understand it to be that you have not, to your
17 recollection, received a performance appraisal
18 yourself?

19 MR. L'HEUREUX: Objection -- asked and
20 answered.

21 BY MR. HARRISON:

22 Q. Just to clarify what the answer was, you

1 may answer.

2 A. I don't recollect getting that.

3 Q. Okay. So you're not saying absolutely
4 it didn't happen?

5 A. No.

6 Q. But you don't remember it?

7 A. I don't remember.

8 Q. If there is a dispute within the
9 department, the National Park Service, among say
10 either the two deputy directors or the regional
11 directors or members of your leadership team and
12 they have different views of how either resources
13 should be allocated or how policies should be
14 interpreted and so forth, are you the final
15 arbiter of those disputes?

16 A. In usual cases, I am.

17 Q. All right. And have there ever been
18 disputes where you have raised the question to a
19 higher level than yourself to be resolved?

20 A. I don't remember on that. There've been
21 many issues that we have discussed, issues that
22 go, that involve, you know, other areas.

1 Q. Okay. Have you talked, for example, to
2 Assistant Secretary Manson in the last couple of
3 weeks about any issue that has come up?

4 A. I spoke to him yesterday to see how he
5 was feeling and how his trip was to one of our
6 national parks.

7 Q. Have you asked him about anything more
8 substantive in the past several months, policy
9 matter, perhaps to help resolve a dispute in the
10 agency?

11 MR. L'HEUREUX: Objection -- relevance.

12 BY MR. HARRISON:

13 Q. We're trying to determine the chain of
14 command basically for the position of the
15 National Park Service director and on what
16 matters, and also the job descriptions since we
17 don't seem to have documents at least readily
18 available to do that.

19 A. Basically anything that involves my
20 leadership team that's personnel related as far
21 as, you know, hiring an SES person or high-level
22 must require, does require the assistant

1 secretary's support.

2 Q. Okay.

3 A. And then so I do talk to him on some of
4 those things.

5 Q. Okay. So hiring higher-level employees?

6 A. Um-hm.

7 Q. Have you hired anyone in that category
8 in the past several months?

9 A. We're going through hiring practices
10 right now for the southeast region.

11 Q. Okay. And so the assistant secretary
12 would be involved in that decision?

13 A. Yes. Would have to concur with our
14 decision.

15 Q. Concur, okay. Now if you had someone in
16 one of those positions who was proposed for
17 removal or termination, would the assistant
18 secretary have to concur on the removal of that
19 same person?

20 A. Usually I bring any issue of that nature
21 to a higher level if it's appropriate.

22 Q. Okay. And do you recall over the past I

1 guess two or three years, you began -- let's see.

2 When did you begin your tenure as a
3 director?

4 A. July of 01.

5 Q. Okay. So since that time, have you
6 elevated a removal decision to the assistant
7 secretary for anyone?

8 A. Personally, I don't think I have.

9 Q. Okay.

10 A. I don't know if others have.

11 Q. Someone else may have?

12 A. (Indicated "yes.")

13 Q. What other types of people would be able
14 to do that?

15 A. Our deputies could do that if it was an
16 issue.

17 Q. Okay. So Mr. Murphy, for example?

18 A. Or Mr. Jones.

19 Q. Mr. Jones; so they could take a
20 potential removal of one of these higher-level
21 positions --

22 A. And discuss that.

1 Q. With Assistant Secretary Manson?

2 A. (Indicated "yes.")

3 Q. And did he?

4 MR. L'HEUREUX: Excuse me. You're going
5 to have to answer yes or no rather than nodding
6 your head.

7 THE WITNESS: Okay.

8 MR. HARRISON: Thank you.

9 BY MR. HARRISON:

10 Q. The reporter has difficulty getting
11 those nods.

12 A. The nods are -- okay.

13 Q. That was a yes?

14 A. Yes.

15 Q. And do you know sitting here today
16 whether Mr. Murphy has ever done that?

17 A. I don't know.

18 Q. Okay. Do you suspect that Mr. Murphy
19 has done that?

20 A. I know that we always keep our assistant
21 secretary informed, so he may have had that
22 discussion.

1 Q. Okay. And are you thinking of anyone in
2 particular where that may have happened?

3 A. I'm not sure whether, not being part of
4 the decision-making, I don't know whether that
5 took place involving, you know, Teresa Chambers.

6 Q. The case in question, Ms. Chambers,
7 okay, may have or may not have?

8 A. That's correct.

9 Q. Okay. Now if Mr. Murphy had done that,
10 speaking potentially hypothetically here, and
11 raised the issue of Ms. Chambers' removal with
12 Assistant Secretary Manson, would you have
13 expected to have been copied on that
14 communication or noticed of it at the time?

15 A. I was following guidance from our legal
16 staff once action was beginning with Ms.
17 Chambers.

18 Q. Okay.

19 A. So I may not have been included as I was
20 expected to be a decision-maker following any
21 action.

22 Q. Following any?

1 A. Any action involving Ms. Chambers.

2 Q. Okay. And when you say expected to be a
3 decision-maker, how do you mean that?

4 A. I would be the --

5 Q. Deciding official?

6 A. Not the deciding -- well, I don't know
7 what the terminology is when an action is taken
8 by one of my employees, subordinates, and then if
9 there's an appeal, or -- I would be that next --

10 Q. I see.

11 A. Person.

12 Q. Okay. So you were contemplating that
13 you might become that type of decision-maker in
14 Ms. Chambers' case?

15 A. That's correct.

16 Q. At least at some point in time?

17 A. Yes.

18 Q. Did you actually become that type of
19 decision-maker in Ms. Chambers' case?

20 A. No, I did not.

21 Q. And is it your testimony that in
22 contemplation of that you might be that

1 decision-maker, that you may have been taken out
2 of an information loop you might normally have
3 been in?

4 A. That's correct.

5 Q. And can you tell us why you expected
6 that you might have become the decision-maker in
7 this particular case?

8 A. Because that was the guidance given to
9 me by my legal staff at that time.

10 Q. Okay. And obviously that changed at
11 some point?

12 You did not become that?

13 A. I did not become that decision-maker.

14 Q. And which person or persons would have
15 initially advised you that you might become a
16 decision-maker in Ms. Chambers' case?

17 A. Do I answer?

18 MR. L'HEUREUX: Yes.

19 THE WITNESS: It would have been Tim
20 Elliott and Hugo Teufel.

21 BY MR. HARRISON:

22 Q. So who, if you know, who would actually

1 have made the determination -- let's start
2 generally. Let's not talk about Ms. Chambers'
3 case specifically. Let's talk generally.

4 Who would normally make the decision?
5 In your experience, who would become that agency
6 decision-maker once a proposed removal is issued?

7 The employee appeals. Someone has to
8 then decide that.

9 Who would normally decide who that
10 decision-maker would be generically?

11 A. The normal procedure would be that I
12 would become that decision-maker.

13 Q. Okay. So you were the default?

14 A. I was.

15 Q. The normal person to do that?

16 A. Yes.

17 Q. So something happened in Ms. Chambers'
18 case that caused someone else to be appointed?

19 A. (Indicated "yes.")

20 Q. Okay. And did you make the decision to
21 have someone else appointed?

22 A. No, I did not.

1 Q. And do you know who did make that
2 decision?

3 A. I do not know specifically. I just was
4 advised by legal staff.

5 Q. Okay. Now your legal staff worked for
6 you, right?

7 They're not superior to you in
8 authority?

9 A. No, but they're -- I'm their customer.

10 Q. Understood. They give you advice?

11 A. Right.

12 Q. Do you know whether some authority
13 superior to you directed perhaps through your
14 legal counsel or otherwise that you not be the
15 deciding official, what I call the deciding
16 official in Ms. Chambers' case?

17 MR. L'HEUREUX: Objection -- asked and
18 answered.

19 You can answer.

20 THE WITNESS: I have no information.

21 BY MR. HARRISON:

22 Q. You don't know?

1 A. (Indicated "no.")

2 Q. Okay. So you were advised by legal
3 counsel that you would not be the deciding
4 official, and you accepted that?

5 A. I did.

6 MR. L'HEUREUX: Objection -- asked and
7 answered.

8 You may answer.

9 BY MR. HARRISON:

10 Q. And you're answer was I did?

11 A. I accepted it.

12 Q. You didn't question it, or did you?

13 MR. L'HEUREUX: Same objection.

14 MR. HARRISON: I haven't asked that
15 question yet.

16 THE WITNESS: I answer that?

17 MR. HARRISON: Sure.

18 MR. L'HEUREUX: Yes.

19 THE WITNESS: It was -- I was surprised,
20 but I, you know, I go with my legal guidance on
21 this.

22 BY MR. HARRISON:

1 Q. Okay.

2 A. I did not know.

3 Q. Pardon me?

4 A. I did not know the whole rationale.

5 Q. Okay. Was there any written
6 communication regarding that decision that you
7 would not be the deciding official and someone
8 else would?

9 A. I don't remember any written
10 description, written communication.

11 Q. Okay. Were you informed who would be
12 the deciding official at that time?

13 A. Yes, I was.

14 Q. And who were you told would be the
15 deciding official?

16 A. Deputy Assistant Secretary Paul Hoffman.

17 Q. And do you know whether or not Mr.
18 Hoffman knew at that point in time that he would
19 be the deciding official, or was he subsequently
20 informed?

21 A. I don't have knowledge of that.

22 Q. In your experience as the director, have

1 to initiate a termination or suspension?

2 A. Typically, not; I don't remember any of
3 that nature.

4 I usually look to my deputies to give me
5 guidance, or the regional directors.

6 Q. Okay. And you're not remembering any
7 exception at the moment sitting here?

8 A. No.

9 Q. Okay. Now I understand, and correct me
10 if I'm mistaken, that your appointment I guess I
11 would say to the director position was somewhat
12 historically unique in the sense that you had
13 more of a direct appointment from the White
14 House, from the President than perhaps your
15 predecessors?

16 Am I correct in that understanding?

17 MR. L'HEUREUX: Objection -- relevance.

18 MR. HARRISON: Well, we're still looking
19 at the chain of command and who might be
20 communicating on decisions.

21 MR. L'HEUREUX: You may answer.

22 THE WITNESS: The only uniqueness is the

1 fact that the, myself and my previous, and the
2 previous National Park Service director Bob
3 Stanton are the only two Presidential appointees
4 in the history of the country.

5 BY MR. HARRISON:

6 Q. At this level?

7 A. At the National Park Service director
8 level; previously they had been secretarial
9 appointments, so I'm not unique because Bob also
10 was that.

11 Q. Okay.

12 A. But we are just two of us that have ever
13 had this.

14 Q. Okay. And Bob's your immediate
15 predecessor?

16 A. Yes, Bob Stanton.

17 Q. And given that you were appointed more
18 directly without the Secretary doing it but by
19 the President doing it, have you maintained a
20 closer relationship do you think with the White
21 House or the President's office?

22 A. First of all, the Secretary did

1 interview me.

2 Q. Okay.

3 A. And I don't know -- it's typical that
4 the President does a nomination, and that happens
5 to all we bureau chiefs at Interior, so I have
6 been able to, I was very lucky to be nominated.

7 Q. Understood. So have you maintained a
8 communication with the White House since your
9 appointment?

10 A. In doing my job, which includes the
11 overseeing of the White House as part of the
12 National park system --

13 Q. Yes.

14 A. We certainly have some interaction, but
15 mine is always usually through the Secretary.

16 Q. Okay. Not always?

17 A. That's my normal procedure.

18 Q. Not always?

19 A. Well, you see, you have a chance to be
20 with the President in different social events, so
21 you have that event, that opportunity.

22 Q. Okay. So let's be as precise as we can

1 be.

2 Have you ever had occasion to speak
3 directly with the President other than at a
4 social event since you have become director of
5 the National Park Service?

6 A. I have, but not in, not without someone
7 else present like the Secretary.

8 Q. Okay. And when you say like the
9 Secretary, has the Secretary always been present
10 when you spoke to the President of the United
11 States?

12 A. Excluding social settings, I would say
13 yes, the Secretary has been present.

14 Q. Okay. Now in terms of communications,
15 we've sort of been talking about I take it
16 face-to-face meetings, person-to-person
17 discussions.

18 Do you ever like have telephone calls
19 with the President's office?

20 A. I have not had a call from the
21 President.

22 Q. And does that answer hold true for the

1 other direction?

2 You have not called the President?

3 A. I've not called the President.

4 Q. Just being precise. It's an
5 occupational obligation, to be precise. I
6 thought that's what you meant.

7 Now moving to other offices, is your
8 position or do you in particular have occasion to
9 communicate with the of the Vice President since
10 you've had the position of director?

11 A. Only in social settings.

12 Q. No memos, phone calls, business
13 meetings?

14 A. No, not that I recollect.

15 Q. And you do work with the Secretary
16 Norton from time to time in your job?

17 A. Yes.

18 Q. How frequently would you say you speak
19 to the Secretary?

20 A. We're normally scheduled for a meeting
21 once a week.

22 Q. Okay. A routine --

1 precise question by saying usually, which implies
2 an exception, even though you haven't stated that
3 there is one. You may not mean an exception.

4 A. Yeah.

5 Q. So I need to be clear for the record.
6 When you say usually, do you mean that sometimes
7 it's not the case?

8 A. We'll get calls that would be because of
9 our White House responsibilities, we'll get calls
10 on is the pillars going to be done, you know, in
11 a timely fashion, or that kind of thing, but
12 typically that doesn't actually come to my
13 office.

14 It usually goes through my White House
15 liaison who then calls me.

16 Q. Okay.

17 A. So --

18 Q. Once in a while, it will come to you?

19 A. I don't remember any one that has
20 actually come to my desk.

21 I usually am getting information from
22 the people who work at the White House for the

1 Park Service on issues, particularly the
2 construction issues.

3 Q. Okay. Have you ever taken an issue that
4 was of concern to you and elevated it beyond the
5 Secretary of the Interior?

6 A. No, I have not.

7 Q. Now you mentioned Mr. Stephen Griles?

8 A. Steve Griles.

9 Q. Steve Griles, and he is a deputy?

10 A. Secretary.

11 Q. Secretary; and how often would you say
12 you meet with Mr. Griles, or talk with him?

13 A. Many times; he tries when he's in town
14 to join us in the meeting with the Secretary,
15 that once-a-week meeting.

16 Q. Okay. So when he can, he joins you for
17 that meeting?

18 A. Right.

19 Q. And apart from that meeting, how often
20 would you say you meet with Mr. Griles?

21 A. We also have a normal staff meeting
22 Tuesday mornings at 8:15, and often Steve would

1 try to attend if he's in town, so that it's not
2 that frequent.

3 Q. I take it that he sometimes is unable to
4 make the meeting with the Secretary?

5 A. Correct, if he's out of town.

6 Q. And he's unable sometimes to make the
7 meeting with the staff, the staff meeting?

8 A. That's correct.

9 Q. Okay. And the staff meeting, would that
10 be primarily your subordinate people, or would it
11 be a higher level?

12 A. No. It's my counterparts. Bureau, it
13 is bureau chiefs.

14 Q. I see. Okay. And how often does this
15 staff meeting take place?

16 A. Once a week.

17 Q. You had mentioned that you rely as a
18 normal procedure on your deputies to indicate to
19 you when they believe someone should be suspended
20 or removed, is that correct?

21 A. Yes.

22 Q. Okay. And once they do that, what is

1 your procedure at that point if they made such a
2 recommendation?

3 A. Obviously they try to define that to me
4 and help me better understand those issues.

5 Q. Okay. And what would you do next?
6 Let's say they do define it to you with some
7 clarity.

8 What would be the next step.

9 A. Normally they would proceed or alter
10 their actions based on a discussion.

11 Q. With you?

12 A. With me.

13 Q. Okay. So you give them directions as to
14 how to proceed once you had the matter clarified?

15 A. Usually.

16 Q. Okay. That word usually again -- what
17 would be the exception?

18 A. When we have had legal counsel or
19 otherwise to do something different.

20 Q. I see. And as I think you've already
21 stated, that different procedure where you had
22 legal counsel to do something different did in

1 fact occur in Ms. Chambers' case?

2 A. That's correct.

3 Q. And did you inquire as to what was
4 special about Ms. Chambers' case that required
5 that departure from the norm?

6 A. I just relied on the guidance of our
7 legal department.

8 Q. So is that a no, I did not inquire, or
9 did you inquire and not get an answer, or did you
10 inquire and get an answer?

11 A. The legal department gave me the
12 guidance that it was best that, that that be
13 handled in its, through the deputy then at that
14 point with the anticipation that I was going to
15 be the next appeal area.

16 That seemed logical to me, so I asked no
17 further questions.

18 Q. Okay. Would it be the same legal staff
19 that later told you that you would actually not
20 be the person to decide the appeal?

21 A. Yes.

22 Q. When, as best you can remember, were you

1 told that legal advisors would advise you not to
2 be the -- pardon me -- not to be involved in the
3 normal procedure of hearing from your deputies
4 and making the decision on the removal of Ms.
5 Chambers, but that you would sort of stand aside
6 because you might become the deciding official,
7 when did that communication take place?

8 A. Let me just clarify.

9 Q. Sure.

10 A. That normally, my deputies make those
11 determinations.

12 If somehow I've come across saying that
13 I make the decisions all the time, that is not
14 the case.

15 Usually my deputies make the decision,
16 but have informed me of their process. They're
17 the ones making the decision.

18 The timing of when I was, when I stepped
19 back from being involved in any of the process
20 was in that early part of this December, right
21 after, I would say it was before December 5th.

22 Q. And when you say before December 5th --

1 A. But after December 2nd.

2 Q. Okay.

3 A. So somewhere in there; I don't know the
4 specific time.

5 Q. Okay. Let's explore that while we're on
6 it.

7 You were involved I believe in
8 communications with Mr. Murphy regarding Ms.
9 Chambers on December 2nd.

10 Do you recall that?

11 A. Why don't you clarify what you mean by
12 communications?

13 Q. Do you recall what happened on December
14 2nd in regard to Ms. Chambers?

15 A. Yes. I woke up and saw Ms. Chambers on
16 television.

17 Q. Okay. Do you remember which station?

18 A. My guess, it would be NBC because that's
19 what I usually watch.

20 Q. About what time of day might that be?

21 A. I'm up at 5:30, so it was 5:30, six
22 o'clock in the morning.

1 Q. Okay. And did you actually hear Ms.
2 Chambers speak on television?

3 A. Yes.

4 Q. What do you recall her saying at that
5 point?

6 A. She was discussing about money issues,
7 the budget, and inability to be able to do all
8 the work of the Park Police.

9 Q. With the resources available I take it?

10 A. I'm not, I have not gone back through,
11 you know, I did not ask NBC for their tape, so I
12 don't know.

13 Q. You haven't reviewed it since, or have
14 you?

15 A. It seems that I saw it again within a
16 day of that December 2nd.

17 Q. You did have a chance to see it again?

18 A. I think so.

19 Q. And how did that come about?

20 A. Because I asked to see it again.

21 Q. That would explain it. And who provided
22 it to you?

- 1 A. I think our Public Relations.
- 2 Q. Mr. Wright or Mr. Barna.
- 3 A. I think it would be Mr. Barna.
- 4 Q. Barna?
- 5 A. I believe.
- 6 Q. All right. And when did you ask Mr.
- 7 Barna to provide you with that video?
- 8 A. I don't remember.
- 9 Q. Okay.
- 10 A. It would be somewhere in that period of
- 11 time, though.
- 12 Q. December 2nd, December 3rd?
- 13 A. Somewhere in there.
- 14 Q. Okay, and he did so?
- 15 A. My understanding, my recollection is
- 16 yes.
- 17 Q. Okay. And so you had a chance to review
- 18 the video again?
- 19 A. Yes.
- 20 Q. Where were you at that time?
- 21 A. Would have been in my office.
- 22 Q. And who was present?

1 A. Probably just me.

2 Q. Okay. And not Mr. Barna?

3 A. No, not usually.

4 Q. So you recall basically viewing it by
5 yourself?

6 A. Yes.

7 Q. Okay. And do you recall more
8 specifically when you reviewed it the second time
9 what Ms. Chambers was saying?

10 A. She talked about money related like \$8
11 million and \$12 million that -- and 1400 officers
12 needed.

13 Q. Why did you ask to see it a second time?

14 A. Because I wanted to remember what she
15 had said.

16 Q. Okay. And was there a particular reason
17 why you wanted to remember what she said on that
18 particular occasion?

19 A. Because it was prior to budget releases
20 by the President.

21 Q. So you had a concern at that point that
22 something may have been said that you considered

1 inappropriate?

2 A. Something was said that was probably not
3 following guidance.

4 Q. And did you get have that perception on
5 the morning of December 2nd when you saw it for
6 the first time?

7 A. Yes.

8 Q. And did you communicate that perception
9 to anyone at that time?

10 A. When I came back into work, I asked Don
11 Murphy if he had seen the television.

12 Q. Okay.

13 A. And I don't remember if he said yes or
14 no at that point.

15 And I said are you dealing, are you
16 handling these issues as far as what's taking
17 place? And he said yes.

18 Q. And what did you mean when you said are
19 you handling these issues?

20 A. To better understand what the message
21 was that Ms. Chambers was conveying, and was it
22 something that was done with his knowledge.

1 Q. Okay. So let me be clear. Was there
2 more said when you and Mr. Murphy, before you
3 asked him are you handling these issues so that
4 he would have understood precisely what issues
5 you were referring to?

6 A. Well, Ms. Chambers is on TV.

7 Q. Yeah.

8 A. And is communicating messages that did
9 not seem to reflect communication to us prior to
10 where she had indicated she had been interviewed
11 by the post.

12 Q. Washington Post?

13 A. Yes.

14 Q. Okay. Now did you say Mr. Murphy had
15 not seen the television that morning?

16 A. I don't remember if he had or hadn't.

17 Q. Okay. So he wouldn't necessarily have
18 known what Ms. Chambers had said on television
19 that morning when you were speaking with him?

20 A. I don't remember if he knew it or not.
21 He gets in before I do.

22 Q. I see. Do you remember telling him what

1 you recall Ms. Chambers saying on the television?

2 A. All I said is have you seen that? You
3 know, you need to take a look at it.

4 Q. Okay. And do you know whether he did in
5 fact review that tape at some point?

6 A. I don't know that.

7 Q. Okay. The tape that you reviewed on the
8 2nd or 3rd or whenever Mr. Barna provided it to
9 you, do you still have possession of that tape?

10 A. I do not.

11 Q. Do you know what happened to it?

12 A. I gave it I think -- I don't know. I
13 don't know if the attorneys have it, Don has it,
14 or anybody.

15 Q. How did it leave your possession?

16 A. I don't remember. I looked at it, and I
17 don't keep those tapes, so I don't know if it
18 went back to Dave or whatever.

19 Q. To Mr. Barna?

20 A. Yes.

21 Q. You don't recall handing it to anyone?

22 A. No.

1 Q. Okay. The last time you saw it, it was
2 in your office?

3 A. That's long ago. I haven't seen it in
4 my office. It's not there now.

5 Q. I appreciate that. So do you know the
6 last time that you saw it, where it was?

7 A. I'm trying to think. I don't know
8 whether -- I do not know where it is. I don't
9 know where it is.

10 Q. Where was it the last time you saw it?

11 A. In the TV machine.

12 Q. In your office?

13 A. Yeah.

14 Q. Okay. That was my question.

15 A. Yeah, but after that, I don't know where
16 it went to.

17 Q. Okay. Is that the only television
18 interview that you saw Ms. Chambers giving on
19 that particular occasion?

20 A. That's the only one I remember.

21 Q. Okay.

22 A. I don't know if I flipped stations or

1 not.

2 Q. Okay. And do members of the National
3 Park Service administration, yourself, deputies,
4 their subordinates, Park Police officials, do
5 they sometimes talk to the press from time to
6 time?

7 A. Certainly do.

8 Q. Okay. And do you recall the last time
9 prior to Ms. Chambers' case where you would have
10 asked to see a video of a television interview?

11 A. Yes.

12 Q. When was that?

13 A. Oh, 4th of July or dealing with the
14 anniversary of September 11th just to see what
15 communications are coming forth.

16 Q. Okay. So let's take the 4th of July.

17 A. Um-hm.

18 Q. What video did you ask to see, and who
19 was speaking?

20 A. I don't remember what station. It's
21 just something that we standard will try to do.

22 We'll often show them, as Ms. Chambers

1 would know, at staff meetings.

2 Q. Um-hm.

3 A. To review what -- for example, we just
4 did the Statute of Liberty. It wasn't, well, it
5 was an employee speaking. It was one of -- he
6 was just named ABC person of the week for all he
7 did at the statute.

8 Q. For the reopening of the statue?

9 A. For the reopening.

10 Q. Okay. So let me distinguish if I could
11 between what might be an occasional experience of
12 showing a video of a press statement in a staff
13 meeting maybe to critique or just to share versus
14 what you appear to have done in Ms. Chambers'
15 case, which was to review the tape privately
16 because you had a concern about it.

17 A. Um-hm.

18 Q. Has there ever been a prior occasion
19 where you have reviewed a tape privately because
20 you had a concern about the interview that you
21 can recall?

22 A. Yes, but not, not with Ms. Chambers.

1 Q. All right. Who was that?

2 A. Looking at an interview that I had done
3 on CNN, for example, to see how I came across.

4 Q. Okay. You were checking your own
5 performance?

6 A. Correct.

7 Q. How about any party other than yourself?

8 A. Normally just try to see what's going on
9 in the news, and sometimes we'll ask to see those
10 news pieces just to see what, what's taking
11 place.

12 Q. That would be more of a routine keeping
13 track of what's being said?

14 A. Correct.

15 Q. Okay. I got the impression -- correct
16 me if I'm mistaken, that your review in your
17 office of the interview by Ms. Chambers on or
18 about December 2nd or 3rd was not quite the
19 routine review you were talking about, that you
20 had something specific you were concerned about
21 and made a special effort to look at it again.

22 Am I misunderstanding you?

1 A. Somewhat; what I was looking at was the
2 fact that I was surprised because the television
3 interview were being done, and I, and what I
4 heard seemed to be information that involves
5 security, involved budget and other issues that
6 were not typically the type of information that
7 would be shared.

8 Q. Um-hm.

9 A. In fact, it's the typical information
10 that I would think Ms. Chambers would have told
11 me not to share.

12 Q. Um-hm. Did you write down the specific
13 comments Ms. Chambers made at the time when you
14 viewed the tape?

15 A. No, I did not.

16 Q. Have you communicated in a memo, an
17 e-mail, a letter of any kind to anyone, a quote
18 from that videotape as to what concerned you
19 specifically?

20 A. No.

21 Q. You don't recall that you told Mr.
22 Murphy specifically what concerned you, or did

1 you?

2 A. All I said was Don, have you seen the
3 interview this morning?

4 Q. Yes.

5 A. It appears to talk about security and
6 talk about '05 budget.

7 Q. You said that much to Mr. Murphy?

8 A. Um-hm.

9 Q. Okay. And what did he say?

10 A. That's what I don't remember if he had
11 seen it or he saw it later.

12 Q. Okay.

13 A. But I just said will you, you know, look
14 into this issue?

15 Q. And he said?

16 A. He would.

17 Q. Okay. And this was after you had viewed
18 the tape the second time?

19 A. No. I said that to him that morning
20 when I came in.

21 Q. I see.

22 A. So I --

1 Q. That would be the 2nd of December?

2 A. Yes.

3 Q. Okay. And did you communicate with Mr.
4 Murphy on the 2nd of December after that initial
5 conversation about Ms. Chambers or about the
6 media statements?

7 Did you again come to visit that issue
8 with him?

9 A. He just said he was looking into it.
10 That's all. Just look into it and keep me
11 informed.

12 Q. Okay. So you had no further report on
13 the 2nd of December on that from Mr. Murphy?

14 A. No, not really on that, not that I -- no
15 report in regard to that, no.

16 Q. Okay. Did you have any communication
17 with Mr. Murphy in regard to Ms. Chambers on the
18 2nd of December other than this one that you have
19 just told us about?

20 A. I saw some e-mails that he and Ms.
21 Chambers were exchanging.

22 Q. Do you remember what time of day that

1 might have been?

2 A. Seemed like it was in the afternoon, but
3 I don't remember specifically.

4 Q. Do you remember the substance of those
5 e-mails?

6 A. It was something to do with if you have
7 any other further interviews, please check with
8 himself or the director before proceeding.

9 Q. All right. And did Mr. Murphy tell you
10 he was going to send those communications to Ms.
11 Chambers?

12 A. I don't remember him telling me on
13 the --

14 Q. You're saying that you believe it did
15 not happen?

16 You believe Mr. Murphy did not tell you,
17 is that what you're saying?

18 A. I don't remember him telling me.

19 Q. So it may or may not have happened?

20 A. I don't remember him telling me.

21 Q. I'm just trying to -- I'm not trying to
22 give you a hard time.

1 I'm just trying to understand what you
2 mean by your language.

3 When you say you don't remember, I take
4 it that means you can't say for certain it didn't
5 happen and you can't say for certain that it did
6 happen?

7 A. That's correct.

8 Q. Okay. If Mr. Murphy says that he
9 checked with you and you concurred in issuing the
10 instruction to Ms. Chambers to have no further
11 interviews, would you disagree with Mr. Murphy if
12 he said that?

13 A. Mr. Murphy tells the truth, so I don't,
14 I don't remember.

15 All I remember is I was into other
16 issues, not that one, most of that day, and so I
17 just remember the e-mail.

18 Q. So my question was if Mr. Murphy said
19 that he checked with you and you had concurred in
20 communicating to Ms. Chambers to not have further
21 interviews, would you disagree with his
22 statement? Would you?

1 A. I don't know that I would be able to say
2 yea or nay.

3 He's the one doing the homework on it.

4 Q. Okay. Let's be precise. You wouldn't
5 be able to say yea or nay in regard to what?

6 A. Whether his statement of no more
7 interviews was right, wrong, or otherwise.

8 Q. Well, my question is more, not so much
9 at the moment whether it was right or wrong, but
10 about whether you concurred in it and whether you
11 would disagree if he said you concurred in it.

12 A. I wouldn't disagree with him if he said
13 I did.

14 He may remember better than I could.
15 Right now, I can't remember.

16 Q. Thank you.

17 A. So --

18 Q. I appreciate that.

19 (There was a pause in the proceedings.)

20 BY MR. HARRISON:

21 Q. How would you describe your approach to
22 management of the Park Service in terms of

1 hands-on versus delegation to other parties and
2 so forth?

3 What's your philosophy and practice in
4 that regard?

5 A. I'm very inclusive. Try to involve
6 everyone. Try to set parameters for which my
7 employees are able to work, but I do expect no
8 surprises.

9 Q. Okay. How do you feel about your
10 subordinates coming to talk with you about a
11 concern?

12 A. I don't have a problem with that.

13 Q. Okay. Do they have to like jump through
14 some hoops to get an appointment, or do you have
15 a pretty much open door to folks who have
16 concerns?

17 A. Well, as a director, your time is pretty
18 tight, so I always try to make myself available
19 to employees even if it's, sometimes it's six
20 o'clock at night.

21 Q. You try to be available?

22 A. I try to be available.

1 mark it later if we need to.

2 A. Okay.

3 Q. I'll share a copy with your counsel.

4 Just take a moment and look over that.

5 This is what I understand to be a
6 transcription of a voice message, two voice
7 messages, and see if that refreshes your memory
8 at all on what may or may not have happened on
9 December 2nd.

10 (The witness reviewed the document.)

11 MR. L'HEUREUX: Counsel, could we have
12 into the record if we're not going to make an
13 exhibit of this, could we have a description of
14 it?

15 MR. HARRISON: Of course, and we may
16 make it an exhibit, but this is a two-paragraph
17 transcription that Ms. Chambers made off of her
18 home phone.

19 I believe it is meant to be verbatim,
20 and that's why there are quotation marks.

21 The first entry says first voice mail
22 message from Don Murphy, December 2nd, 2003,

1 approximately 1800 hours, and then the second
2 voice mail message from Don Murphy approximately
3 1810 hours, and there is a paragraph of
4 quotations under each.

5 BY MR. HARRISON:

6 Q. And this may or may not refresh your
7 memory, but do you recall having a call such as
8 is mentioned here with Mr. Murphy?

9 A. I don't remember a phone call, but I
10 know that when I saw the e-mail, there was an
11 e-mail about making sure that it was concurred
12 with the director or himself about further
13 interviews.

14 He let me know that that was the
15 direction that he was going, and so, you know, I
16 didn't, it isn't something we sat down and
17 debated in discussion.

18 He just advised me.

19 Q. Okay.

20 A. So he may take that has concurrence. I
21 don't know.

22 Q. I understand, but there's a phrase here

1 that is purported to be a quote from the voice
2 mail from Mr. Murphy that says, "I just got off
3 the phone with the director, and we're both
4 agreeing that you need to not do any more of
5 these live shots or stand-up interviews until you
6 get these interviews cleared with us and the
7 department."

8 A. Um-hm.

9 Q. And I take it that this isn't refreshing
10 your memory that that conversation took place?

11 A. I don't remember a phone call, but it
12 doesn't mean that maybe I was at the Hill.

13 I was just there that day I thought.

14 Q. Okay. So to be precise, are you --

15 A. Unless I hit the road; I didn't go back
16 and check my calendar.

17 Maybe I left that afternoon. I don't
18 remember now.

19 Q. Are you denying that this conversation
20 took place?

21 A. No, I'm not denying it.

22 Q. Okay. Now let me ask you this. Would

1 you say that you concurred, putting aside for the
2 moment the question of memory as to who said what
3 to whom when, would you agree substantively that
4 at the time of Mr. Murphy's communication to Ms.
5 Chambers, that you substantively agreed with Mr.
6 Murphy's position and his direction to Ms.
7 Chambers that she should not do any more of these
8 live shots or stand-up interviews until she got
9 those interviews cleared with Mr. Murphy and
10 yourself?

11 A. I would concur with that decision
12 because of the fact that's normal. That's kind
13 of our normal policy.

14 You know, we know about interviews
15 usually in advance, but secondly is because of
16 the fact that there were, you know, discussions
17 of security issues and '05 budget, so we wouldn't
18 want those things discussed ahead of time.

19 Q. Do you recall communicating with Mr.
20 Murphy on the 2nd of December in words to the
21 effect that Ms. Chambers is not putting out the
22 message that we wish to put out?

1 A. No, I don't remember that.

2 Q. Would you --

3 A. The closest thing I would say is what I
4 said earlier, which is I don't think it's the
5 message Ms. Chambers would have counseled me to
6 give out.

7 Q. Do you have any sort of written
8 documentation that would reflect Ms. Chambers'
9 counsel to you in that regard?

10 A. No -- just working with her for a year
11 and a half.

12 Q. So you're talking about basically verbal
13 communications between the two of you?

14 A. (Indicated "yes.")

15 MR. L'HEUREUX: Ms. Mainella, you have
16 to answer out loud.

17 THE WITNESS: Oh -- yes. I'm sorry.

18 Yes.

19 Thank you.

20 BY MR. HARRISON:

21 Q. Are you aware of any communications
22 between yourself and Ms. Chambers on December the

1 2nd regarding Ms. Chambers speaking with the
2 media?

3 Did you personally have any
4 communication with her?

5 A. Not regarding the media, that I
6 remember.

7 Q. Okay.

8 A. Only the written memo that she sent to
9 me regarding Mr. Murphy.

10 Q. And just to help my memory, which memo
11 are you referring to?

12 A. That's her letter of complaint
13 against --

14 Q. Mr. Murphy?

15 A. Mr. Murphy.

16 Q. And did you have communication with Ms.
17 Chambers about that?

18 A. I think it was the next day when she
19 asked to try to get with me, and I said we would
20 have to get together at a later time.

21 Q. I see. Okay. So sticking with December
22 2nd for the moment, you don't recall any

1 communication with Ms. Chambers?

2 A. I don't remember it. It doesn't mean it
3 didn't happen.

4 Q. Understood. Is it fair to say that you
5 were relying on Mr. Murphy to communicate with
6 Ms. Chambers regarding your concern about Ms.
7 Chambers speaking with the media?

8 A. I -- yes. I expected Don as her
9 supervisor to, to be communicating and working,
10 and then need to take on any issues he saw that
11 he would --

12 Q. And in fact you had raised this issue
13 with Mr. Murphy on December 2nd, and he assured
14 you he would be dealing with it?

15 A. He would be looking into it.

16 Q. So is it fair to say that you were
17 relying on him doing that?

18 A. That's correct.

19 Q. And I believe -- did you get copied on
20 the e-mails that Mr. Murphy sent to Ms. Chambers
21 on the 2nd of December?

22 A. Some of those I got. I don't know how

1 many were sent.

2 I saw the one that said check back with
3 the director.

4 Q. Okay. And did you read that on December
5 2nd?

6 A. I believe so. I think late that day,
7 though.

8 Q. And I take it you concurred in the
9 message that Mr. Murphy was communicating?

10 A. Yes.

11 Q. At any time on December 2nd, did you
12 direct Mr. Murphy to add anything into his
13 communication with Ms. Chambers regarding her
14 communication with the media?

15 A. No.

16 Q. At any time on December 2nd, did you put
17 in writing in any form any reference to a concern
18 that you had regarding statements by Ms. Chambers
19 regarding security issues?

20 A. No.

21 Q. Okay. Do you recall reviewing any
22 communication from Mr. Murphy to Ms. Chambers on

1 December 2nd that made any reference to a concern
2 that Mr. Murphy had or that you had regarding Ms.
3 Chambers speaking to a matter that had to do with
4 security?

5 A. I don't remember if that was at all in
6 any of those e-mails or not.

7 I don't remember.

8 Q. Okay. Is it fair to say that whatever
9 was in the e-mail that Mr. Murphy was
10 communicating, which you reviewed --

11 A. I did not pre-review any.

12 Q. No. No. I didn't say that.

13 A. Okay.

14 Q. You did review on December 2nd, as I
15 understand it?

16 A. I just received.

17 Q. And read?

18 A. Yes.

19 Q. That's what I thought?

20 A. After the fact.

21 Q. Understood.

22 A. Just to me review is a pre-review.

1 Q. I'll be explicit --

2 A. Thank you.

3 Q. When I mean a pre-issuance review.

4 A. Right.

5 Q. But I don't mind clarification?

6 A. Thank you.

7 Q. Let's see if I can remember what I was
8 going to say.

9 A. Sorry about that.

10 Q. Do you remember reading any
11 communication between Mr. Murphy -- pardon me.
12 Strike that.

13 And you know, I can remember what I was
14 going to say.

15 A. Okay.

16 Q. Is it fair to say that what Mr. Murphy
17 was communicating in his e-mails and his voice
18 mails on December 2nd reflected the issues in his
19 mind of concern at this time, to the best of your
20 knowledge?

21 A. To the best of my knowledge, yes.

22 Q. Okay. And did you ever have occasion on

1 the 2nd or December 3rd, say even on December 4th
2 to tell Mr. Murphy that he had left something out
3 or omitted something in his communications with
4 Ms. Chambers that you thought should have been
5 included?

6 A. No.

7 Q. Okay. Did you read The Washington Post
8 on December 2nd?

9 A. Yes, I did.

10 Q. When did you first read The Washington
11 Post?

12 A. When I got up in the morning and went
13 out and had breakfast.

14 Q. Okay. Before you went to work?

15 A. Yes.

16 Q. And did you notice the article in which
17 Mrs. Chambers was quoted and paraphrased?

18 A. I saw the article that involved Ms.
19 Chambers.

20 Q. Did you actually read it at that time?

21 A. Yes, I did.

22 Q. Okay. And did you communicate with

1 anyone on December 2nd, anyone at all, in regard
2 to that particular Washington Post article?

3 A. Again, when I came in that morning, I
4 mentioned the television to Don Murphy, and I
5 said well, the article came out that, in The Post
6 that Ms. Chambers said she was interviewed for.

7 Q. Okay. Did you add any other comment
8 regarding the article other than what you just
9 stated?

10 A. No. I just left it with Don.

11 Q. All right. Did you express to Don at
12 that time explicitly that there was something
13 stated in The Washington Post article by Ms.
14 Chambers or attributed to her that concerned you?

15 A. No, I don't think I did at that time. I
16 just packaged, just said look into both the TV
17 and the newspaper article.

18 Q. Did you actually say look into the
19 newspaper article to Mr. Murphy?

20 A. I think I probably said to him have you
21 seen the newspaper article?

22 Q. Okay.

1 A. And I think he had said, I thought he
2 said he had, but I don't remember.

3 If not, he said he was going to look
4 into it, and I left it after that.

5 Q. Okay. So what specifically would you
6 have said to Mr. Murphy, if anything, that would
7 have put Mr. Murphy on notice that you had a
8 concern, if you did, about something said in The
9 Washington Post article?

10 What words would you have spoken to him
11 to have communicated that concern to him?

12 A. I don't know that I said as much about
13 the article as I was surprised at what I saw on
14 TV.

15 Q. Okay. Did Mr. Murphy make any statement
16 to you about The Washington Post article at that
17 time?

18 A. He acknowledged either he had seen it or
19 was going to see it.

20 I don't remember which.

21 Q. At that time, did Mr. Murphy state to
22 you that he had a concern about something

1 specific stated in The Washington Post article?

2 A. He did not at that time. Don's very --
3 he thinks things through, and had not, did not
4 say anything.

5 Q. Okay. Now on December 2nd, after -- and
6 this would have been about how early in the
7 morning would you say when you spoke with Don
8 Murphy?

9 A. I come in around 7:00 to 7:15 in the
10 morning.

11 Q. Okay. So after that time, in that
12 conversation, did you subsequently on December
13 2nd, 2003, speak with Mr. Murphy regarding The
14 Washington Post article?

15 A. I don't remember any follow-up. He was
16 just working on it.

17 Q. Okay. And I take it from your answer,
18 but to be clear, that Mr. Murphy did not get back
19 to you by e-mail, by phone, or in person
20 regarding The Washington Post article on that
21 particular day?

22 A. I don't remember that, but again, he may

1 have called me, and I don't remember for sure.

2 Q. Okay. Did you discuss with Mr. Murphy
3 on December 2nd at any time the potential for
4 some disciplinary action to be taken regarding
5 Chief Chambers because of her comments to the
6 media?

7 A. I do not remember speaking about any
8 discipline at that point.

9 Q. Okay. Do you recall Mr. Murphy
10 broaching that possibility with you on December
11 2nd?

12 A. I do not remember him doing that other
13 than he was going to be checking with Legal.

14 Q. Oh, he mentioned that on the 2nd?

15 A. Second or 3rd; I don't remember which
16 day.

17 Q. Okay. So if you could remember what you
18 can regarding that particular conversation,
19 where, physically where were you in the building,
20 what did Mr. Murphy say, who was present?

21 A. In the morning when I saw him, I just
22 walked into his office.

1 We have adjoining offices.

2 Q. Um-hm.

3 A. The rest of the day, I don't know. I
4 did not check my calendar to see whether I was
5 there the rest of that day.

6 It seems, though, I was in Washington,
7 D.C.

8 Q. Okay.

9 A. Because I remember at the end of the day
10 seeing the e-mail back with, where he had sent to
11 Ms. Chambers.

12 Q. Okay.

13 A. After that, Legal was involved because I
14 no longer was involved.

15 Q. When you say after that --

16 A. I would have --

17 Q. Place in time when that transition took
18 place?

19 A. It was either going to be on the 2nd or
20 3rd, and I don't remember which day, but I think
21 Legal became involved.

22 Usually procedures for us, any time we

1 have issues, it seems like Legal's always
2 involved.

3 Q. Understood. Did you call the legal
4 department yourself on December 2nd?

5 A. I did not.

6 Q. Did you direct that anyone call the
7 legal department on December 2nd?

8 A. I did not.

9 Q. Okay. Are you aware of anyone calling
10 the legal department on December 2nd regarding
11 Ms. Chambers?

12 A. As I indicated, I can't remember when
13 Legal became involved, whether it was the 2nd or
14 3rd.

15 Q. One of those two days?

16 A. I believe so.

17 Q. Um-hm. And what makes you think that
18 Legal did become involved in that timeframe?

19 A. Because that's when I started no longer
20 being involved or having any active, any kind of
21 participation at all regarding Ms. Chambers
22 because of the fact that I would probably be

1 someone, if any action was taken, to be the
2 appeal person.

3 Q. So -- and I believe you have testified
4 that someone in the, on legal staff communicated
5 that to you?

6 A. That's correct.

7 Q. And I think you have named who those
8 people were?

9 A. It would be one of those two, maybe
10 both.

11 Q. And so do you recall one of those two
12 lawyers telling you on December 2nd or December
13 3rd that essentially because the matter might be,
14 a disciplinary action might be appealed or you
15 might be the decision-maker that you should be
16 hands off at the moment?

17 A. That's my memory of it, yes.

18 Q. Do you remember where you were when that
19 communication took place?

20 A. No, I don't. Just seems like it was in
21 my office.

22 Q. Okay.

1 A. At my conference table, but that's my
2 best recollection.

3 Q. Do you recall it being an in-person
4 conversation?

5 A. Yes.

6 Q. What was told you at the time when you
7 were sort of asked to become uninvolved in any
8 further immediate decisions regarding Ms.
9 Chambers?

10 MR. L'HEUREUX: Objection -- privilege,
11 and I'm instructing you not to answer that
12 question.

13 MR. HARRISON: We need to finish it
14 before you do that.

15 Don't answer, but please hear the
16 question out.

17 MR. L'HEUREUX: I'm sorry. Did you not
18 finish your question?

19 I'm sorry.

20 MR. HARRISON: I hadn't got very far
21 into it, no, but I don't mind. Actually I don't
22 mind because it's a difficult thing to protect,

1 the privilege.

2 Sometimes it's necessary to interrupt,
3 and I'm not offended by your interruption.

4 I'm just noting I need to finish the
5 question for the record.

6 BY MR. HARRISON:

7 Q. What was communicated to you at that
8 time on December 2nd or December 3rd by the
9 attorney telling you that you no longer needed to
10 be, no longer should be involved in the
11 decision-making immediately regarding Ms.
12 Chambers?

13 What was communicated in regard to
14 whether or not disciplinary action was being
15 considered regarding Ms. Chambers and the nature
16 of what that disciplinary action might be?

17 And don't answer yet. You wish to state
18 the objection?

19 MR. L'HEUREUX: I wish to repeat the
20 objection and instruct you not to answer the
21 question.

22 MR. HARRISON: And the basis would be?

1 MR. L'HEUREUX: The basis is privilege.

2 MR. HARRISON: Which one?

3 MR. L'HEUREUX: Attorney-client

4 privilege.

5 MR. HARRISON: Thank you.

6 MR. HARRISON: We probably should

7 identify the counsel.

8 Do you happen to know which counsel

9 would have been communicating that?

10 MR. L'HEUREUX: I don't know; one of the

11 two that she mentioned.

12 BY MR. HARRISON:

13 Q. Can you help us, Ms. Mainella?

14 A. Typically, it was usually more than one

15 counsel sitting with me.

16 Q. Together?

17 A. Yeah.

18 Q. So can you state the universe of the

19 potential candidates who it could have been?

20 A. Hugo Teufel, Tim Elliott; I'm trying to

21 remember.

22 It seems like there may have been a

1 third -- Jackie, were you involved with that?

2 MR. L'HEUREUX: She's not testifying.

3 THE WITNESS: Okay.

4 BY MR. HARRISON:

5 Q. From your own memory, you can say
6 whether she might have been.

7 A. Obviously Jackie has been involved, but
8 I don't remember where in the picture.

9 MR. HARRISON: Okay. So let me be
10 clear, counsel, that you're asserting as
11 attorney-client privilege the communication from
12 counsel to the director that a disciplinary
13 action was being considered regarding Ms.
14 Chambers?

15 MR. L'HEUREUX: Yes.

16 MR. HARRISON: Or not, whichever
17 communication it was.

18 MR. L'HEUREUX: Whichever communication
19 it was.

20 MR. HARRISON: Understood. Okay. We'll
21 probably have to revisit that.

22 Richard, would you make a note on that

1 issue?

2 We'll just determine whether we want to
3 respect that privilege or ask the judge to
4 revisit it.

5 It's a little awkward because there
6 seems to be a role being played by counsel that
7 alters the normal course of the decision-making,
8 administrative decision-making process, so some
9 aspects of that may be attorney-client privileged
10 and some aspects of it may not, so we won't hold
11 up the deposition to deal with it, but we may
12 come back, and we reserve the right to revisit
13 the question.

14 BY MR. HARRISON:

15 Q. Did you -- let me ask you this. When
16 was the first occasion you had to speak with Mr.
17 Murphy, Don Murphy, in which conversation the
18 potential came up for a disciplinary action to be
19 taken against Ms. Chambers?

20 A. Ms. Chambers has had discipline action
21 taken against her before.

22 Q. Let me make my question more precise. I

1 meant to limit it to this timeframe, so I'll make
2 that clear to you.

3 A. Okay.

4 Q. December 2nd or after, when was the
5 first occasion where Mr. Murphy communicated with
6 you in any manner the potential for disciplinary
7 action being taken against Ms. Chambers or that
8 you communicated to him that potential?

9 A. I'm going to have to answer by saying
10 that prior to December 2nd, there was -- I know
11 that Mr. Murphy was planning discipline action
12 regarding Ms. Chambers on other issues, so
13 whatever was viewed taking place on December 2nd.

14 Q. You can put that in context after you
15 answer my question, but try to answer it the way
16 I asked it first.

17 A. Okay.

18 Q. Which is on December 2nd or thereafter,
19 what was the first occasion in which you
20 discussed with Mr. Murphy the potential for
21 disciplinary action being taken against Ms.
22 Chambers?

1 A. I would assume --

2 Q. I don't wish you to do that. I want you
3 to recall.

4 A. I'm trying my best.

5 Q. I know, but just don't speculate. If
6 you can't recall, say that.

7 If you can recall, tell me.

8 A. I can't recall then for sure.

9 Q. Okay.

10 A. I can't give you a definite answer.

11 Q. Okay. Can you give us a possible
12 something that might be true, but isn't complete
13 speculation?

14 A. It would have been in my mind on
15 probably December 3rd with discussions with
16 Legal.

17 Q. Okay.

18 A. I don't remember if Don was part of that
19 or not at that time.

20 Q. Might or might not?

21 A. Might or might not.

22 Q. I see. Okay. So take us to the next

1 point in time, whenever that might be, when you
2 remember speaking with Mr. Murphy specifically
3 where the potential of disciplinary action
4 against Ms. Chambers came up in the conversation
5 either way?

6 A. I can't recollect when. It had to be I
7 would assume December 3rd.

8 Q. Okay.

9 A. That's the best I could do.

10 Q. Okay. You're certain it happened by
11 December 4th I take it?

12 A. I believe so.

13 Q. That you communicated with Mr. Murphy
14 about that potential?

15 A. I didn't communicate. He communicated
16 to me.

17 Q. Fine. Okay. Is there a doubt in your
18 mind that that communication happened prior to
19 December 4th or on December 4th?

20 A. Let me think. Tree lighting -- I knew
21 before the tree lighting.

22 Q. Okay. That was the evening of the 4th?

1 A. Yes.

2 Q. Okay.

3 A. That's my recollection anyway. So I, in
4 my mind, I would have known that there was
5 consideration of discipline action on December
6 3rd is what I would say.

7 Q. Okay. Do you know, do you remember how
8 that was communicated to you?

9 A. Again, I think it would have been
10 through Legal and possibly Don in attendance.

11 Q. Would it be given to you at any point in
12 time in writing on December 3rd?

13 A. No.

14 Q. How about December 4th? Did you see
15 anything in writing?

16 A. I never saw anything in writing after, I
17 never saw any of these actions until long after
18 the fact.

19 Q. Okay. So let's be clear about that.
20 Let's take the month of December as a timeframe
21 arbitrarily.

22 A. Um-hm.

1 Q. The administrative leave memo that Mr.
2 Murphy gave to Ms. Chambers, I'm assuming you're
3 aware that such a memo exists?

4 A. Yes, I am.

5 Q. And that Mr. Murphy communicated it to
6 Ms. Chambers?

7 A. Yes.

8 Q. And I assume you know that that took
9 place on December 5th?

10 A. Um-hm.

11 Q. Okay. Do you recall the first time you
12 saw that memo?

13 A. My memory is middle December.

14 Q. Okay. Do you recall how you came to see
15 it?

16 A. I asked, I think it was after December
17 18th when there was actually, when there finally
18 was, it was obvious that actions were being
19 taken, determinations were being taken.

20 Q. The proposed removal?

21 A. Right.

22 Q. Okay.

1 A. I never saw any of it prior to, though.

2 Q. Prior to December 18th; and who brought
3 that to your attention at that time?

4 A. I would have been, asked to see that at
5 that point through attorneys, that now that
6 actions had been taken, may I finally see the
7 paperwork.

8 Q. Okay. Did anyone tell you, what -- did
9 you ask to see the paperwork?

10 Did they bring, someone bring it your
11 attention?

12 A. I asked.

13 Q. Okay.

14 A. After the actions had been taken.

15 Q. So someone had verbally told you action
16 had been taken, and you asked to see the
17 paperwork?

18 A. Well, obviously I had read in the
19 newspapers.

20 Q. Oh, you read it in the newspapers. Was
21 that the first time you knew?

22 A. No. I know that there was, you know,

1 December the 5th, there was first action.

2 I knew that there was some possibility
3 of discussions with Ms. Chambers regarding some
4 type of settlement that I think was like a week
5 later from that 5th.

6 Q. Okay.

7 A. And then my memory is somewhere December
8 18th, 19th, something of that nature, would have
9 been when final determination to do papers with
10 the proposal of, of possible termination.

11 Q. Okay. So I want to be as precise as we
12 can be about this. I appreciate your efforts in
13 that regard.

14 I'm taking it that on or about December
15 18th, you asked to see the paperwork on the
16 administrative leave memo and the proposed
17 removal, is that correct?

18 A. It would be my memory that that would be
19 the case, somewhere in that period of time.

20 Q. And do you recall who you asked?

21 A. It would have been Legal.

22 Q. Okay. Do you recall who in Legal you

1 would have asked?

2 A. I don't know if Hugo or who. I don't
3 remember.

4 Q. Okay. And were you promptly provided
5 the documents you requested?

6 A. I don't remember how promptly that came.
7 I went on vacation shortly thereafter, so my
8 memory was that I thought I saw it before I went
9 on vacation.

10 Q. Before you left?

11 A. (Indicated "yes.")

12 Q. Okay. And is it your testimony that
13 you're clearly remembering prior to the actual
14 communication of the proposed removal to Ms.
15 Chambers that you had not seen that document?

16 A. That's correct.

17 Q. And it would include the administrative
18 leave memo I take it?

19 A. That's correct.

20 Q. Okay. When did you first come to know
21 that Ms. Chambers was to be put on administrative
22 leave?

1 A. I was told that that was going to be an
2 action I believe on December 5th.

3 Would that have been December 5th?

4 Q. That would be the day the action was
5 communicated to Ms. Chambers.

6 A. Right.

7 Q. If that helps you.

8 A. Yeah, that would be the same day that I
9 was being told, but I would, was not allowed to
10 see the paperwork or be present.

11 Q. Okay. So on December 4th, you would not
12 have known -- correct me if I'm mistaken -- that
13 Ms. Chambers was to be put on administrative
14 leave?

15 A. I don't think I did. I don't think so.
16 I know that they were considering different
17 options.

18 Q. You did know that on December 4th?

19 A. I knew that there were -- I never knew
20 what options or anything.

21 I just know that again, because Legal
22 was involved, that they were looking at different

1 options related to Ms. Chambers.

2 Q. Okay. Were those options ever listed
3 for you, identified for you?

4 A. Not really. I just know that, you know,
5 personnel, there's different options.

6 Q. Well, of course, there could be anything
7 from a verbal reprimand to written reprimand to a
8 temporary suspension and on down the list?

9 A. Right.

10 Q. So no one ever gave you the idea of what
11 severity of options were being considered until
12 the 5th I believe you're saying?

13 A. The 5th was administrative leave I was
14 told.

15 Q. You learned that. Okay. Did you ever
16 have occasion to communicate with any person
17 prior to December 5th regarding Ms. Chambers or
18 what might happen to her?

19 A. I only discussed with Legal I guess
20 any -- I don't know if I got into that issue.

21 I just did not know how they were, it
22 was all going to be handled.

1 I just knew that they were asking me to
2 not be, you know, I was to be ready to be the
3 appeal person, and I think they were moving
4 towards some type of action regarding Ms.
5 Chambers, and on the 5th, I knew it was
6 administrative leave.

7 Q. Okay. So I take it from your answer,
8 and correct me if I'm misunderstanding, that
9 other than legal staff, you did not communicate
10 with anyone prior to December 5th regarding what
11 might happen to Ms. Chambers in this process?

12 A. I don't remember doing that. I don't
13 remember, you know, I did not, I don't remember
14 if I ever spoke to Don, but I don't remember any
15 of that.

16 I remember working directly with legal
17 staff.

18 Q. Okay. So again, you're not denying that
19 such a communication may have happened?

20 A. I mean Don and I talk every day on other
21 issues. There's a lot more happening in the Park
22 Service.

1 Q. Well, let me be clear about what I'm
2 asking you.

3 I appreciate your bringing up Don as a
4 possibility, Mr. Murphy, but my question was not
5 limited in any way to Mr. Murphy.

6 A. Okay.

7 Q. Are you denying or are you not denying
8 that you spoke or may have spoken to any party
9 other than Legal regarding what might happen to
10 Ms. Chambers prior to December the 5th?

11 A. I didn't know what was going to happen
12 to her, so I couldn't speak to it.

13 Q. You couldn't --

14 A. Right.

15 Q. Okay. Do you recall discussing Ms.
16 Chambers in any manner during the ceremonies of
17 the tree lighting on the evening of December 4th
18 with any party?

19 A. I thought I saw Teresa. Usually I say
20 hello.

21 Q. Okay. Anyone else besides Ms. Chambers
22 that you may have spoken to about Ms. Chambers?

1 A. No. The only thing I can ever remember
2 is that Teresa was here.

3 That's the only thing I remember.

4 Q. Okay. Do you know whether anyone other
5 than Mr. Murphy and the legal staff had knowledge
6 prior to Chief Chambers having knowledge of the
7 plan to put her on administrative leave on
8 December 5th, would anyone have had occasion to
9 know that?

10 A. I don't know that. You'll have to ask.

11 Q. As far as you know, no one would have
12 known that?

13 A. They may have been bouncing it off of
14 other people.

15 I don't know any of that.

16 Q. Okay. Did you communicate with anyone
17 prior to December 5th your position on whether or
18 not some disciplinary action, putting aside what
19 it might be --

20 A. Um-hm.

21 Q. Some disciplinary action should be taken
22 against Ms. Chambers or should not be taken?

1 A. Because I was not privy to all the
2 information that Don Murphy and the attorneys
3 were privy to, I was not able to make such a
4 determination.

5 Q. And I think I know what that means in
6 terms of answering my question, but I have to ask
7 you my question was not did you have a basis for
8 offering an opinion, but did you in fact offer an
9 opinion?

10 A. I did not offer an opinion.

11 Q. Thank you. Did anyone elicit your
12 opinion on that question prior to December 5th?

13 A. No.

14 Q. On December the 5th, when Ms. Chambers
15 was given her administrative leave notice, were
16 you aware as of that point in time as to the
17 grounds being relied on by Mr. Murphy or others
18 who might have been involved to justify that
19 particular decision?

20 A. No, I was not aware.

21 Q. Okay. When did you first come to know
22 when Ms. Chambers would be given that

1 administrative leave notice and memo?

2 MR. L'HEUREUX: Objection -- asked and
3 answered.

4 MR. HARRISON: I don't think so.

5 BY MR. HARRISON:

6 Q. But in any case, you can answer.

7 MR. L'HEUREUX: You can answer.

8 THE WITNESS: My understanding was that
9 Ms. Chambers was meeting, was coming into the
10 building on Friday, that December 5th, and so I,
11 at that point, I knew that that would be when
12 they were going to communicate that message to
13 her.

14 BY MR. HARRISON:

15 Q. How did you come to know that?

16 A. Because they asked me not to be present
17 during that time.

18 Q. Who asked you not to be present?

19 A. This would be our legal department.

20 Q. Okay. Was a reason stated to you by any
21 person as to why you should be absent?

22 A. My understanding of the communications

1 was that because I would be an appeal official or
2 likely to be an appeal official, it was best that
3 I not be privy to any of that.

4 My office adjoins Mr. Murphy's, and so
5 it was best that I was not in my office at that
6 time.

7 Q. Okay. Do you know who was present when
8 Ms. Chambers was given her administrative leave
9 memo?

10 A. No, other than Don Murphy.

11 Q. Do you understand that the personnel
12 office was involved?

13 A. I would expect that to be the case
14 because that's normal procedure.

15 Q. Okay. And have you, apart from not
16 being there at the time, have you come to learn
17 what personnel staff were involved in that
18 administrative leave communication?

19 A. I don't know that I still know yet who
20 was sitting at that table at that time.

21 Q. Okay. Do you have a reason to believe
22 who might be there even if you're not certain?

1 A. Normally would be Legal, Don Murphy. It
2 would be Personnel, and normally because it's law
3 enforcement, probably Law Enforcement.

4 Q. Okay. Do you know who's been involved
5 since that time from the personnel office in
6 regard to Ms. Chambers?

7 A. Again, our personnel department has
8 changed with retirements.

9 I think Mr. Davies possibly, and Steve.

10 Q. Krutz?

11 A. Right. They have been involved with
12 other personnel matters, so those are the typical
13 ones I would think would be the case.

14 Q. So no one has communicated to you who
15 actually was involved?

16 A. I didn't ask.

17 Q. And no one has communicated?

18 A. No.

19 Q. Okay.

20 A. Not that I remember.

21 Q. All right. Did you ever ask to be taken
22 out of the loop on the decision making on Ms.

1 Chambers' case?

2 A. No.

3 Q. Are you aware of anyone asking that you
4 be taken out of the loop on the decision-making
5 of Ms. Chambers' case other than the legal staff
6 you have mentioned?

7 A. That's all I know.

8 Q. And Mr. Hoffman became the deciding
9 official in Ms. Chambers' case, is that correct?

10 A. That's correct.

11 Q. Okay. And do you know whether Mr.
12 Hoffman had offered an opinion as to whether you
13 should be taken out of the loop on Ms. Chambers'
14 case?

15 A. I do not know.

16 Q. Do you know whether Mr. Hoffman was
17 instrumental in having himself appointed as the
18 decision-maker in Ms. Chambers' case?

19 A. I do not know.

20 Q. And I take it that you wouldn't know who
21 was instrumental in having Mr. Hoffman?

22 A. I'm not -- I would not know.

1 Q. Okay. When you asked to see the --
2 let's first make sure we know precisely what you
3 did ask to see.

4 At some point around the 18th of
5 December, when you knew that action had been
6 taken regarding Ms. Chambers, you asked to see
7 some documentation.

8 How did you frame what you were asking
9 to see?

10 A. I would have said something to the
11 nature of now that finally actions have taken
12 place, aren't I eligible to see the material?

13 Q. Um-hm. Okay.

14 A. And then I was told yes, I could at that
15 point.

16 Q. And what all were you given at that
17 point?

18 A. It would have been the -- the only thing
19 I remember seeing at that point was the write-up
20 that Don or Legal had done regarding the charges,
21 the various charges, and its substantiation on
22 those charges.

1 Q. I take it you're referring to the
2 proposed removal action that was dated around
3 December 17th and delivered on the 18th to Ms.
4 Chambers?

5 Is that your understanding?

6 A. That's it.

7 Q. And did you ever come to see the actual
8 memo given to Ms. Chambers on December the 5th,
9 the administrative leave memo?

10 A. I don't remember seeing that.

11 Q. Okay. Even to this day?

12 A. I can't remember whether -- I know I
13 don't, I have never had it in my possession.

14 Q. Okay. Haven't read it on an e-mail or
15 electronic version?

16 A. No. I'm just trying to think whether I
17 ever asked Don to just let me glance through it,
18 but I don't remember seeing that.

19 Q. Okay. Has it ever been read to you?

20 A. I don't remember.

21 Q. Okay. Paraphrased?

22 A. It's not vivid at all.

1 Q. You don't recall any communication about
2 its substance?

3 A. No.

4 Q. And why is it that you asked around
5 December the 18th to see that material?

6 Why did you ask for that?

7 A. When I realized that some actions had
8 been taken, and at that point, I was no longer --

9 Q. Prohibited?

10 A. Yeah. I was not the appeal, you know,
11 the appeal person.

12 Q. All you knew at that point was --

13 A. I guess so. I think that's when we
14 knew.

15 Q. Okay.

16 A. It's right whenever I knew that I wasn't
17 going to be the appeal, so if it's, if I knew
18 later than December 18th, then that's when I,
19 then that's when I asked.

20 Once I knew I was no longer going to be
21 the appeal official, I asked to see the material.

22 Q. Now you're sort of explaining why you

1 felt you would be allowed to see it at that
2 point, but my question is more is why did you
3 want to see it?

4 A. Because of my own curiosity to know
5 what, what the information that's, that was, went
6 through these decisions.

7 Q. Okay. And so you did, you recall you
8 did receive that material.

9 I take it you read it?

10 A. Yes.

11 Q. Did you read it, as you recall, before
12 you left on vacation?

13 A. I don't remember that. May have taken
14 it with me.

15 Q. After you read it, did you communicate
16 your thoughts about it to anyone?

17 A. I had some questions when I came back,
18 and I just discussed with Legal I believe.

19 Q. Okay.

20 A. Just to better understand some of the
21 areas.

22 Q. Okay. And can you tell us what your

1 questions were, not what you said to Legal, but
2 what your questions were in your mind?

3 What were you wondering?

4 A. I was actually surprised that there
5 wasn't more in there about some of Ms. Chambers'
6 other issues.

7 Q. Historical issues, prior events?

8 A. More, more other, other challenges that
9 we've had.

10 Q. Um-hm.

11 A. I thought that it could have even had
12 more in there.

13 Q. Um-hm.

14 A. That was most of my questions.

15 Q. Anything else that comes to mind that
16 you had a question about when you read it?

17 A. No. I think that was pretty much it.

18 Q. Okay. Now to your knowledge, have you
19 ever seen a performance appraisal for Ms.
20 Chambers written by any party?

21 A. I don't remember.

22 Q. Have you ever seen a document that,

1 whether called a performance appraisal, would
2 have reflected someone's assessment of Ms.
3 Chambers' performance?

4 A. I normally don't handle those. I don't
5 remember.

6 Q. Okay. Have you ever written a
7 communication to Ms. Chambers stating your own
8 perceived dissatisfactions or satisfactions with
9 Ms. Chambers and her performance?

10 A. Not anything in writing.

11 Q. Okay. You've had occasion to give her a
12 compliment from time to time on, if things went
13 well, things she did well, speaking to the press,
14 things like that?

15 A. Yes.

16 Q. Okay. All right. Is there some
17 document you could point me to that you could
18 fairly describe as a document that would have put
19 Ms. Chambers on notice of the, any
20 dissatisfaction with her performance prior to
21 December 2nd that in your mind, should have been
22 included in the proposed removal action against

1 her?

2 You had indicated more could have been
3 added.

4 Can you point me to a document which
5 would have stated those things and put Ms.
6 Chambers on notice about those things?

7 A. The areas that Ms. Chambers and I
8 discussed would have been --

9 Q. I'm talking about a document now.

10 A. No documents; the answer is no document.

11 Q. That's the answer to my question.

12 (There was a pause in the proceedings.)

13 THE WITNESS: I should correct that,
14 though.

15 Obviously her, the documents that she
16 received, both her reprimand and her letter of
17 counsel, certainly should have put her on notice
18 that she received from Mr. Murphy.

19 BY MR. HARRISON:

20 Q. Reprimand regarding use of a vehicle?

21 A. I think that was a reprimand dealing
22 with the use of a vehicle to go into North

1 Carolina.

2 Q. Is that what you were referring to when
3 you said there were questions in your mind about
4 prior events that could have been included in the
5 write-up, the proposed removal?

6 Is that what you were referring to?

7 A. No -- more than that.

8 Q. Okay. So that doesn't really respond to
9 my question.

10 My question is what documents reflected
11 those items that you thought might have been
12 included in the proposed removal, but were not?

13 And we're not talking about the use of
14 the vehicle, and I believe you said there are no
15 documents, but I just want to make sure.

16 You just mentioned two items. One was
17 the reprimand on the vehicle.

18 What was the other item?

19 A. Letter of counsel for fund raising,
20 illegal fund raising.

21 Q. Illegal fund raising, a letter of
22 counsel, okay; did you issue that?

1 A. No. Don issued it.

2 Q. When was that?

3 A. I want to guess it was June of '03.

4 Q. Okay.

5 A. But I'm not sure. We would have to go
6 back and check.

7 Q. When did you first see that letter?

8 A. It was through when they were issued,
9 so --

10 Q. You would have been copied in --

11 A. Yeah.

12 Q. June or something?

13 A. Yes.

14 Q. Okay. And you felt like some additional
15 discipline was warranted after that reprimand
16 letter on that issue?

17 A. No -- other issues, other issues.

18 Q. Okay, but those didn't have documents
19 that reflected them apparently?

20 A. Um-hm.

21 MR. L'HEUREUX: You have to answer yes
22 or no.

1 THE WITNESS: Do they have documents?

2 BY MR. HARRISON:

3 Q. Are there other documents on those other
4 issues?

5 A. Not that I'm aware of.

6 MR. HARRISON: Okay. Thank you. Well,
7 we have to take one some time, so I guess is
8 there any objection to taking it now?

9 It's 12:30.

10 (Whereupon, at 12:30 p.m., the
11 deposition was recessed, to reconvene at 1:00
12 p.m. the same day.)

13 - 0 -

14

15

16

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AFTERNOON SESSION

(1:10 p.m.)

MR. HARRISON: Now we're back in session for the afternoon.

EXAMINATION BY COUNSEL FOR APPELLANT

(Resumed)

BY MR. HARRISON:

Q. I'll move through these questions as quickly as I can, but if I seem to go too fast, slow me down.

I'm not optimistic we'll finish, but we'll do what we can.

A. Okay.

Q. My understanding, Ms. Mainella, is that you were not involved in the substantive decisions about disciplinary action to take regarding Ms. Chambers and whether or not to take them, so that there was never any point in time at which you became involved in those type of decisions.

Do I understand you correctly?

A. Yes, you do.

1 Q. Okay. Do you recall ever writing a
2 communication to Mr. Murphy expressing a concern
3 you had regarding Ms. Chambers' performance or
4 any potential misconduct by Ms. Chambers?

5 A. No.

6 Q. Now you had indicated that when you
7 spoke with Mr. Murphy on the morning of December
8 2nd, you had seen the television, one of the
9 television interviews by Ms. Chambers that
10 morning before you came to work, as I understand
11 it?

12 A. Yes.

13 Q. You spoke to Mr. Murphy early. He
14 indicated he would check into it or deal with it
15 or something to that effect?

16 A. Yes.

17 Q. Which I believe you said would be about
18 7:15, 7:30 in the morning, something like that?

19 A. Yes.

20 Q. Now in that conversation, you did not,
21 as you testified, explicitly state that you had a
22 particular concern about The Washington Post

1 article in terms of particular language in it,
2 not in that conversation, as I recall your
3 testimony?

4 A. That's the way I recollect it.

5 Q. Okay. Did you ever later in that day
6 speak to anyone about a specific concern you had
7 with The Washington Post article?

8 A. I don't recollect speaking to that.

9 Q. Okay. The next day, on December 3rd,
10 did you have a conversation or a written
11 communication with anyone where you specifically
12 stated a specific concern with The Washington
13 Post article?

14 A. I do not remember doing so.

15 Q. Okay. Do you recall on December 2nd or
16 December 3rd someone communicating to you that
17 they had a specific concern about The Washington
18 Post article on the 2nd or the 3rd?

19 A. I don't remember anything in that
20 regard.

21 As Don was on point to handle
22 everything, it would have been referred to him.

1 Q. Okay. To your knowledge, were there any
2 communications by e-mail or otherwise that you
3 received on December 2nd that no longer
4 physically exist that may have been discarded,
5 destroyed, otherwise would not be available?

6 A. I don't know of any of that.

7 Q. Okay. Same question for December 3rd.

8 A. Same thing -- I would not know.

9 Q. December 4th?

10 A. Same thing.

11 Q. And the same answer?

12 A. Same answer.

13 Q. To your knowledge, have there been any
14 communications in relation to Ms. Chambers and
15 actions against her that may not have been
16 preserved that you're aware of?

17 A. Not that I'm aware of.

18 Q. Are you familiar with the prior practice
19 of the prior chief of the United States Park
20 Police, Mr. Robert Langston, in terms of speaking
21 with the press?

22 A. No.

1 Q. The meetings that occurred either weekly
2 or were attempted weekly with the Secretary that
3 you mentioned, was there any recording or
4 memorialization of those meetings?

5 A. No.

6 Q. No minutes of any kind?

7 A. No.

8 Q. Okay. Did you personally take notes of
9 those meetings?

10 A. Only if it was an assignment.

11 Q. If someone asked you to take notes?

12 A. No. If it was, if I received an
13 assignment.

14 Q. You were asked to do something?

15 A. Right.

16 Q. Okay. Do you know that any other party
17 who attended those meetings took notes?

18 A. I don't remember anyone taking notes.

19 Q. Okay. Did you ever get a follow-up memo
20 that sort of capsulized what was discussed in
21 those meetings?

22 A. No.

1 Q. I should have asked you this earlier,
2 but what is your professional background prior to
3 coming to the National Park Service?

4 A. I was director of the Florida state park
5 system for 12 years.

6 Q. Okay.

7 A. Prior?

8 Q. And prior?

9 A. Prior to that, I was the executive
10 director of the Florida Recreation and Park
11 Association for about seven years.

12 Prior to that, I was a municipal
13 director in Florida down in the Palm Beach County
14 area.

15 Q. Okay.

16 A. Keep going?

17 Q. No. That's fine. That's sufficient.

18 A. Okay.

19 Q. And your appointment, well, how did
20 you -- I assume you were appointed.

21 How did you get the position of the
22 director of the parks in Florida?

1 A. I was selected by the Department of
2 Natural Resources Secretary.

3 It's a secretarial appointment.

4 Q. Okay. And do you know whether the
5 Secretary made that decision independently or was
6 directed to appoint you by someone?

7 A. I interviewed with other people, so I
8 assume it was a competitive process.

9 Q. Okay.

10 (There was a pause in the proceedings.)

11 BY MR. HARRISON:

12 Q. Did you see any other television
13 interviews that Ms. Chambers gave on the 2nd of
14 December other than the one you have described to
15 us in the morning?

16 A. I may have flipped to other stations,
17 but --

18 Q. While you were at home before you --

19 A. While I was at home.

20 Q. Who actually saw that video that you
21 reviewed in your office that Mr. Barna gave you?

22 Who actually saw it besides you?

1 A. Just me, that I know of.

2 Q. Okay?

3 A. I don't know if anyone else did.

4 Q. And who all would have personal
5 knowledge that it was actually given to you by
6 Mr. Barna?

7 I assume Mr. Barna would know that?

8 A. Correct.

9 Q. Anyone else?

10 A. I don't know. Again, it could have been
11 someone other than Mr. Barna.

12 I just know I ended up with the video.

13 Q. Okay. And I believe you said you don't
14 remember precisely when you reviewed it, or do
15 you remember precisely?

16 A. I do not remember.

17 Q. Other than your counsel, have you, in
18 preparation for this deposition, had any
19 discussions with other employees of the Park
20 Service or other people?

21 A. No.

22 Q. Did you review any documents in

1 preparation for this particular deposition?

2 A. I did reread my testimony that I gave to
3 Mr. Hoffman.

4 Q. Okay.

5 A. And I looked over the letters of
6 reprimand, counseling, and there was also a
7 memorandum to my file that was the request for a
8 meeting with Craig Thomas -- Craig Thomas --
9 Craig Manson.

10 Q. Um-hm.

11 A. By Ms. Chambers, and I looked over the
12 letter that Ms. Chambers sent me on December 2nd
13 regarding this commercial.

14 Q. Okay. That would be the complaint we
15 had referenced earlier?

16 A. (Indicated "yes.")

17 Q. Okay. The testimony that you gave that
18 you referred to to Mr. Hoffman, can you describe
19 how that came to take place?

20 A. It was set up as Mr. Hoffman was
21 reviewing the issues related to Ms. Chambers.

22 It was put on my schedule, and that's

1 all I know.

2 Q. Okay. Who put it on your schedule?

3 A. I don't know that. Most things go
4 through my administrative assistant.

5 Q. Who would that be?

6 A. Deb Smith.

7 Q. Okay. So an appointment was made for
8 you to speak with Mr. Hoffman by Deb Smith?

9 A. Through the attorneys.

10 Q. The attorneys communicated you think to
11 Deb Smith?

12 A. I don't know that.

13 Q. You don't know?

14 A. (Indicated "no.")

15 Q. So it might have been Mr. Hoffman
16 directly?

17 A. What I knew is Mr. Hoffman and the
18 attorneys.

19 Q. Okay. And what were you told, prior to
20 showing up for that particular meeting, what were
21 you told about it?

22 A. That it was going to be questions

1 regarding Ms. Chambers, regarding the action that
2 had been proposed.

3 Q. Okay. All right. And you were told you
4 would be, who you would be meeting with?

5 A. Paul Hoffman.

6 Q. And were you told why you would be
7 meeting with him in particular?

8 A. He had been named the deciding official.

9 Q. Okay. And did anyone tell you -- let me
10 ask you was it the legal counsel who told you
11 that?

12 A. I don't remember.

13 Q. You don't remember. Okay. And I
14 believe you said you don't recall who appointed
15 Mr. Hoffman, or do you know?

16 A. I don't know.

17 Q. Okay. Who would have authority to
18 appoint Mr. Hoffman as a deciding official in
19 such a case?

20 A. I don't know.

21 Q. Okay. Prior to this instance with Ms.
22 Chambers, has there ever been an employee within

1 the National Park Service who had a disciplinary
2 action proposed against them who had a deciding
3 official appointed other than yourself?

4 A. I don't know.

5 Q. Not to your knowledge?

6 A. Not to my knowledge.

7 Q. And you have played the role of deciding
8 official in some cases?

9 A. Actually, I don't remember having done
10 that.

11 Q. Okay. Do you know of anyone who had
12 ever played a deciding official role in an appeal
13 of a proposed disciplinary action within the Park
14 Service?

15 A. Both deputies I believe have.

16 Q. Okay. Have you ever known that the
17 deciding official to be someone, as in the case
18 of Mr. Hoffman, outside the Park Service itself?

19 A. I'm not familiar with it, but it doesn't
20 mean it hasn't happened.

21 Q. You don't recall any instance sitting
22 here?

1 A. No, I do not recall.

2 Q. Okay. Did you give any input at all to
3 anyone regarding the decision to place Ms.
4 Chambers on administrative leave?

5 A. No.

6 Q. Did you give any input at all to anyone
7 regarding the decision to propose to remove Ms.
8 Chambers?

9 A. No.

10 Q. And I take it you did give input to Mr.
11 Hoffman in response to his questions prior to the
12 final decision to remove Ms. Chambers?

13 A. Just regarding he asked me questions.
14 They asked me questions.

15 Q. So you answered what was asked?

16 A. Right.

17 Q. Okay. Did -- were you ever given an
18 open-ended chance to say is there anything else
19 you would like to tell me in Ms. Chambers' case
20 or what's your opinion or impression, or did you
21 ask, simply answer the questions asked?

22 A. I think I just answered the questions.

1 That's all I remember.

2 Q. Okay. Do you know when Ms. Chambers was
3 allowed to give her side of the story to Mr.
4 Murphy or any other deciding official before she
5 was placed on administrative leave?

6 A. No, I do not.

7 Q. All right. Do you know when Ms.
8 Chambers was allowed to give her side of the
9 story to Mr. Murphy or any other deciding
10 official before the proposal to remove her was
11 issued?

12 A. I do not know.

13 Q. Do you believe that an employee of the
14 National Park Service who has a concern that
15 funding or staffing may be insufficient to
16 protect either the public or a National park or
17 monument, do you believe that such an employee
18 needs to get prior approval from Mr. Murphy or
19 yourself before communicating with Congress about
20 their concern?

21 A. We have a procedure in place that says
22 before you visit the Hill, you're supposed to

1 advise our Congressional Affairs.

2 Q. That's a written procedure?

3 A. I know it's a procedure, I don't
4 remember if we have it in writing or not, but it
5 is.

6 Q. So you couldn't point to a document
7 sitting here at the moment?

8 A. Not at this moment.

9 Q. Okay. So to be clear, whether that
10 procedure is written or not or whether we can
11 recall the document or not, is it your position
12 that you would expect every National Park Service
13 employee who had a concern that staffing, funding
14 might be insufficient to protect either the
15 public and the National park property or a
16 monument, that that employee is expected to get
17 their communication cleared by Mr. Murphy or you
18 before going to Congress, or is it the liaison
19 office you're talking about?

20 A. Congressional Affairs is supposed to be
21 notified if you're going to the Hill.

22 It doesn't -- and it, and what topics

1 you're going to talk about.

2 Q. Okay.

3 A. Beyond that, normally our expectation
4 would be that if you have issues of concern on
5 funding, you talk with your supervisor.

6 That's our normal procedure to get
7 things done.

8 Q. Talk with them first? Talk with them
9 only?

10 I mean are you -- let's say that an
11 employee had a concern.

12 Which of their supervisors -- the
13 concern was not resolved.

14 Is it your position that the employee
15 would then be free to speak with Congress about
16 their concern, or that they should not do so?

17 A. The typical action is that they are
18 supposed to advise Congressional Affairs if
19 they're going to the Hill.

20 Q. Okay.

21 A. We also, as far as exactly what they're
22 speaking, if they're on duty going to the Hill,

1 then they're supposed to be, there is -- you
2 know, working with what our administration's
3 positions are.

4 If they're going to the Hill as an
5 individual, they can do as they wish.

6 Q. Okay. So that's an important
7 distinction?

8 A. It is. It's a very big distinction.

9 Q. So let's make my, that distinction clear
10 in my question.

11 Let's say an employee who was in the
12 Park Service had a personal concern of the nature
13 I stated. Let's say they did raise it to their
14 supervisor.

15 A. Um-hm.

16 Q. And it was not resolved to their
17 satisfaction.

18 If it were not a concern that they were
19 expressing officially, in their official
20 capacity, as a personal concern, is it your
21 understanding that there would be no restriction
22 or expectation that they follow any additional

1 procedure, that they would be free to communicate
2 that to Congress?

3 A. If they're on their off time.

4 Q. On their off time?

5 A. (Indicated "yes.")

6 Q. Okay. Now let's change the assumption
7 to an employee who has a concern in their
8 official capacity that funding or staffing is
9 insufficient to provide protection of the public
10 or the National monuments or parks, and they want
11 to express that in their capacity as an official
12 of the National Park Service.

13 Okay. What precisely would you expect
14 that person to do, according to your procedure,
15 step-by-step before they would be allowed then to
16 go ahead and communicate to Congress about their
17 concern?

18 A. They should go through chain of command.

19 Q. All right. And how would you define
20 chain of command precisely?

21 A. Go to your immediate supervisor, fail to
22 achieve.

1 Then you go to that next supervisor.

2 Q. Line authority, step by step?

3 A. Um-hm.

4 Q. How far would you have to go?

5 A. You would have to keep going until you
6 felt satisfied with what you were achieving.

7 Q. Okay. And if you were not satisfied,
8 would you go up to the Secretary of the Interior?

9 A. You could.

10 Q. Okay. And you would expect that before
11 one went to Congress?

12 A. If it's a different position than what
13 the administration is, yes.

14 Q. Okay. All right. And how would an
15 employee come to understand the position of the
16 administration so they would know whether they
17 even varied from it?

18 A. Because it's shared with them, you know,
19 as they meet with their supervisors.

20 Q. Okay.

21 A. If it's not clear at that point, it will
22 be, it should be become clear.

1 Q. Okay. So when they express their
2 concern through their supervisor going up the
3 chain of command, at that point, they would be
4 told what is the administration's position?

5 A. Um-hm.

6 Q. And they would learn whether they varied
7 from the administration's position?

8 A. Yes.

9 Q. Okay. Let's say in this process they
10 learn that they were taking a position that
11 varied from the administration's position.

12 A. Um-hm.

13 Q. They did not get a resolution going up
14 step by step the chain.

15 A. Um-hm.

16 Q. Would they be expected to exhaust up to
17 the Secretary of Interior level before going to
18 Congress?

19 A. Usually it just, you would exhaust all
20 opportunities that are in the, in the network,
21 and which means going all the way to the
22 Secretary.

1 Q. Okay. Thank you. Now let's say that
2 someone is energetic and persistent enough to do
3 that.

4 A. Um-hm.

5 Q. And they do get to the Secretary level
6 and the Secretary is kind enough to speak with
7 them, and they still don't get resolution.

8 At that point, is it your policy and
9 procedure that that employee is then allowed to
10 go ahead and communicate their concern to
11 Congress even though it may vary from the
12 administration's position?

13 A. Our typical procedure is if you're asked
14 by Congress questions, you're certainly, we
15 always want you to speak the truth.

16 Q. If asked?

17 A. If asked; to seek it beyond that --

18 Q. Yes.

19 A. Is something that I would have to then
20 discuss with my superiors of how best to proceed.

21 Usually -- I'm unfamiliar where
22 situations have not been able to be resolved if

1 you go through the proper procedures.

2 Q. Um-hm. Okay. So you're really not sure
3 what the answer is in that hypothetical?

4 A. No.

5 Q. Okay. And I take it that do you not
6 consider yourself to be the policy-maker who
7 would answer that question?

8 A. Well, I would be, you know, I'm in the
9 chain of command.

10 If it was a question that came from a
11 park superintendent, it would go through a
12 region, region, to a deputy, deputy to me, and if
13 I'm there, from there on up to the Assistant
14 Secretary's office, and then going up all the
15 wait to the Secretary.

16 Q. Okay. So to be precise, if an employee
17 had such a concern as I stated, exhausted their
18 administrative, their line authority steps all
19 the way to the Secretary, and trying to get that
20 concern resolved, and then came back, and let's
21 say they're someone under your authority, and
22 they came back to you and said okay, now what do

1 I do, I want to take this to Congress because the
2 Secretary and all the way down hasn't been able
3 to resolve my concern, I do have a concern that,
4 you know, the public may not be protected here,
5 may I take this to Congress now, what would you
6 tell them?

7 A. I don't know. I don't want to speculate
8 on that until I have all the facts.

9 Q. So sitting here today, you don't have an
10 answer?

11 A. I don't have an answer.

12 Q. Okay. So Ms. Chambers' case, she spoke
13 with Ms. I guess Debbie Weatherly on November 3rd
14 or 5th, something around in there.

15 Are you familiar with the fact that
16 communication took place?

17 A. Yes.

18 Q. Okay. And how did you become familiar,
19 how did you come to know that Ms. Chambers had
20 spoken to Ms. Weatherly in November?

21 A. Ms. Weatherly called me.

22 Q. Okay. And do you recall when that might

1 have been?

2 A. It was early November. That's all I
3 remember.

4 Q. Maybe not too long after the
5 conversation between Ms. Chambers?

6 A. It was after that conversation. I know
7 that.

8 Q. Within a day or two you think?

9 A. I can't speculate, but I know it was
10 early November.

11 Q. Early November, okay. Fine. And what
12 did Ms. Weatherly say to you as precisely as you
13 can remember?

14 And tell us whether you're remembering
15 her exact words or not.

16 A. I will not be remembering her exact
17 words, but the impression that I received from
18 the conversation was great irritation by Ms.
19 Weatherly regarding my inability to control Ms.
20 Chambers and my, and the inability of the Park
21 Service to follow directions that were given very
22 clearly by appropriators to the National Park

1 Service, one being the NAPA study was going to be
2 done again, and two, that it was going to be
3 funded by the Park Police.

4 She indicated that she had received a
5 call from Ms. Chambers debating those issues.

6 Q. Now I take it you're not saying that the
7 decision to have the new NAPA study, you're not
8 saying that was made after Ms. Chambers talked
9 with Ms. Weatherly?

10 You're saying that the fact that the new
11 study was planned came up in conversation?

12 Did I understand that correctly?

13 A. That the conversation, at the point I
14 received that, it was already my understanding
15 the NAPA study would be done, and the Park Police
16 would be paying for that.

17 Q. Okay. All right. Did the topic come up
18 in that conversation as to the extent the United
19 States Park Police had implemented the prior
20 recommendations of the first NAPA study?

21 A. I don't recollect on that.

22 Q. Do you recall whether the topic came up

1 from Ms. Weatherly that she was concerned that
2 either you or Mr. Murphy had given her, Ms.
3 Weatherly, information regarding the extent of
4 implementation of the earlier NAPA study
5 recommendations that differed from the
6 information she was getting from Chief Chambers
7 on the same question?

8 A. I don't remember any of that in the
9 conversation.

10 Q. Okay. Are you saying that it did not
11 happen?

12 A. I'm saying I don't remember it happening
13 as part of the discussion.

14 Q. Okay. So are you certain it did not
15 happen?

16 A. I'm not certain, but I don't remember
17 it.

18 Q. Understood. I understand your
19 recollection.

20 Did you memorialize this conversation
21 with Ms. Weatherly in any way?

22 A. No.

1 Q. Okay. Was anyone present during this
2 conversation?

3 A. No.

4 Q. Was it by telephone?

5 A. Yes.

6 Q. Okay. Did you communicate with anyone
7 shortly after the call regarding the call?

8 A. I would have spoken to Don.

9 Q. Mr. Murphy?

10 A. Yes.

11 Q. Okay. In person, or on the phone?

12 A. I don't remember whether he was there or
13 not, but my typical action would have been to
14 talk to Don regarding that issue.

15 Q. Do you recall actually doing it in this
16 case?

17 A. I don't recall, but I just know that's
18 my, that would be my normal action.

19 Q. So I take it you wouldn't recall what
20 you might have said to him on this occasion?

21 A. I would have just reiterated what was
22 said to me.

1 Q. That would be your normal practice?

2 A. Yes.

3 Q. You're not remembering doing that?

4 A. I don't remember whether I did it or
5 not.

6 Q. Okay. Did you have any subsequent
7 conversation with Ms. Weatherly about Ms.
8 Chambers?

9 A. I don't remember having any further
10 conversation.

11 Q. Up to today?

12 A. Oh --

13 Q. Regarding Ms. Chambers?

14 A. I don't remember having any conversation
15 with her about Ms. Chambers.

16 Q. Okay. And you understand when I say
17 about Ms. Chambers, it would include any of the
18 disciplinary actions --

19 A. Right.

20 Q. Being contemplated regarding Ms.
21 Chambers?

22 A. Because I didn't know them.

1 Q. The details?

2 A. Correct.

3 Q. Okay. Do you recall receiving any
4 e-mails from Ms. Weatherly regarding Ms.
5 Chambers?

6 A. No.

7 Q. Have you ever talked to Mr. Don Murphy
8 regarding communications he may have received
9 from Ms. Weatherly about Ms. Chambers?

10 A. No.

11 Q. Have you ever seen an e-mail to Mr.
12 Murphy from Ms. Weatherly?

13 A. Not that I can recollect.

14 Q. Do you know whether communication from
15 Ms. Weatherly had any influence on Mr. Murphy in
16 deciding to place Ms. Chambers on administrative
17 leave?

18 A. I do not know.

19 Q. Do you know whether any communication
20 from Ms. Weatherly had any influence on Don
21 Murphy in proposing to remove Ms. Chambers?

22 A. I don't know.

1 Q. Do you know whether any communications
2 with Ms. Weatherly had any influence on Mr.
3 Murphy or you in communicating with Ms. Chambers
4 on December 2nd that she should have no further
5 interviews with the press?

6 A. No.

7 Q. That was not an I don't know. That was
8 a no I understand?

9 A. I don't know of any conversations.

10 Q. Okay.

11 A. So no, I don't remember any
12 conversations.

13 Q. And certainly in regard to you?

14 A. Right, because I didn't know, yes.

15 Q. Okay. Let's say that you had the
16 ability by snapping your fingers to achieve the
17 control over Ms. Chambers or others that Ms.
18 Weatherly wanted you to have when she had
19 communicated to you that she was concerned that
20 you didn't have the ability to control Ms.
21 Chambers.

22 Let's say that you could snap your

1 fingers and have that control.

2 What was it that Ms. Weatherly wanted
3 you to have control of precisely, if you know?

4 A. Ms. Weatherly expressed to me that, that
5 it was already determined that there would be a
6 NAPA review.

7 Q. Um-hm.

8 A. And the Park Police would pay for that.

9 Q. Right.

10 A. And why would Ms. Chambers be debating
11 that issue.

12 Q. So the control, if I understand your
13 answer, the control that Ms. Weatherly was
14 seeking was that you would be able to restrain
15 your employees from questioning decisions made by
16 Congress as to matters such as the NAPA study,
17 that once Congress decided to do it, Ms.
18 Weatherly didn't want to be questioned about it,
19 is that it?

20 A. I don't know that aspect of Ms.
21 Weatherly's thinking.

22 All I know is that she expected that we

1 would be working on implementation, not debate.

2 Q. On the new study?

3 A. On the new study, and moving forward
4 with that.

5 Q. Okay. Did Ms. Weatherly state any
6 specific item to you that she wanted to be
7 implemented in regard to the prior NAPA study
8 that she felt had not been sufficiently
9 implemented?

10 A. No. She just felt we needed to
11 implement the NAPA review again, and it needed to
12 be paid for out of Park Police.

13 Q. Okay. Did Ms. Weatherly communicate to
14 you that she felt it was inappropriate for the
15 chief of the United States Park Police to
16 communicate with Congress?

17 A. What she said to me is what I have
18 already said, is that she felt it was, that we
19 should not be having someone debate this issue
20 seeing that the decision had been made that there
21 would be a NAPA study and the Park Police would
22 be carrying it out to their pay, through their

1 payroll.

2 Q. And as far as you know, that was all
3 that had irritated her?

4 A. Yes.

5 Q. Okay. So it wasn't, and please correct
6 me if I misunderstand, but I take it from your
7 testimony that Ms. Weatherly was not saying as a
8 blanket statement I don't ever want to see anyone
9 from the United States Park Police talk to
10 Congress?

11 She wasn't saying that?

12 A. Definitely not.

13 Q. She was saying in this case, the content
14 of what was being said she felt was
15 inappropriate?

16 A. Correct.

17 Q. Is that correct? Okay. And prior to
18 Ms. Weatherly calling you and telling you this,
19 did you know that the conversation had taken
20 place between Ms. Chambers and Ms. Weatherly?

21 A. I don't remember knowing about it until
22 that call came in.

1 Q. Okay. Did you identify at that point in
2 time the need to take some disciplinary action
3 regarding Ms. Chambers regarding that particular
4 conversation?

5 A. No.

6 Q. Okay. So I take it you didn't propose
7 any disciplinary action at that time regarding --

8 A. No.

9 Q. Okay. Mr. Murphy I take it came to know
10 of Ms. Chambers' communication with Ms. Weatherly
11 in November?

12 A. Yes.

13 Q. At that time, meaning in early to
14 mid-November, did Mr. Murphy initiate any
15 proposed disciplinary action against Ms. Chambers
16 regarding that conversation?

17 A. I don't know if -- I don't know. You'll
18 need to ask Mr. Murphy.

19 Q. Okay. Nothing was copied to you at
20 least?

21 A. No.

22 Q. Am I correct?

1 A. That's correct.

2 (There was a pause in the proceedings.)

3 BY MR. HARRISON:

4 Q. Are you aware of Ms. Weatherly ever
5 discouraging staff of the United States Park
6 Police or the National Park Service from
7 communicating with members of the Congress,
8 particularly members of the committee or
9 subcommittee she works with?

10 A. I'm not aware of her doing that other
11 than I would assume -- well, I won't say that.

12 No, I'm not aware of it.

13 Q. Okay. Are you aware of members of the
14 National Park Service, including Mr. Murphy, ever
15 communicating with members of Congress
16 themselves?

17 A. Yes.

18 Q. And you saw no problem with that?

19 A. We have, there is a procedure to follow
20 when you talk to Congress.

21 You follow the procedure. Make sure
22 people know. Then you're able to do so.

1 Q. That procedure is to go through the
2 Congressional liaison?

3 A. Um-hm.

4 Q. If -- well, let me ask you who directs
5 that office of Congressional liaison?

6 A. Jeff Taylor.

7 Q. And has Jeff been the director for the
8 last two or three years?

9 A. He has been there a while.

10 Q. Okay.

11 A. I don't remember the length of time.

12 Q. Okay. Have you seen the position
13 description for Mr. Taylor or his office?

14 A. Not recently.

15 Q. If I were to ask Mr. Taylor whether he
16 sees his job as to substantively censor any
17 communications between members of the National
18 Park Service and Congress, in other words, to
19 tell them what they are allowed to say and what
20 they're not allowed to say, do you know what his
21 answer would be?

22 A. I would expect it would be no, we don't

1 censor, we want to know what's going on.

2 Q. So notice?

3 A. Notice.

4 Q. Not necessarily control?

5 A. That's correct.

6 Q. If an employee were to go through your
7 Congressional liaison office, let them know that
8 they wished to communicate a concern about a
9 perceived public safety issue to Congress, even
10 though that perception or position might be
11 different than the administration-stated
12 position, and after having given that notice to
13 the Congressional liaison, you went ahead and
14 make the communication to Congress, would that be
15 acceptable?

16 A. I think we spoke about this before, that
17 at this point, we would want the person to go
18 through the chain of command before they're
19 discussing things.

20 That is where -- we try to resolve our
21 issues in our house.

22 Q. Okay. So what I'm trying to get

1 clarification on is whether your procedure
2 requires simply notice, to give heads-up to the
3 liaison, or whether there is at some point some
4 substantive control over what is to be
5 communicated or whether it is to be communicated,
6 and where on that continuum between simple notice
7 and absolute control your procedure falls.

8 Do you have a way of answering that?

9 A. I can say that Congressional Affairs is
10 to know that you're going to the Hill and your
11 basic topic for which you go to the Hill.

12 Q. Okay.

13 A. There is no seeing your verbal testimony
14 or anything of that nature.

15 Q. Okay. They don't have to approve the
16 substance?

17 A. No, not unless you're testifying in
18 front of a hearing.

19 Q. Now but you're also apparently saying
20 that in addition to that procedure, you expect an
21 employee to go through the chain of command on
22 the substance, is that correct?

1 A. Only if there is discrepancy compared to
2 where, their understanding of the department's
3 position.

4 Q. Okay. And if there is, then you would
5 expect, and as I take it you're stating, the
6 procedure is require an employee to go through
7 their chain of command, exhaust this chain of
8 command even up to The Secretary of Interior on
9 the substance, is that correct?

10 A. That's correct.

11 Q. Okay. And once we get past that, we've
12 already established you're not quite sure what
13 the answer is?

14 A. Correct.

15 Q. All right.

16 MR. L'HEUREUX: Can we go off the record
17 for a moment?

18 MR. HARRISON: Of course.

19 (A discussion was held off the record.)

20 MR. HARRISON: Let's go back on.

21 BY MR. HARRISON:

22 Q. To clarify, I want to make sure I have a

1 good understanding of what your procedure is even
2 though we have not identified a document that
3 states it, you have this procedure in your mind
4 up to a certain point.

5 And as I understand the procedure, an
6 employee who is speaking either for themselves as
7 an individual -- let's be clear.

8 Let's say a person is speaking strictly
9 for themselves as a citizen even though they
10 happen to be a Park Service employee.

11 Would you expect them to go through the
12 Congressional liaison?

13 A. No.

14 Q. Okay. Thank you. Now someone who is
15 speaking in their official capacity for the Park
16 Service, at least at the office level at which
17 they work, you would expect that person to go
18 through the Congressional liaison before they
19 talk with Congress?

20 A. Yes.

21 Q. About anything I take it?

22 A. Yes.

1 Q. Okay. And that requirement is more of a
2 procedural, you know, give the office a heads-up
3 and notice?

4 It's not a substantive censorship
5 procedure?

6 A. That's correct.

7 Q. Okay. Now if there is an employee who
8 wants to speak as a citizen about a concern for
9 which their position differs from the
10 administration, would you or would you not expect
11 them to exhaust the chain of command on the
12 substance of what they were going to say?

13 A. They do not have to.

14 Q. Okay. Now the only category left I
15 believe is the employee who wishes to speak in
16 their official capacity, they do have a
17 substantive position different than the
18 administration, you would expect that person to
19 exhaust the chain of command on the substance of
20 their concern, and once having done that, you're
21 not sure what the procedure would be?

22 A. That's correct.

1 Q. Thank you. You mentioned the letter of
2 counseling that Ms. Chambers had received
3 regarding some fund raising thing.

4 Was that about the fund for families of
5 police officers who had been killed?

6 A. I'm not recollecting what the fund was.
7 I know it was a, a fund raising issue.

8 That's all I remember.

9 Q. Do you recall what was perceived to be
10 inappropriate that caused the letter of
11 counseling?

12 A. No, I do not know.

13 Q. Okay. Do you ever get involved in fund
14 raising yourself at the Park Service?

15 A. I have not, not in my current role.

16 Q. As a director?

17 A. As director of the National Park
18 Service, no.

19 Q. Okay. Is there a Christmas party that
20 is held in the Park Service that you're involved
21 in?

22 A. Yes, we do a holiday party.

1 Q. Okay. And is there money donated for
2 expenses for that party?

3 A. My understanding, there is.

4 Q. Do you know where that money comes from?

5 A. There is a number of -- I know I put in
6 a lot of money.

7 Q. Okay. That's one source.

8 A. And then a lot of times, the deputies
9 do.

10 Q. Okay.

11 A. And then sometimes our associates do.

12 Q. Okay. And do you know whether there is
13 ever an expectation communicated to, for example,
14 the members of your leadership team, which would
15 include I think those people you named, to make a
16 donation for that Christmas party?

17 A. I'm not sure because I have not
18 conducted that.

19 I just know that I write a check.

20 Q. Do you know that one of your assistants
21 does, how shall we say, recruitment of the funds
22 for that party?

1 A. I don't know.

2 Q. You don't know?

3 A. I don't know. I don't remember.

4 Each -- you know, I just know we have a holiday
5 party, and I usually write a check.

6 Q. Do you know whether any one of your
7 assistants ever encourages such donations?

8 A. I don't know.

9 Q. And would it be appropriate for them to
10 do so?

11 A. I don't know if it's, I don't know if
12 it -- I don't know.

13 I know a holiday party is appropriate.

14 Q. Well, that's a different matter. We're
15 talking about the funding, raises the funds for
16 it.

17 (There was a pause in the proceedings.)

18 BY MR. HARRISON:

19 Q. You had testified today that you had
20 contemplated being the decision-maker for Ms.
21 Chambers, appeal of her disciplinary action, but
22 I also understand you to have said that even

1 though you were told or expected to be that
2 person, you were not told at the time what that
3 disciplinary action might be?

4 A. That's correct.

5 Q. Okay. At some point in time, you came
6 to learn that in fact you would not be the
7 decision-maker for Ms. Chambers' case?

8 A. Correct.

9 Q. Okay. Who would have the authority to
10 essentially decide that you would not be that
11 decision-maker?

12 A. I think we asked that question before,
13 and I thought I said I did not know.

14 Q. That was in regard to Mr. Hoffman being
15 appointed as the decision-maker, which this is a
16 related question.

17 It's not the same. This has nothing to
18 do with appointing Mr. Hoffman specifically, but
19 taking you out of the role, and it's the same
20 answer I take it?

21 You don't know?

22 A. I don't know. I just, we just went with

1 legal guidance.

2 Q. Okay. So correct me if I'm wrong, that
3 you never came to know who actually made those
4 decisions?

5 A. I do not know.

6 Q. Ms. Chambers was hired and began work
7 was it February of '02?

8 A. That's my recollection, yes.

9 Q. And let's see. You began earlier in
10 '01? I forget what month.

11 A. July.

12 Q. July '01, so there must have been some
13 acting chief of the United States Park Police in
14 the interim?

15 A. Yes.

16 Q. Okay. Do you know whether those acting
17 chiefs ever had communications with the media?

18 A. I don't remember them having that
19 communications, but they may have.

20 Q. Okay. Did you give any of the acting
21 chiefs any training on how they should conduct
22 communication with the media?

1 A. I don't remember doing that. I think at
2 that time, that they reported to a region instead
3 of to my office.

4 Q. Okay. When did they actually start
5 reporting to your office, do you recall?

6 A. I believe when Ms. Chambers was hired.

7 Q. Okay. So essentially from day one, Ms.
8 Chambers would have been reporting to you and not
9 to the regional office?

10 A. That's correct.

11 Q. Did you ever get any training when you
12 came on as the director in charge of how to deal
13 with the media?

14 A. I have been in the field for almost 40
15 years, so I have had a lot of experience.

16 Q. You brought that with you?

17 A. I brought it with me.

18 Q. But no training once you took the job?

19 A. We have had some training at different
20 times.

21 Q. Do you recall what it was?

22 A. I know it was here in Washington, but

1 that's all I remember.

2 Q. Okay. Was it media-specific training?

3 A. Um-hm. Yes, it was.

4 Q. And do you know who attended?

5 A. No. I can't remember outside of myself.

6 Q. Okay. Were there any written materials
7 associated with it, the training?

8 A. I don't remember any written materials.

9 Q. Okay. Do you recall passing on any
10 training in any form, written material or
11 otherwise, to Mr. Murphy, Mr. Jones, or Ms.
12 Chambers regarding how to deal with the media?

13 A. I don't remember doing any of that.

14 Q. Okay. Is there a written policy or
15 procedure that you're aware of that would require
16 someone in the Park Service or the Park Police to
17 get substantive approval from anyone as to the
18 content of what they are to say before they speak
19 with the media?

20 A. Typical -- well, I don't know if we have
21 anything in writing.

22 Q. Okay. Do you have, to your

1 understanding, perhaps a unwritten policy or
2 procedure to that effect, that the substance of
3 what an employee is to say to media must be
4 approved?

5 A. No.

6 Q. Okay. Is there a written procedure of
7 any kind regarding dealing with the media that
8 you're aware of?

9 A. I'm aware of a procedure that you are to
10 notify our communications office if you can
11 before you have the, the contact with the media,
12 but certainly right afterwards.

13 Q. Okay. And are you aware of that? Is
14 that a written policy, or is it just a --

15 A. I don't remember if it's written or
16 practice.

17 Q. Understood. Is it fair to say that --
18 well, let me just ask you did you have a
19 perception that when Ms. Chambers was interviewed
20 by The Washington Post on November 20 and
21 communicated to Mr. Murphy on the same day that
22 that interview had happened, did you perceive

1 that as being substantial compliance with your
2 policy?

3 A. Yes.

4 (There was a pause in the proceedings.)

5 BY MR. HARRISON:

6 Q. Have you ever had an occasion to do a
7 media interview yourself?

8 A. Yes.

9 Q. How many times do you think as a
10 director?

11 More than one could count?

12 A. More than one could count.

13 Q. Okay. Do you notify the media office
14 every time you talk to a reporter?

15 A. Yes.

16 Q. Okay. When you let them know, do they
17 ever attempt to -- how shall I say -- control
18 what you say substantively?

19 A. We are asked what are the topics that
20 you're, you know, that you're covering.

21 Q. You're telling them?

22 A. Right.

1 Q. They're not telling you?

2 A. That's correct.

3 Q. All right. Is there a written procedure
4 that would explain to an employee of the Park
5 Service or the Park Police what is allowable to
6 talk about with the media in terms of police
7 staffing or security precautions at monuments or
8 National parks?

9 Is there a written statement that one
10 could go to and read so that you would know where
11 is that line that one shouldn't cross in that
12 regard?

13 A. I don't know of a written document.

14 Q. Okay. Do you recall providing any
15 training yourself to Mr. Murphy, Mr. Jones, or
16 Ms. Chambers with regard to that question about
17 where one should draw that line?

18 A. No.

19 Q. Okay. Do you know whether Ms. Murphy
20 has provided any training to his subordinates,
21 including Ms. Chambers, regarding where one would
22 draw that line?

1 A. I do not know.

2 Q. In your many interviews with the press,
3 have you ever had an occasion to be misquoted?

4 A. Yes.

5 Q. Have you ever had occasion to have one
6 of your statements taken out of context by a
7 reporter?

8 A. Yes.

9 Q. When did you first come to know that the
10 proposed removal of Ms. Chambers was to be based
11 in part on Ms. Chambers' statements to The
12 Washington Post?

13 When was that first made known to you?

14 A. It would have only been the following,
15 and I don't know that, you know, when I saw the
16 written materials, which would have been in late,
17 mid to late December, but as you know, that has
18 more in it than just dealing with The Post.

19 Q. There are actually five different
20 charges, some with subparts, specifications, and
21 so forth, but you do recall that The Washington
22 Post communications were one of those items

1 mentioned in that document?

2 Do you recall that?

3 A. Yes.

4 Q. And I don't mean to exclude others in
5 asking you that question. We may actually
6 address them at some point one at a time, but
7 speaking of The Washington Post communications,
8 when did you first come to know that those
9 communications by Ms. Chambers to The Post were
10 to be a part of the proposed removal of Ms.
11 Chambers?

12 A. Not until late December, mid to late
13 December.

14 Q. Okay. At the time Ms. Chambers was put
15 on administrative leave, did you have any
16 expectation that she would or would not return to
17 work eventually?

18 A. I had no expectation.

19 Q. Either way?

20 A. No.

21 Q. Okay. And you never communicated any
22 expectation either way?

1 A. No.

2 Q. Do you recall ever communicating to any
3 party at any time in regard to Ms. Chambers and
4 actions taken against her that the situation
5 didn't need to essentially develop that far or
6 come to this, that it could have been prevented?

7 Did you ever have a communication to
8 that effect with anyone?

9 A. No.

10 Q. Did you ever, do you ever recall having
11 a communication with anyone on December the 5th
12 that to the effect that what was happening to Ms.
13 Chambers was sad or unfortunate or something to
14 that effect?

15 A. I did use the word sad.

16 Q. Okay. Do you recall that conversation?

17 A. I don't recall the conversation. I know
18 that I used that term sad more than once.

19 Q. Okay. Do you recall the timeframe?

20 A. No.

21 Q. Do you believe it would have been on,
22 before or after December 5th?

1 A. I don't remember.

2 Q. In the ballpark, you don't remember?

3 A. (Indicated "no.")

4 Q. Could it have been before December 5th?

5 A. I don't know. I didn't know the
6 actions, so you know, I wouldn't have known.

7 I don't, no, I don't know.

8 Q. Okay. I guess what I'm trying to get at
9 is would you have been in a position to have
10 characterized the action or the circumstances to
11 be sad if you didn't yet know what was going to
12 happen?

13 A. I could have just been saying sad
14 because of the fact that, you know, we all wanted
15 Ms. Chambers to succeed.

16 Q. Well, understood. My question isn't so
17 much why you might have used the expression at
18 some point in time once knowing that some action
19 was going to happen against Ms. Chambers.

20 I believe your testimony here today was
21 that the first time you knew anything was going
22 to happen to Ms. Chambers was on December 5th?

1 A. That was my memory of it.

2 Q. Okay. So do you believe, given that,
3 that you could have stated to anyone prior to
4 December 5th that what was happening to Ms.
5 Chambers was sad?

6 A. I might have.

7 Q. How do you reconcile the two?

8 A. Because I might not have known what
9 actions were taking place, but I would have
10 certainly known there was concern being expressed
11 because I was being held back as that there was
12 going to be some, some kind of action happening.

13 Q. Okay. Would you have made the
14 expression that it's sad if it were merely to be
15 a, a verbal reprimand or letter of reprimand
16 or --

17 A. I might have.

18 Q. So it's still your position that prior
19 to December 5th, you had no idea of the severity
20 of the discipline to be taken?

21 A. That's correct.

22 Q. Were you involved in any consideration

1 after Ms. Chambers was put on administrative
2 leave, which would have been December 5th, were
3 you involved in any discussion at any time about
4 Ms. Chambers being reinstated?

5 A. I would have asked any questions to
6 legal counsel as far as where things were.

7 That's the only thing I can think of I
8 could have asked, but not specifically about
9 reinstatement.

10 Q. Okay. Do you recall ever communicating
11 to anyone what conditions you would place on Ms.
12 Chambers being reinstated?

13 A. No.

14 Q. Do you know in your mind what conditions
15 you would have placed on Ms. Chambers being
16 reinstated?

17 A. No.

18 Q. Had there been a discussion or proposal
19 to reinstate Ms. Chambers and someone had asked
20 your opinion as a director, would you have
21 insisted that Ms. Chambers agree on a procedure
22 whereby she would have to have prior approval

1 before having any meeting interviews in order for
2 her to be reinstated?

3 MR. L'HEUREUX: Objection. Calls for
4 the witness to speculate.

5 BY MR. HARRISON:

6 Q. You can answer.

7 A. I would have just asked for anyone to
8 follow procedures.

9 Q. Okay. And I won't repeat all those
10 procedures we have gone through, but that would
11 be the procedure you would be expecting, what you
12 testified to?

13 A. Yes.

14 Q. Do you know whether or not anyone
15 communicated to Ms. Chambers on behalf of the
16 National Park Service or the Department of
17 Interior that she could be reinstated if she
18 agreed to certain conditions?

19 A. I was aware that there was a meeting
20 with Ms. Chambers some time after December 5th
21 regarding a, you know, some type of proposals.

22 I was not briefed on what those would

1 be.

2 Q. I see.

3 A. What would be involved.

4 Q. Okay. So if there were any conditions
5 stated, you weren't involved?

6 A. I was not involved.

7 Q. And the answer you gave about if you had
8 been asked, you would have just wanted an
9 agreement that Ms. Chambers would follow
10 procedure, that would still be your answer today
11 I take it?

12 A. Yes.

13 Q. Do you know whether or not any
14 communication was made to Ms. Chambers that if
15 she were to be, if she were to be reinstated
16 after December 5th of 2003, that she would have
17 to agree to transfer Pamela Blyth?

18 A. I would not know.

19 Q. Okay. Do you know what agency official
20 has been delegated authority to make decisions
21 regarding this case and potential resolution of
22 it?

1 I take it it's not you?

2 A. Paul Hoffman; I mean --

3 Q. You mean for the litigation?

4 A. Oh, beyond that, I --

5 Q. Do you know?

6 A. No.

7 Q. I'm taking it that no one has come to
8 you to determine the conditions in which the case
9 might be resolved?

10 A. No.

11 Q. All right. Do you recall the issue
12 coming up regarding the transfer of Pamela Blyth?

13 A. Yes.

14 Q. And when did you first become aware that
15 it was an issue?

16 A. I don't remember the dates.

17 Q. Okay.

18 A. I just remember that Ms. Chambers
19 expressed some concerns regarding that issue.

20 Q. Do you know whose idea it was initially
21 in the very first instance to have Ms. Blyth
22 transferred out from her position as assistant to

1 the chief?

2 A. No.

3 Q. It was not yours in the first instance I
4 take it?

5 A. No.

6 Q. At some point, did you become aware that
7 Mr. Murphy, Don Murphy intended to have Ms. Blyth
8 transferred?

9 A. All I remember is a detail that she was
10 going to do.

11 Q. A detail is a technical term.

12 A. A detail is, a detail is not a transfer.

13 Q. Let's use your word.

14 A. Detail.

15 Q. Was it your idea in the first instance
16 to detail Ms. Blyth?

17 A. No.

18 Q. And at some point in time, did you come
19 to be aware that Mr. Murphy planned to detail Ms.
20 Blyth?

21 A. Yes.

22 Q. And if you can ballpark that for us as

1 best you can?

2 A. I want to think it was in summer of '03.

3 Q. Okay.

4 A. That's as far as I've gotten.

5 Q. Thank you. I appreciate that. Do you
6 recall mentioning to Ms. Chambers or asking her
7 whether Mr. Murphy had spoken with her about the
8 detail of Ms. Blyth?

9 A. I don't remember.

10 Q. Would you have had a reason to ask Ms.
11 Chambers whether Mr. Murphy had notified her of
12 the intent to detail Ms. Blyth?

13 A. I thought -- I don't remember. I don't
14 remember.

15 Q. Okay. You don't recall it being a
16 particular concern of yours when Ms. Blyth was
17 detailed?

18 A. Ms. Chambers contacted me being
19 concerned about that detail, so that's where I
20 would have come in knowing that there was
21 concern.

22 Q. Okay. So you may have learned about it

1 in the first instance not from Mr. Murphy, but
2 from Ms. Chambers?

3 A. It's possible.

4 Q. Did you take a position strongly either
5 way on that question of detail of Ms. Blyth?

6 A. No.

7 Q. Have you ever seen a written document in
8 which Mr. Murphy or any other person directed Ms.
9 Chambers to detail Ms. Blyth?

10 A. No.

11 Q. Do you know a Mr. Bruce Sheaffer I take
12 it?

13 A. Yes.

14 Q. Who is the comptroller for the National
15 Park Service?

16 A. That's correct.

17 Q. What is Mr. Sheaffer's role in preparing
18 or not, budget proposals for the United States
19 Park Police?

20 A. He's responsible for all budgets, and
21 each associateship, region submits him their
22 requests, and he tries to compile them and follow

1 the guidelines of the Department of Interior for
2 meeting budget expectations.

3 Q. Okay. Is there a written procedure that
4 defines how a budget proposal for a particular
5 unit of the National Park Service, whether it's
6 the park rangers or the Park Police or some of
7 the many units you have described in your, that
8 you're responsible for, how that budget proposal
9 is to be formulated in terms of, for example, a
10 needs assessment by the affected unit?

11 Do you understand my question?

12 A. Yes. I don't know that procedure.

13 Q. Would you expect that before a budget
14 were to be put forward to the Department of
15 Interior for review and approval for one of your
16 units, that the people who staff that unit and
17 who are affected by it would have had input into
18 that budget?

19 A. We have been changing procedures at
20 National parks.

21 Our procedure this year is that you
22 submit your budget, and then we have meetings

1 with each of the associateships.

2 The prior year, I do not think those
3 took place because it is a procedural change that
4 I have been briefed on.

5 Q. Okay. And this implementation of this
6 change took place for which fiscal year?

7 A. For the fiscal year of '06.

8 Q. And could you describe as specifically
9 as you can the nature of that change, what it
10 used to be, what it now is?

11 A. The difference is that when the
12 budget numbers are submitted by the Park Police
13 or our associate for natural resources, those
14 numbers come, go still to our comptroller, but
15 they haven't -- we have a chance to meet with
16 each of the associateships, and then we did it as
17 a, regions as a whole, to discuss their needs and
18 their top priorities.

19 Q. Okay. And I take it that this meeting
20 would take place prior to communicating the
21 budget to the Department of Interior budget
22 office?

1 A. That's correct.

2 Q. Okay. Now for fiscal years '04 and '05,
3 do you know what the procedure was in terms of
4 who had input when for the budget for the U.S.
5 Park Police before that budget was communicated
6 to the Department of Interior?

7 A. Predominant method at that point was
8 that each associateship and Park Police submitted
9 in their numbers, and there was discussions, not
10 including me at that point, but with staff, to
11 staff on those issues to then formulate that
12 budget.

13 Q. And what type of staff are communicating
14 at this point with each other on the budget?

15 A. Usually a budget at the person from each
16 of the associateships, sometimes the associate
17 themselves, with staff, but it wasn't at my level
18 at that point.

19 Q. Okay. Now let's take the U.S. Park
20 Police specifically as an example.

21 What is your understanding of, for
22 fiscal year '04 and '05, if it was the same

1 procedure for those two years, what would have
2 happened in terms of formulating the budget to be
3 proposed to the Department of Interior for the
4 U.S. Park Police?

5 A. It's the procedure I just laid out, that
6 not the new changed procedure, but the one where
7 you submit your numbers, and there's discussions
8 with staff, but it's not at my level, and then
9 the budget comes forth.

10 Q. Okay. So when you say you submit your
11 numbers, you're talking about the affected unit,
12 what you call the associateship or whatever,
13 which in this case would be the U.S. Park Police
14 partnerships?

15 A. Park Police, or you know, natural
16 resources.

17 Q. And who would the U.S. Park Police
18 submit their numbers to in the first instance as
19 part of that of process for what it used to be?

20 A. Comptroller.

21 Q. Okay. Mr. Sheaffer?

22 A. Um-hm.

1 Q. Okay. And then once that was done, you
2 would expect discussions among the staff below
3 your level?

4 A. I would expect, yes.

5 Q. Okay. Would that be back and forth
6 between Mr. Sheaffer and the affected unit, for
7 example?

8 A. It may be him, or it may be some of his
9 staff.

10 Q. Okay. To your knowledge, was it the
11 procedure, at least was it the established
12 procedure, and I want you to distinguish, which I
13 think you are, between what the procedure is,
14 meaning what should be the practice, versus what
15 someone might actually do in error on occasion,
16 so I'm not talking about the practice.

17 I'm talking about the procedure that it
18 used to be.

19 Was it the procedure for fiscal year '04
20 and '05 that the budget for a particular what you
21 call I think an associateship unit be formulated
22 in the first instance by the affected members of

1 that unit, passed on to the comptroller, and then
2 there would be some perhaps more informal
3 communications than is now the practice before
4 that budget was submitted?

5 Is that a fair description?

6 A. Yes.

7 Q. Okay. Do you know in fact for fiscal
8 years '04 and '05 if that particular procedure
9 was followed by Mr. Sheaffer for those two years
10 for the U.S. Park Police?

11 A. I'm not aware that anything different
12 than that took place.

13 Q. Do you know for a fact what did take
14 place?

15 A. No; just the numbers.

16 Q. No one has brought it to your attention
17 that it was different, but you didn't have
18 personal involvement I take it in that?

19 A. During '05, there was expression to have
20 more discussions by various associates with the
21 comptroller's office.

22 That's why we changed it for '06.

1 Q. Okay. Do you know whether the budget
2 communicated for the U.S. Park Police for fiscal
3 years '04 and '05 by Mr. Sheaffer through the
4 Department of Interior budget office reflected
5 the input from the U.S. Park Police?

6 A. Ms. Chambers expressed to me that it was
7 not a complete reflection.

8 Q. Okay. And did you learn that before or
9 after the budget had been submitted to the
10 Department of Interior?

11 A. After.

12 Q. Do you know what amount of additional
13 allocation Mr. Sheaffer had proposed to be given
14 to the U.S. Park Police for the fiscal years '04
15 and '05?

16 A. I don't remember.

17 Q. Okay. I take it you understand at least
18 from communications with Chief Chambers that Mr.
19 Sheaffer had requested an amount lower than what
20 Chief Chambers thought was appropriate?

21 A. Yes.

22 Q. Do you know whether Mr. Sheaffer passed

1 on a proposed budget to the Department of
2 Interior for the U.S. Park Police that was
3 unsatisfactory to the chief, but represented it
4 as having been approved by the U.S. Park Police?

5 A. I don't know.

6 Q. Are you familiar with an issue that
7 arose regarding substantial amount of funding for
8 what I refer to as a police radio communications
9 conversion project?

10 A. Yes.

11 Q. Do you understand that a certain amount
12 of millions of dollars had been earmarked for
13 helping the U.S. Park Police modernize their
14 radio communications?

15 A. Yes.

16 Q. Do you recall approximately how many
17 millions were involved in that particular --

18 A. No.

19 Q. Would it seem approximately correct if I
20 said 15 million or so?

21 A. I don't want to speculate.

22 Q. You know no way --

1 BY MR. HARRISON:

2 Q. Do you know how often Mr. Murphy speaks
3 with Ms. Debbie Weatherly?

4 A. I don't know.

5 Q. Do you know whether he does that on a
6 regular basis?

7 A. I don't know.

8 Q. Do you know whether Mr. Bruce Shaeffer
9 speaks with Ms. Weatherly?

10 A. Yes, he would speak to Ms. Weatherly.

11 Q. And have you come to know that he
12 actually has?

13 A. Are you talking to a specific issue, or
14 just in general?

15 Q. We're going to start with ever about
16 anything.

17 A. Yes.

18 Q. Okay.

19 A. Yes.

20 Q. Now do you know whether Mr. Sheaffer
21 spoke with Ms. Weatherly in regard to Ms.
22 Weatherly's concerns about communications from

1 Ms. Chambers?

2 A. No.

3 Q. You don't know?

4 A. I don't know.

5 Q. Okay. And that would include not simply
6 the discussion about NAPA, but would include
7 budget communications as well, so your answer
8 would be the same?

9 A. Yes. I don't remember.

10 Q. Have you ever had a communication
11 regarding Ms. Chambers during the December --
12 pardon me -- during the November and December of
13 2003 timeframe from my party outside of the U.S.
14 Park Police and the National Park Service?

15 A. I don't understand the question.

16 Q. During November and December of 2003,
17 certain issues arose regarding Ms. Chambers
18 talking with Debbie Weatherly and Congress and
19 with The Washington Post, and as you have
20 indicated some television interviews and so forth
21 and ultimately regarding certain actions taken
22 against Ms. Chambers, employment actions.

1 What I'm asking you is have you had any
2 communication regarding any of those matters to
3 do with Ms. Chambers or communications or
4 disciplinary actions with any party who does not
5 work for the Park Police or the National Park
6 Service during that timeframe, November and
7 December?

8 A. I don't remember any conversations.

9 Q. Okay.

10 (There was a pause in the proceedings.)

11 BY MR. HARRISON:

12 Q. You had mentioned earlier that Mr.
13 Murphy or Mr. Jones would on occasion raise a
14 employment action, perhaps a removal of some
15 employee, to Mr. Manson's level I believe.

16 Do you recall any employee by name where
17 that might have happened?

18 A. Predominantly the actions are actually
19 more hires typically.

20 Q. More than terminations?

21 A. Right.

22 Q. Okay. And you do recall some hires

1 where that was done?

2 A. Um-hm.

3 Q. And did you eventually sign off on those
4 decisions yourself?

5 A. Positions that require, that are Grade
6 15, GS-15 or higher, require my signature.

7 Also they require the Assistant
8 Secretary's signature.

9 Q. So I take it that would be eventually
10 you would have signed off on those?

11 A. Fifteen and higher.

12 Q. Okay. And those below 15, would some of
13 those be signed off on by Mr. Manson and not by
14 you?

15 A. Or by a region or by an associate.

16 Q. Now prior to the controversy arising
17 about the media communications on December 2nd --
18 well, that might not be the most precise way to
19 state it.

20 Around the same time as that
21 controversy, Ms. Chambers delivered, had
22 delivered to your office a memo reflecting a

1 complaint that she was making regarding Mr. Don
2 Murphy.

3 Do you recall that?

4 A. I remember a complaint coming in the
5 afternoon.

6 Q. Okay. And did you receive it on the
7 afternoon of December 2nd?

8 A. Yes.

9 Q. And do you recall how you received it
10 physically and how it came to you?

11 A. It was in a blue envelope marked
12 confidential.

13 Q. Did someone hand it to you?

14 A. It was brought in to me in my office.

15 Q. Your office staff?

16 A. Yes.

17 Q. And who would that have been?

18 A. I don't know. I don't know.

19 Q. Who could it have been?

20 A. Deb Smith.

21 Q. Okay. Anyone else that it could have
22 been?

1 A. If Deb wasn't there, it could have been
2 any one of the office staff.

3 Q. And did you review that document at that
4 time?

5 A. I read it.

6 Q. Did you have any communication with any
7 party, any person regarding that document or its
8 contents on December the 2nd?

9 A. Legal.

10 Q. Do you recall who you spoke to there?

11 A. I don't remember which in Legal. I just
12 called Legal immediately.

13 Q. Might have been Mr. Hugo Teufel

14 A. Might have been.

15 Q. And is Mr. Teufel still an employee of
16 the National Park Service?

17 A. He never was an employee of the National
18 Park Service.

19 Q. Department of Interior?

20 A. Department of Interior, he was.

21 Q. Is he now?

22 A. No, he's not.

1 Q. Do you know what he's doing these days?
2 A. No.
3 Q. Do you know where I might find him these
4 days?
5 A. I don't.
6 Q. I'm just asking you at the moment.
7 A. I don't talk to him.
8 Q. And what did, what other action, if any,
9 did you take regarding the complaint regarding
10 Mr. Murphy other than speaking to legal counsel
11 about it?
12 A. That's all I did.
13 Q. Okay. Nothing else happened on that day
14 regarding that complaint?
15 A. No.
16 Q. Do you know whether any communication
17 was made by legal counsel to any other party
18 regarding the complaint about Mr. Murphy on that
19 day of December 6?
20 A. I don't know of any.
21 Q. Do you know when Mr. Murphy first came
22 to learn of that complaint about him?

1 A. No.

2 Q. You know that he did come to learn about
3 it at some point?

4 A. I think he knows now.

5 Q. That would be yes, at some point he did
6 come to know about it?

7 A. Yes.

8 Q. When is the earliest point at which you
9 knew that he knew about that complaint?

10 A. From me, never.

11 Q. You never told him?

12 A. Never told him.

13 Q. You didn't e-mail him or anything?

14 A. No.

15 Q. Send him a note?

16 A. (Indicated "no.")

17 Q. Okay. Would you have expected or did
18 you request that he be notified by any other
19 party about the --

20 A. No.

21 Q. What would be your normal procedure for
22 acting on a complaint of that type?

1 A. Normally I would, I would refer, I would
2 talk to legal counsel on how to proceed.

3 Q. Okay?

4 A. And --

5 Q. Have you ever had a complaint like that
6 before?

7 A. I don't remember it.

8 Q. Do you recall the substance of the
9 complaint that Ms. Chambers was making?

10 A. My recollection of that was it was two
11 parts.

12 One, she was concerned about one of her
13 personnel actions. I don't remember if it was a
14 reprimand or letter of counseling or was shared
15 with someone inappropriately in her mind.

16 And, shoot, the second part --

17 Q. Statements in teleconference, does that
18 help you?

19 A. That's it. The other was regarding the
20 day we shared the passback with the Leadership
21 Council, and was upset that he had made comments.

22 Q. Mr. Murphy?

1 A. Mr. Murphy had made comments regarding
2 Ms. Chambers.

3 Q. And you were present, and that was a
4 telephone conference?

5 A. Yes.

6 Q. It was the Leadership Council?

7 A. Yes.

8 Q. And you were present for that call?

9 A. I was.

10 Q. And did you, were you familiar with the
11 comments of Mr. Murphy regarding which Ms.
12 Chambers was complaining?

13 A. Yes.

14 Q. So you had heard them yourself?

15 A. Yes.

16 Q. Ms. Chambers had asked to met with you
17 regarding her complaint.

18 Do you recall that?

19 A. Yes.

20 Q. Okay. And you had indicated at one
21 point in time that you might meet with her on a
22 certain day in the morning, and if that could not

1 be arranged, that a schedule could be set up with
2 your secretary for a meeting later in the week.

3 Do you recall that?

4 A. I remember trying at first to try to
5 have a meeting.

6 Q. Okay. And then do you recall that you
7 gave your secretary directions later to
8 essentially tell Ms. Chambers you could not meet
9 on the day in question, and that there would not
10 be a meeting scheduled later in the week?

11 A. I remember receiving counsel that I was
12 not to do a meeting at this time with Ms.
13 Chambers.

14 Q. Someone directed you to do that, or
15 advised you?

16 A. Advice from legal counsel.

17 Q. So did you decide to not meet with Ms.
18 Chambers only for that reason?

19 A. Yes.

20 Q. You didn't communicate to Ms. Chambers
21 the reason I take it that you decided not to meet
22 with her?

1 A. No.

2 Q. And -- okay. And what, do you know what
3 reason there would have been to postpone that
4 meeting?

5 A. I assume -- no. I'm not going to
6 assume.

7 I don't know.

8 Q. You just took it on their advice that
9 you shouldn't do it?

10 A. Um-hm.

11 Q. Did you anticipate having that meeting
12 with Ms. Chambers later about Mr. Murphy's
13 complaint?

14 A. I had not contemplated whether I would
15 or would not.

16 I would look to legal counsel for
17 guidance.

18 Q. So you weren't ruling out at that point
19 that you might never meet with Ms. Chambers about
20 it?

21 A. I had not ruled it out.

22 Q. Did anyone other than legal counsel make

1 a decision that you should not meet with Ms.
2 Chambers during this timeframe about this
3 complaint?

4 A. No.

5 Q. Do you know for a fact that no
6 decision-maker, no official of the Department of
7 Interior communicated with the counsel we spoke
8 with to direct them to give you that advice?

9 Do you know that that didn't happen?

10 A. I don't know.

11 Q. Don't know. Are you familiar with the
12 policies and procedures regarding relaying
13 certain types of concerns and complaints to the
14 Inspector General's office?

15 A. Somewhat.

16 Q. Okay. Do you know that certain types of
17 allegations of misconduct by employees should be
18 relayed to the Inspector General's office?

19 A. Legal actions I know need to go.

20 Q. Okay. Did you consider ever relaying
21 the complaint by Ms. Chambers regarding Mr.
22 Murphy to the Inspector General whether or not

1 you met with Ms. Chambers about it?

2 A. I did not take any consideration until I
3 received guidance from legal counsel.

4 Q. Regarding Murphy's complaint?

5 A. Right.

6 Q. So you didn't feel free to act on
7 Murphy's complaint or even apart from talking to
8 Ms. Chambers about it, the complaint about Mr.
9 Murphy?

10 You couldn't have just acted on it
11 yourself or investigated it, decided on its
12 merits?

13 A. No. I wouldn't want -- I would want to
14 have legal counsel as I proceeded.

15 Q. So is it your understanding that you
16 were advised to not pursue any aspect of the
17 complaint of Mr. Murphy even beyond talking with
18 Ms. Chambers, not even to start an investigation
19 of your own?

20 A. As I said, when that came in, I gave it
21 to legal counsel, and I just asked for further
22 advice of what do I, you know, what do I, what do

1 I do next at this point?

2 Q. Okay.

3 A. Because again, there were other issues
4 underway.

5 I stayed distant on that other issue.

6 Q. So you were, you never decided to act on
7 Mr. Murphy's complaint I take it after that?

8 A. No.

9 Q. When I say that, I mean the complaint by
10 Chief Chambers regarding Mr. Murphy.

11 A. I have not taken any action.

12 Q. Even today?

13 A. Even today.

14 Q. Are you still waiting on the green light
15 from legal counsel?

16 MR. L'HEUREUX: Objection.

17 MR. HARRISON: Basis?

18 MR. L'HEUREUX: Argumentative.

19 MR. HARRISON: Not at all.

20 BY MR. HARRISON:

21 Q. No. I'm serious. Are you still waiting
22 on your legal counsel to give you the green light

1 to do that?

2 A. I would be going back to legal counsel
3 to know if an action is appropriate at this time.

4 Q. Okay. At any time -- I don't want you
5 to tell me what your legal counsel is advising
6 you at the moment, but have you gone back to
7 request of your legal counsel at any point in
8 time, you know, am I now free to act on this
9 complaint or what should I do about it? What's
10 the status?

11 Have you ever gone back to make that
12 inquiry?

13 A. No, I have not.

14 Q. Were there any actions pending or being
15 contemplated regarding Ms. Chambers that you're
16 aware of at the time you received the complaint
17 on December 2nd regarding Mr. Murphy?

18 A. I don't know that I knew any actions at
19 that point.

20 Q. So I'm taking it that you did not relay
21 the complaint Ms. Chambers made about Mr. Murphy
22 to the Inspector General's office?

1 A. No, I did not.

2 Q. Did you relay it to the Office of
3 Special Counsel?

4 A. No.

5 Q. Did you relay it to any other agency?

6 A. No; just our legal staff.

7 Q. Okay. Did you show it to any of your
8 superiors?

9 A. No.

10 Q. Have you communicated about it with any
11 of your superiors?

12 A. I don't remember.

13 Q. Have you ever written a memo, document,
14 e-mail regarding that particular complaint to
15 anyone?

16 A. No.

17 Q. Do you know whether Mr. Murphy might
18 have substantive, have done something improper as
19 alleged in that complaint?

20 Do you know at this point whether or not
21 that might be true?

22 A. Regarding the discussion at the NLC

1 conference call?

2 Q. Um-hm, for example.

3 A. I know what he said was accurate.

4 Q. What did he say, as best you can
5 remember?

6 A. That our budget reduced in a number of
7 areas, one of which was Park Police, from what we
8 requested.

9 Reduction came from OMB office.

10 Q. Management and Budget?

11 A. Right. And that part of reductions are
12 focused off of accountability, and that
13 accountability was more difficult regarding the
14 Park Police budget.

15 Q. What do you mean by accountability?

16 A. Financial accountability, numbers.

17 Q. Accounting where your money is spent?

18 A. Correct.

19 Q. That would be Mr. Sheaffer's
20 responsibility, would it not?

21 A. No. The responsibility belongs to each
22 associateship to do their particular budget.

1 Q. For accounting?

2 A. Yes.

3 Q. Okay.

4 A. Being able to; then Mr. Sheaffer
5 oversees all budgets, bringing it in and --

6 Q. Okay. Are you using accountability here
7 in the sense of that money not, might not be
8 accounted for in how it was spent?

9 A. That's correct.

10 Q. And has there been an allegation by
11 anyone, Congress or otherwise, that there are
12 monies in the United States Park Police budget
13 that have not been accounted for?

14 A. There was a lengthy discussion regarding
15 \$12 million spent.

16 Q. Um-hm.

17 A. Whether that was properly accounted for.

18 Q. Who said that? Who raised that
19 question?

20 A. We had, I had heard that from the
21 comptroller's office.

22 Q. From Mr. Sheaffer?

1 A. (Indicated "yes.")

2 Q. So is it your understanding that Mr.
3 Sheaffer's saying he doesn't know how that \$12
4 million was spent?

5 A. I don't know currently if they know or
6 not.

7 Q. Okay. Did Mr. Sheaffer express at the
8 time that you heard this concern about
9 accountability that he did not know himself how
10 that \$12 million was spent?

11 A. I just know that he, that it was a
12 concern expressed with Ms. Chambers and others
13 regarding that \$12 million accountability.

14 Q. Well, my question is and your answer --
15 I don't know. Let's be clear about it.

16 My question is did Mr. Shaeffer
17 communicate to you directly or indirectly that he
18 personally did not know how that \$12 million was
19 spent?

20 A. He expressed that he did not feel the
21 verification was adequate, so I don't know what,
22 how you want to interpret that.

1 Q. Well, that's an answer I understand. Do
2 you know what verification Mr. Sheaffer was
3 looking for that he didn't have?

4 A. No.

5 Q. Did he express that to you in writing?

6 A. I don't remember it in writing.

7 Q. Was there a witness when he told you
8 verbally?

9 A. I don't remember.

10 Q. Do you know whether Mr. Sheaffer ever
11 got the verification he sought?

12 A. I don't know.

13 Q. Do you know whether he ever put in a
14 request in writing to Ms. Chambers or otherwise
15 to get that verification?

16 A. I don't know.

17 Q. Did you ever make a determination
18 yourself as to whether that money was either
19 misspent or unaccounted for?

20 A. No.

21 (A recess was taken.)

22 BY MR. HARRISON:

1 Q. Ms. Mainella, we'll finish up here
2 hopefully in about 35 minutes.

3 A. Good.

4 Q. At least for the day.

5 A. Okay.

6 Q. I'm afraid I can't promise that we might
7 not have to call you back for a couple hours, but
8 for today, we'll let you go and meet your
9 appointment.

10 The meeting that you were initially
11 planning to have with Ms. Chambers on the
12 complaint sheet filed regarding Mr. Murphy, had
13 there been any communication by Ms. Chambers to
14 you regarding Ms. Chambers' concern about Mr.
15 Murphy's statements in that telephone call, that
16 conference with the Leadership Council I guess
17 you would call it?

18 Did Mrs. Chambers let you know she had a
19 concern about Mr. Murphy's statements prior to
20 filing the complaint on December 2nd?

21 A. She called me.

22 Q. Do you remember when that would have

1 been?

2 A. No, I don't. She just -- I remember she
3 called and said she was concerned about the
4 comments made, and I said that I had spoken to,
5 to Mr. Murphy, but I thought I also said to her
6 that I thought the statements he made were
7 accurate, but I would rather that they be done
8 one-on-one.

9 Q. So when you had spoken to Mr. Murphy,
10 you had spoken to him about perhaps the
11 inappropriate form in which he had made the
12 statements?

13 A. I made the statement to him that it
14 would -- and I did this before ever receiving a
15 letter -- I just said to Don that I always like
16 more one-on-one exchanges if it's not a general,
17 you know, rather than a specific example, and but
18 I said his information was accurate to my best
19 knowledge.

20 Q. You said this to Ms. Chambers?

21 A. I said it to Don.

22 Q. To Don?

1 A. And I think I said it to Ms. Chambers,
2 but I'm not positive.

3 I know I said it to Don, and I think I
4 let Ms. Chambers know I had spoken to Don.

5 Q. And did you, and did you tell Don that
6 you felt he had made those statements in the
7 wrong form?

8 A. I just said it would have been more
9 appropriate to speak one-on-one, but that I
10 thought what he said was accurate.

11 Q. You didn't write a reprimand or anything
12 for Mr. Murphy at that time?

13 A. No. I just spoke to him about speaking
14 more one-on-one.

15 Q. That was your own initiative?

16 A. Yes, it was.

17 Q. Okay. When you spoke to Ms. Chambers,
18 did you and she discuss her coming in to meet
19 with you in person about her concerns about Mr.
20 Murphy?

21 A. My memory would have been that I would
22 have said we would try to meet on this issue in

1 the future.

2 Q. Okay. And do you recall tentatively
3 setting up a meeting for Monday, December the
4 1st, and Ms. Chambers should call in and check
5 with your secretary to see whether that's going
6 to be feasible?

7 A. I don't remember that part. I don't
8 know when.

9 Q. Okay. Do you believe that that, that
10 did not occur, that you did not set up a
11 tentative meeting?

12 A. I just don't remember.

13 Q. All right. And who would have set up
14 such a meeting on your calendar for you?

15 Would that have been Ms. Smith?

16 A. Typically, yes.

17 Q. Debbie Smith, okay; and do you know
18 whether you communicated to Ms. Smith after
19 talking with Ms. Chambers at some point, and I
20 believe you testified about this to some extent,
21 based on what counsel advised you that you were
22 basically not going to set up such an appointment

1 at that time?

2 A. At that time.

3 Q. Okay. And did you communicate to Ms.
4 Smith to let Ms. Chambers know there would be no
5 such meeting at that time Ms. Chambers called in?

6 A. I don't know what I would have said
7 other than we probably weren't meeting at this
8 time.

9 Q. Okay. Do you know whether Ms. Chambers
10 did in fact call in seeking to meet with you on
11 that day?

12 A. I don't know.

13 Q. Okay. Do you know whether Ms. Smith
14 told Ms. Chambers that there would be no such
15 meeting on that day nor at any day later in the
16 week?

17 A. I don't know.

18 Q. You don't know. Would Ms. Smith have
19 ever done that on her own initiative without
20 instruction from you?

21 A. She usually functions off of guidance
22 from me.

1 Q. Okay.

2 (There was a pause in the proceedings.)

3 BY MR. HARRISON:

4 Q. There was a -- strike that. Are you
5 certain -- if I understand your testimony, you
6 have testified that you decided to essentially
7 cancel the planned meeting with Ms. Chambers
8 regarding her concerns about Mr. Murphy on advice
9 of counsel?

10 A. Correct.

11 Q. Okay. So if Ms. Smith on your direction
12 had communicated to Ms. Chambers that there would
13 be no meeting that entire week with you, do you
14 believe that that would have been because of your
15 decision not to meet with Ms. Chambers on advice
16 of counsel?

17 A. I would expect, yes.

18 Q. And do you know, and you may not know,
19 but do you know what was, what matter was pending
20 that caused counsel to give you that advice?

21 A. Well, I knew again somewhere in that
22 week that I was, if there was any actions

1 regarding Ms. Chambers, I was going to be the
2 appeal, so I had to basically keep some distance
3 for a while during this process.

4 Q. Okay. And your testimony has been today
5 that the earliest time that you would have
6 anticipated being a decision-maker on an appeal
7 of a disciplinary action for Ms. Chambers would
8 have been after you came to believe there might
9 be some action being considered, which would have
10 been December 3rd or later?

11 A. That's my recollection. I may be
12 inaccurate, but it's somewhere right in that
13 time.

14 Q. Okay. Would Mr. Murphy have been
15 involved in any case, regardless of who else
16 would have been involved, would Mr. Murphy have
17 been involved in the contemplated decisions
18 regarding Ms. Chambers at that point in time?

19 A. Yes, not regarding, not regarding the
20 complaint on him.

21 Q. No. No. No. No. No. Exactly.

22 A. He wouldn't have known about it. He

1 didn't know about it.

2 Q. You're correct. My question is
3 regarding disciplinary action regarding Ms.
4 Chambers' conduct or statements, actions being
5 contemplated to be taken against her by the
6 agency, at that point in time, December, the week
7 of December 1st through 5th I guess it would have
8 been, Monday through Friday, if such actions were
9 being contemplated, Mr. Murphy would have had to
10 have been involved by necessity in that?

11 A. That's correct. He'd be the person on
12 point.

13 Q. When you indicated that you believed Mr.
14 Murphy's statements in the teleconference about
15 the Leadership Council were accurate, and you
16 indicated that the statement that you remember
17 was that the budget amount allocated was cut
18 back, and that one of the reasons was an
19 accountability issue, did Mr. Murphy explicitly
20 say that Ms. Chambers is to blame for the
21 accountability issue and the budget cutback?

22 A. I don't remember that.

1 Q. Okay. Was the accountability issue
2 stated specifically by Mr. Murphy in that call as
3 being in regard to the U.S. Park Police budget?

4 A. He did mention the Park Police budget
5 and the difficulty regarding accountability by
6 the Park Police.

7 Q. Did he mention any other unit, or as you
8 say, associateship or component of the Park
9 Service in that regard?

10 A. He mentioned successful accountability
11 regarding the natural resource challenge, which
12 is associateship for natural resources.

13 Q. I see. So another unit was mentioned?

14 A. In a positive sense.

15 Q. In a positive sense?

16 A. Yes.

17 Q. He was saying there was accountability
18 there?

19 A. Yes.

20 Q. Now did Mr. Murphy state in a negative
21 sense that there was a, an issue regarding lack
22 of accountability for any unit other than the

1 U.S. Park Police in that call?

2 A. I don't remember any other unit being
3 singled out.

4 Q. Okay. Now as of today, as I understand
5 your testimony, you have not yourself determined
6 that there was a misspending of money within the
7 U.S. Park Police or a failure to account for
8 money in the Park Police, is that correct?

9 A. Would you repeat that again?

10 Q. I would. You have not yourself
11 determined as of today, that there was a
12 misspending of money within the Park Police or a
13 failure to account for money in the Park Police
14 based on your own findings?

15 A. That at this current time, I'm not aware
16 of any.

17 Q. Okay. Are you aware of any misspending
18 of money in the U.S. Park Police for the budget
19 period regarding which Mr. Murphy made his
20 statements based on your own findings?

21 A. I was aware of concerns regarding the
22 Park Police budget as we were going through the

1 '05 budget, of documentation regarding spending
2 in the Park Police, in the Park Police budget
3 that went back to the time we were going through
4 budget wit the Secretary.

5 Q. Is that a yes or a no to my question?

6 A. I don't know. You'd have to repeat it
7 again.

8 Q. I would be happy to. My question was
9 did you make any findings yourself that money had
10 been misspent in the U.S. Park Police budget for
11 the budget period regarding which Mr. Murphy made
12 his statements?

13 A. No.

14 Q. Okay. Did you make any findings
15 yourself that monies had been unaccounted for
16 that had been spent in the Park Police budget for
17 the period in time Mr. Murphy made his statements
18 regarding --

19 A. No.

20 Q. So when you say that Mr. Murphy's
21 statements were accurate, did you mean to say
22 that Mr. Murphy made any specific accusation or

1 allegation regarding Ms. Chambers that might come
2 out through some type of misconduct that you
3 believed or concluded was accurate?

4 A. I think that's a compound question.

5 Q. Do you not understand it?

6 A. The first part --

7 Q. Yes.

8 A. Is I don't think that Don Murphy's
9 statement was saying that Ms. Chambers had done
10 anything that would be misconduct.

11 Q. Okay. That answers the second part as
12 well.

13 A. Okay.

14 Q. Thank you. Now putting aside for the
15 moment the meeting that was planned and cancelled
16 between you and Ms. Chambers regarding the
17 complaint she filed against Mr. Murphy, there was
18 a separate meeting that had been contemplated for
19 that week, December 1st through 5th, that was
20 noticed to Ms. Chambers on either your initiative
21 or Mr. Murphy's meeting that was to take place on
22 Friday, the 5th of December regarding general

1 Park Service issues.

2 Do you recall that communication being
3 given to Ms. Chambers?

4 A. I know there was a meeting on my
5 calendar at one point for that.

6 Q. Okay. Do you recall who initiated the
7 idea of having that meeting?

8 A. No.

9 Q. Was it you?

10 MR. L'HEUREUX: Objection -- asked and
11 answered.

12 THE WITNESS: I don't know.

13 BY MR. HARRISON:

14 Q. It's not the same question. You don't
15 know if you initiated it?

16 A. I don't know who initiated it.

17 Q. That -- okay. Let me help here with
18 some logic and some grammar.

19 It might have been Mr. or Ms. X. You
20 might not know that, but you would at least know
21 it wasn't you.

22 I'm just trying to determine now if you

1 can narrow the suspect list to exclude you.

2 A. No. I don't know. I don't remember who
3 did.

4 Q. You might have initiated it and then
5 forgotten?

6 A. It's possible.

7 Q. Okay. It was taken off your calendar at
8 some point during that week, that meeting?

9 A. Yes.

10 Q. Okay. Was that on your initiative,
11 taking the meeting off your calendar?

12 A. No.

13 Q. Okay. Who initiated taking that meeting
14 off your calendar?

15 A. Advice of counsel.

16 Q. On advice of counsel?

17 A. (Indicated "yes.")

18 Q. Okay. And do you believe that had
19 something to do with actions being contemplated
20 against Ms. Chambers?

21 A. Yes.

22 Q. And did you receive any inquiry from Ms.

1 Chambers during that week seeking clarification
2 as to the nature of this meeting, the issues to
3 be discussed, what she should bring to it, things
4 like that?

5 A. Yes. I do remember I think an e-mail to
6 that effect.

7 Q. And did you avoid responding to those on
8 advice of counsel?

9 A. I did not respond personally.

10 Q. Okay. And why did you not respond?

11 A. I asked that Don handle the meeting.

12 Q. Okay. And at this point, had the
13 meeting changed in its focus from what it
14 initially was planned to be?

15 A. I knew that there was some kind of
16 action that was coming.

17 Q. Regarding Ms. Chambers?

18 A. Right.

19 Q. And it would be communicated in this
20 meeting?

21 A. That's my understanding.

22 Q. And was that the initial idea of the

1 meeting when it was first put on your calendar?

2 A. I don't remember that.

3 Q. And why did you ask that Don handle that
4 meeting?

5 A. Because I expected that there was going
6 to be, based on, you know, counsel, that there
7 was going to be some kind of action, and I was to
8 be the appeal person that was, that we have
9 spoken about before.

10 Q. Okay. Do you recall when you might have
11 asked Mr. Murphy to handle that?

12 A. No.

13 Q. Did Mr. Murphy tell you during that week
14 prior to December 5th that he was going to
15 communicate to Ms. Chambers some action that was
16 to be taken?

17 A. I knew that there was going to be some
18 action.

19 I didn't know what action.

20 (There was a pause in the proceedings.)

21 MR. HARRISON: I want to show you, Ms.
22 Mainella, a memo, and let's mark this as Mainella

1 Exhibit 1 if could?

2 (Mainella Exhibit No. 1
3 was marked for
4 identification.)

5 BY MR. HARRISON:

6 Q. And do you recognize that document, Ms.
7 Mainella?

8 A. If I could read it?

9 Q. Sure. Take your time. Let me know when
10 you're ready.

11 (The witness reviewed the document.)

12 THE WITNESS: Yes, I do remember seeing
13 this.

14 BY MR. HARRISON:

15 Q. Okay. Do you recall when you might have
16 received this?

17 A. No.

18 Q. Okay. Do you know a person by the name
19 of Lynn Scarlett?

20 A. Yes, I do.

21 Q. Who is that?

22 A. That's the Assistant Secretary for

1 Planning, Management and Budget.

2 Q. Okay. And do you recall meeting with
3 Ms. Scarlett -- I think it's a female?

4 A. Yes, it is.

5 Q. With Ms. Scarlett about this timeframe
6 of November, late November, early December of
7 2003?

8 A. No, I don't remember specifically
9 meeting with Lynn at that point.

10 Q. Do you recall speaking with her around
11 that, that same timeframe?

12 A. I see Lynn frequently, so --

13 Q. Okay.

14 A. I don't remember specifically.

15 Q. Do you recall asking Ms. Chambers to fax
16 this to you at a hotel, or at home so you would
17 have it available when you met or spoke with Ms.
18 Scarlett?

19 A. That is possible, but I don't remember.

20 Q. And do you see the reference here in
21 terms of the topic comments on fiscal year '05
22 OMB passback?

1 A. Yes.

2 Q. What is an OMB passback?

3 A. That is what the OMB, whatever -- Office
4 of Management and Budget --

5 Q. Yes.

6 A. When the budget from the department
7 passes up to OMB, they review, and then they make
8 their alterations, which in the case here, as I
9 mentioned earlier, it was a reduction for Park
10 Police compared to what we had requested.

11 Q. Um-hm. And did you discuss the OMB
12 passback for this fiscal year with Ms. Scarlett?

13 A. I don't remember.

14 Q. Did you show Ms. Scarlett this memo?

15 A. I don't remember. I can't guess, so --

16 Q. Do you recall getting any feedback
17 regarding the substance of this memo from Ms.
18 Scarlett, whether she physically saw the memo or
19 not?

20 A. I don't remember.

21 Q. When you received this memo for the
22 first time, did you -- well, let me ask you did

1 you read it when you received it?

2 A. If it was faxed home, I would have
3 eventually read it.

4 Q. Okay.

5 A. I don't know if I was home at the moment
6 it came.

7 Q. Do you recall your reaction to it when
8 you read it?

9 A. I don't recall my reaction.

10 Q. Okay. Did you have any concerns about
11 it?

12 A. Well, I would only say that when budget
13 passback is less than what we asked for, we
14 always have concerns.

15 Q. Do you recall what Mr. Sheaffer, Bruce
16 Sheaffer, had originally put forward to the
17 Department of Interior for this particular budget
18 for the U.S. Park Police?

19 A. I don't really remember, but I know it's
20 substantially more than what the passback was.

21 Q. In Mr. Sheaffer's original request to
22 the Department of Interior?

1 A. All I know is what the request was that
2 went to OMB.

3 Q. That's a different question. I think
4 you understand that there is a step before it
5 goes to OMB where, for example, Mr. Sheaffer will
6 put forward a budget for the different units of
7 the National Park Service --

8 A. That's true.

9 Q. To the Department of Interior?

10 A. Right.

11 Q. And at some point after that, the
12 Department of Interior will pass it to the OMB.

13 It doesn't go directly to the OMB from
14 Mr. Sheaffer, does it?

15 A. Usually we have our meeting with the
16 Secretary where we discuss our budget.

17 Q. Um-hm.

18 A. Then later on, they give us a passback.

19 Q. Right.

20 A. From the Secretary's office, and I would
21 have to go back to check records whether it was,
22 where the funding was as far as what we, we asked

1 for in the department of, National Park Service
2 compared to what the passback was from Interior.

3 Q. You don't recall that sitting here
4 today?

5 A. No.

6 Q. Do you know whether in fact Mr. Sheaffer
7 had asked in his initial budget put forward to
8 the Department of Interior for the Park Police
9 about a \$3.3 million increase, and in fact that's
10 what eventually came back from OMB?

11 Was it about a \$3.3 million increase?

12 A. I don't remember. I would have to go
13 back.

14 Q. If you would look to the second page of
15 your memo, the November 28th, 2003 memo from Ms.
16 Chambers to you, which has been marked as
17 Mainella Exhibit 1 for this deposition, there are
18 two paragraphs, the largest two in the center of
19 that second page.

20 They make a reference to certain issues,
21 that the funding with the fiscal year '05
22 passback may result because of the reduction in

1 bringing the sworn staffing for the Park Police
2 to its lowest point since 1987, and more than 250
3 officers below level recommended by the director
4 of the National Park Service in a report to
5 Congress in March of 2000.

6 Did you discuss that particular
7 observation in this memo with anyone after
8 receiving it?

9 A. I don't know.

10 Q. You don't recall?

11 A. I don't recall.

12 Q. Okay. It mentions in the next paragraph
13 that Ms. Chambers has a concern based upon her
14 professional judgment --

15 A. Um-hm.

16 Q. Twenty-seven years of police service and
17 so forth, that there is a crisis in regard to
18 staffing and resources with the Park Police that
19 if allowed to continue, would almost surely
20 result in the loss of life or the destruction of
21 one of the nation's most valued symbols of
22 freedom and democracy, meaning the National

1 icons, the monuments.

2 Did you discuss that observation in this
3 memo with anyone after receiving it?

4 A. I can't -- my procedure would be to
5 discuss it with Don Murphy.

6 I can't verify that.

7 Q. Okay. Did you perceive at the time that
8 a statement like this, the one I just paraphrased
9 on page 2, if stated to the press, would be
10 inconsistent with the message the administration
11 wanted to relay?

12 A. I would be questioning the accuracy of
13 this statement.

14 Q. Okay. That such a crisis does not exist
15 you mean?

16 A. Correct.

17 Q. Perhaps the danger wouldn't be as great
18 as is being represented?

19 A. Correct.

20 Q. Okay. And apart from that, which I
21 appreciate your telling me that you would
22 question, would such a statement, in your

1 opinion, made to the press around this time have
2 been inconsistent with the message the
3 administration wanted to put out?

4 A. The administration just puts out the
5 truth of what is happening.

6 And again, I would want to go back and
7 research this.

8 That's why I expected that I would have
9 sent this to Don Murphy, and I may have shared
10 with Lynn Scarlett, but I can't tell you yes, I
11 did, because I don't remember.

12 Q. Did you ask anyone to research this and
13 investigate and confirm the accuracy of these
14 statements?

15 A. Again, my procedure would have been to
16 give it to Don Murphy and ask him to review it
17 and come back to me because at that time, they
18 had been going through with Ms. Chambers on
19 mission and responsibilities, regular meetings
20 that were taking place.

21 Q. Would this be follow-up to the NAPA
22 study that recommended that the National Park

1 Service refine the mission of the Park Police?

2 A. It was dealing with the mission of the
3 Park Police, yes.

4 Q. Would this be pursuant to the NAPA study
5 recommended that the Park Service, not the Park
6 Police, take responsibility for refining the
7 mission of the Park Police?

8 Do you understand that?

9 A. I know that we as the Park Service,
10 which includes the Park Police, would be working
11 together to make sure we're clear on that
12 mission.

13 They're not two separate entities.

14 Q. No, but do you recall that NAPA itself
15 recommended that the Park Service in quotation
16 parks, not the Park Police, in quotation marks,
17 take the responsibility for refining the mission
18 of the Park Police as one of their
19 recommendations?

20 A. I know that, all I remember is that NAPA
21 asked that we clarify the mission of the Park
22 Police so we avoided mission creep.

1 Q. You don't run recall which portion of
2 the agency they placed that responsibility in?

3 A. No. No, I don't. No.

4 Q. Did Mr. Murphy, to your recollection,
5 report back to you regarding any statements made
6 in this memo or requests you might have made to
7 him to make inquiries or confirm the data there?

8 A. I don't remember.

9 Q. Do you recall discussing this memo or
10 its contents, whether quoted or paraphrased, with
11 any party other than Mr. Murphy? Possibly Ms.
12 Scarlett?

13 A. Possibly Ms. Scarlett; that would be --

14 Q. The only?

15 A. Yes.

16 Q. Was there some action planned or
17 contemplated regarding Ms. Chambers that was
18 discussed after this memo was submitted to you
19 prior to the December 2nd Washington Post article
20 coming out?

21 A. Meaning -- could you rephrase?

22 Q. I will. I'll do my best to make it

1 clear.

2 Was there any disciplinary action of any
3 kind contemplated regarding Ms. Chambers after
4 you received this memo from Ms. Chambers prior to
5 The Washington Post article coming out on
6 December 2nd.

7 A. My answer would be no to regarding this
8 issue.

9 It was my understanding that there was
10 discipline anticipated by Mr. Murphy regarding
11 some previous actions with Ms. Chambers.

12 Q. Was there any discussion about that
13 anticipated discipline regardless of what it
14 might have been about?

15 Was there any discussion about that
16 anticipated discipline that took place, that
17 discussion took place after November 27th and
18 prior to December 2nd?

19 A. Not that I can recollect.

20 Q. So if such discipline had been
21 considered, it would have been talked about prior
22 to November 27th?

1 A. Correct.

2 Q. And was there anything in writing that
3 you had seen that expressed that Mr. Murphy was
4 contemplating some disciplinary action regarding
5 Ms. Chambers?

6 A. No.

7 Q. Was there any meeting in which you
8 participated at which that disciplinary action
9 being contemplated against Ms. Chambers was
10 discussed with anyone present other than you and
11 Mr. Murphy?

12 A. Not that I remember.

13 Q. How did you come to know that Mr. Murphy
14 was contemplating this disciplinary action
15 against Ms. Chambers prior to November 28th?

16 A. He indicated to me of his concern
17 regarding insubordination activities by Ms.
18 Chambers, specifically related to Ms. Weatherly.

19 Q. Okay. And when did he tell you that?
20 Pardon me.

21 Did I cut you off?

22 A. No. That's all I --

1 Q. Do you recall when he told you that?

2 A. No.

3 Q. Okay. I take it it would not have been
4 in e-mail or anything?

5 Just would be verbal?

6 A. No. It would be verbal.

7 Q. It would have been after November 3rd or
8 5th or whenever that Weatherly communication took
9 place?

10 A. Yes.

11 Q. And did he use the term insubordination
12 at that time?

13 A. It may have been failure to follow
14 directions.

15 Q. Okay. And did he identify to you what
16 direction would not have been followed by Ms.
17 Chambers in regard to Ms. Weatherly?

18 A. Would have been that she was to
19 implement the NAPA review and provide a code, a
20 code for funding the NAPA review.

21 Q. Okay. And did you come to understand
22 that Ms. Chambers had in fact provided a code, an

1 accounting code, for that?

2 A. I know eventually she did, but I don't
3 remember when.

4 Q. Okay. And the implementation issue you
5 mentioned was regarding the follow-up NAPA
6 review, not the original, but the new one?

7 A. Yes.

8 Q. And did Mr. Murphy express to you that
9 Ms. Chambers had refused to implement a new NAPA
10 review?

11 A. I would have to say no to that
12 statement.

13 Q. Okay. Did you have it clearly
14 established in your mind at the time whether or
15 not Mr. Murphy had articulated specifically what
16 he thought might have been the failure to follow
17 a direction?

18 Was it clear in your mind at the time
19 what that was?

20 A. As I understood it, it was the fact that
21 specific directions were given to Ms. Chambers
22 about doing the NAPA review, and that the Park

1 Police would pay for it, and that was then, that
2 specific direction was then ignored, and a
3 discussion then took place with Ms. Weatherly.

4 Q. So did Mr. Murphy explain to you what it
5 was that Ms. Chambers did to refuse to implement
6 this direction?

7 Did he say that Ms. Chambers refused?

8 A. He never used the word refused.

9 Q. Do you think that his concern was that
10 Ms. Chambers had questioned the NAPA study with
11 Ms. Weatherly that was, or discussion with Ms.
12 Weatherly actually constituted the failure to
13 follow the direction?

14 A. The only thing I understood was Mr.
15 Murphy felt that Ms. Chambers failed to follow
16 directions.

17 Q. Exactly how? Was it personally clear to
18 you?

19 A. Failure to implement the process at that
20 point.

21 Q. Okay. So do you know how much time Mr.
22 Murphy gave Ms. Chambers to implement the process

1 before he decided she was not?

2 A. No.

3 Q. No, but apparently it was not a case of
4 Ms. Chambers refusing to do something?

5 A. I don't know that.

6 Q. Okay. We are -- my watch may be a
7 couple minutes fast, but I don't want to make you
8 late for your appointment.

9 A. Right.

10 MR. HARRISON: So there are some issues
11 we'll need to discuss.

12 I need to look at your proposed
13 schedule, change in schedule for the other
14 depositions, so if you all would contemplate a
15 time when we might have a morning or an afternoon
16 to finish up this deposition, we'll do that
17 within that timeframe and try to work with you to
18 make sure it's convenient for the director, and.

19 I'll look at what you're proposing on
20 these other depositions, and I guess we'll hear
21 from the judge before too long about how many
22 depositions we'll be doing and help us with our

1 schedule, and we'll hopefully come to some
2 agreement on how to finish up.

3 We'll look forward to getting your
4 motion on the suspension.

5 MR. L'HEUREUX: I'll go back to the
6 office today. It might have been filed already.

7 I don't know.

8 MR. HARRISON: Okay. And that will be I
9 guess something the judge will decide.

10 She doesn't seem particularly inclined
11 to postpone the trial date.

12 MR. L'HEUREUX: Well, she did seem to be
13 disinclined to postpone the trial date.

14 Let's go off record.

15 MR. HARRISON: Yes, please.

16 (Whereupon, at approximately 3:29
17 o'clock, p.m., the deposition was recessed
18 sine die.)

19 * * * * *

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

CERTIFICATE OF NOTARY PUBLIC

I, Catherine S. Boyd, the Notary Public
before whom the proceeding occurred, pages 1
through 262, do hereby certify that the witness
was duly sworn, that the testimony of said
witness was taken by me and thereafter reduced to
this typewritten transcript under my supervision,
that said transcript is a true record of the
testimony given by said witness, that I am
neither counsel for, related to, nor employed by
any of the parties to the proceeding, and
further, that I am not a relative or an employee
of any attorney or counsel employed by the
parties thereto, or financially or otherwise
interested in the outcome of the proceeding, or
any action involved therewith.

Witness my signature and seal:

CATHERINE S. BOYD

Notary Public in and for
The District of Columbia

My commission expires: September 14, 2007