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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.

Thursday, August 12, 2004

DEPOSITION OF:

PAUL D. HOFFMAN,

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 8:38 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:

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ALSO PRESENT

TERESA CHAMBERS, Appellant
JEFFREY P. RUCH, Public Employees for
Environmental Responsibility

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2	Witness:	Page:
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1 Whereupon,

2 PAUL D. HOFFMAN,

3 having been called as a witness herein, was duly
4 sworn by the Notary Public, and testified as
5 follows:

6 EXAMINATION BY COUNSEL FOR APPELLANT

7 BY MR. HARRISON:

8 Q. Good morning, Mr. Hoffman.

9 A. Good morning.

10 Q. My name is Mick Harrison. I represent
11 Teresa Chambers.

12 I think you know Ms. Chambers has
13 litigation pending regarding her removal from the
14 United States Park Police, and we're going to ask
15 you some questions today about that matter.

16 Let me start by asking you some
17 background.

18 What is your current job title and
19 position?

20 A. I'm Deputy Assistant Secretary of the
21 Interior for Fish and Wildlife and Parks.

22 Q. All right. In that capacity, what

1 responsibilities fall within your jurisdiction?

2 A. I help oversee the National Park Service
3 and the U.S. Fish and Wildlife Service.

4 Q. Okay. Is oversight a specified function
5 in your position description?

6 A. Well, policy development, oversight is
7 not terribly specified.

8 I mean I work with the assistant
9 secretary who has direct line authority over the
10 National Park Service and the U.S. Fish and
11 Wildlife Service.

12 Q. Okay. Do you have a line authority over
13 the National Park Service?

14 A. Not directly.

15 Q. Okay. Do you have the authority to
16 direct an action to be taken by the director of
17 the National Park Service?

18 A. Only if I'm acting as acting assistant
19 secretary.

20 Q. I see. In the absence of the assistant
21 secretary?

22 A. Right.

1 Q. And which assistant secretary would be
2 the one who would have that authority?

3 A. Craig Manson.

4 Q. Okay. All right. Do you have a job --
5 what would you call it -- I guess a job
6 description for your particular duties?

7 A. Yeah. There's a PD it's called.

8 Q. Position description?

9 A. Yes.

10 Q. Okay. Does anyone evaluate your
11 performance?

12 A. Yes.

13 Q. Who would that be?

14 A. Craig Manson.

15 Q. Okay. And you get a written performance
16 appraisal of some kind?

17 A. I don't recall. I haven't seen one.

18 Q. How long have you been in your position?

19 A. Two and a half years.

20 Q. Okay. What was your professional
21 experience prior to coming to the Department of
22 Interior?

1 A. Immediately previous to coming to the
2 Department of Interior, I was Executive Director
3 of the Cody Country Chamber of Commerce and Cody
4 Economic Development Council in Cody, Wyoming.

5 Q. And prior to that?

6 A. I was, I was working for Senator Alan
7 Simpson.

8 Q. Okay. And prior to that?

9 A. Raising funds for the Buffalo Bill Dam
10 Visitor Center.

11 Q. Okay.

12 MR. L'HEUREUX: Is that criticism of the
13 visitor center?!

14 (Comments were made off the record.)

15 BY MR. HARRISON:

16 Q. Have you had any professional experience
17 with the gentleman who is now the Vice President
18 of the United States?

19 A. Yes.

20 Q. What was that?

21 A. I worked for him as his state director
22 from 1985 to 1989.

1 Q. Okay. Does your job involve you in
2 budgetary matters for the, either the Department
3 of Interior, the National Park Service, or the
4 United States Park Police from time to time?

5 A. Yes.

6 Q. Okay. And to some extent, all those
7 entities from time to time?

8 A. Yes.

9 Q. Okay. Do you recall being involved in
10 discussions regarding, regarding budget planning
11 for the National Park Service for fiscal year
12 '04?

13 A. No.

14 Q. Fiscal year '05?

15 A. What's the question again?

16 Q. Yes. Were you involved in budget
17 planning activities, meetings, discussions,
18 reviewing drafts, giving input, things like that?

19 A. No.

20 Q. Okay. Did you have any role in regard
21 to the National Park Service budget for fiscal
22 year '04, any role whatsoever?

1 A. No.

2 Q. Okay. How about fiscal year '05?

3 A. No.

4 Q. Okay. Ever?

5 A. No.

6 Q. Okay. So was your involvement in budget
7 matters that you referenced earlier for the
8 Department of Interior units other than the
9 National Park Service?

10 A. Well, maybe I'm not understanding your
11 question, but I --

12 Q. That's fine.

13 A. I have not been involved in developing
14 the budgets for those agencies.

15 Q. Okay. I thought you gave me affirmative
16 answer in some regard in terms of budget
17 involvement.

18 Did I mishear you?

19 A. Only in that I observed the process, and
20 I'm aware of the budget proposals.

21 Q. Okay.

22 A. And I have been involved in discussions

1 about how to meet budget requirements.

2 Q. Okay.

3 A. After the budgets are established.

4 Q. Oh, I see. How to live within a budget,
5 for example?

6 A. Yes.

7 Q. All right. And do you get involved in
8 those discussions in regard to the National Park
9 Service?

10 A. Yes.

11 Q. Okay. Have some of those discussions
12 involved the budget for the United States Park
13 Police?

14 A. Yes.

15 Q. Okay. For what time periods would you
16 be involved in discussions of that nature?

17 A. I was involved in discussions of that
18 nature, I don't recall the exact dates, but I'm
19 going to guess it was, it was I guess, I believe
20 it was around July of '03 to late November, early
21 December of '03.

22 Q. Okay. And what precisely were you, what

1 activities were you engaged in in regard for that
2 time period?

3 What did you do?

4 A. We were having weekly meetings with
5 Teresa Chambers and other U.S. Park Police
6 personnel, Deputy Director Don Murphy, Deputy
7 Assistant Secretary Larry Parkinson, and having
8 discussions about how the U.S. Park Police could
9 make adjustments to live within the budget they
10 had at that time for FY '04 and how, well --

11 Q. Was that the extent of the scope of the
12 discussions for how to live within the overall
13 budget?

14 A. No.

15 Q. Okay. What topics other than that were
16 discussed?

17 A. The NAPA report.

18 Q. Would that be the initial NAPA study or
19 the follow-up, the more recent follow-up?

20 A. The initial NAPA study.

21 Q. Regarding the U.S. Park Police?

22 A. Yes.

1 Q. Okay. What was the focus regarding the
2 NAPA study in those meetings?

3 Why was it even an issue?

4 A. Because the issue of focusing the U.S.
5 Park Police mission was central to assisting the
6 U.S. Park Police in living within its budget.

7 Q. I see. What was your role, if any, in
8 those discussions?

9 Did you have a specified role?

10 A. No.

11 Q. Merely a participant in the discussions?

12 A. Yes.

13 Q. Okay. And were any of your superiors
14 present in those discussions?

15 A. Not that I recall.

16 Q. Okay. And you said Ms. Chambers was
17 present for some of those discussions?

18 A. Yes.

19 Q. Okay. Mr. Murphy was as well?

20 A. Yes.

21 Q. Was there information given to you by
22 any party during those discussions that the

1 United States Park Police for fiscal year '04
2 expected a budget shortfall, shortfall meaning
3 more expenditures, than the money that had been
4 allocated?

5 A. Yes.

6 Q. Do you recall the approximate size of
7 the shortfall that was being discussed?

8 A. My recollection, it was approximately
9 \$12 million.

10 Q. Okay. Do you weigh in and provide any
11 input into how you felt that particular shortfall
12 situation should be addressed?

13 A. No. Most of those meetings were
14 presentations by the U.S. Park Police about what
15 they did in order for us to have a better
16 understanding of what its functions and
17 responsibilities were vis-a-vis its mission.

18 Q. Okay. So you were receiving information
19 about those topics?

20 A. Um-hm. Yes.

21 Q. The court reporter will need an
22 affirmative answer.

1 A. Sorry.

2 Q. All right. Were you a part of a formal
3 group that had a name in performing that function
4 and receiving that information?

5 A. No.

6 Q. Was it like an ad hoc committee?

7 A. That's as good a description as any.

8 Q. Okay. What did you perceive your task
9 to be in attending those meetings?

10 A. To provide leadership to assist the U.S.
11 Park Police in meeting its critical and essential
12 mission components within the budget that it had
13 available.

14 Q. Okay. So was your task different than
15 other parties who were present?

16 Did they have different tasks?

17 A. I can't speak to their tasks.

18 Q. All right. So as I understand your
19 testimony, and please clarify if I'm mistaken,
20 you were there to receive information and to
21 assist the National Park Service and its units,
22 which would include the U.S. Park Police, in

1 living within the budget for fiscal year '04
2 given anticipated shortfalls, is that fair?

3 A. The meetings, the meetings were specific
4 to the U.S. Park Police.

5 Q. Did not go beyond the Park Police?

6 A. Correct.

7 Q. I see. So I take it in doing that task,
8 you received information from the U.S. Park
9 Police and others regarding not only the monies
10 allocated and the expected shortfall, but the
11 mission of the U.S. Park Police.

12 Is that fair so far?

13 A. Say that again for me.

14 Q. Yeah. You received information
15 regarding monies allocated, expected shortfalls,
16 and the mission of the U.S. Park Police in
17 performing your task?

18 A. Yes.

19 Q. Okay. So did you offer any advice,
20 suggestions, direction at all to how to resolve
21 that shortfall problem?

22 A. We had some discussions about which

1 duties or functions the U.S. Park Police
2 performed as to whether they were mission
3 critical.

4 Q. Okay. When you say we, you mean all
5 parties present, or a subgroup?

6 A. All parties present.

7 Q. Okay. My question to you was, and I
8 probably didn't make it explicit when I used the
9 term you, I'm not so much speaking of you, the
10 collective or the committee or the group meeting,
11 but you the person sitting doing the deposition.

12 A. Okay.

13 Q. Did you, Mr. Hoffman, yourself give any
14 advice, direction, or suggestions as to how to
15 resolve the shortfall problem?

16 A. I'm having a little trouble with the way
17 you're characterizing it, but --

18 Q. You're free to restate.

19 A. I asked questions.

20 Q. Okay.

21 A. In order to learn how we might help the
22 U.S. Park Police live within the budget it had.

1 Q. Okay.

2 A. My role was first to understand, then to
3 help.

4 Q. I appreciate that. Did you ever get
5 past the asking questions and understanding
6 stage?

7 A. No.

8 Q. I see. So you never got to the point of
9 offering constructive suggestions for helping?

10 A. No.

11 Q. Okay. Did anyone get past that stage?

12 A. The meetings continued, but I stopped
13 attending the meetings.

14 Q. When? About what time period did you
15 stop attending?

16 A. About mid-December.

17 Q. Of '03?

18 A. Of '03, yes.

19 Q. And was this a choice of your own, or
20 did someone direct that you not attend?

21 A. That was a choice of my own.

22 Q. Okay. Can you tell us why you stopped

1 attending?

2 A. Because I had assumed the responsibility
3 of being the deciding official in the pending
4 removal.

5 Q. For Ms. Chambers?

6 A. Yes.

7 Q. I see.

8 A. And I felt it was inappropriate for me
9 to be involved in those meetings in that
10 capacity.

11 Q. I see. I appreciate that. When did you
12 first get appointed in that role of the deciding
13 official for Ms. Chambers' removal?

14 A. It was about the time that the proposal
15 to remove was prepared inside.

16 Q. Okay. Do you know whether the proposed
17 removal document had been signed prior to your
18 appointment?

19 A. I don't know.

20 Q. How did it come to your attention that
21 you were to be the deciding official?

22 A. I was asked to be the deciding official,

1 and I consulted with my immediate superior, Craig
2 Manson, and he agreed that I should be the
3 deciding official.

4 Q. Who asked you to do that?

5 A. I think that's attorney-client
6 privilege.

7 MR. L'HEUREUX: You can answer.

8 THE WITNESS: Okay; counsel from
9 Interior.

10 BY MR. HARRISON:

11 Q. Okay. And that would be?

12 A. Hugo Teufel.

13 Q. And did Mr. Teufel indicate to you that
14 some person other than an attorney had made the
15 decision for you to be a deciding official?

16 MR. L'HEUREUX: Objection --
17 attorney-client privilege.

18 Instruct the witness not to answer that
19 question.

20 BY MR. HARRISON:

21 Q. All right. I take it you honor the
22 instruction from your counsel?

1 A. Pardon?

2 Q. I take it you honor the instruction from
3 your counsel not to answer?

4 A. Yes.

5 Q. Okay. We may have to revisit that at a
6 later time.

7 Apart from what Mr. Teufel told you, do
8 you know who decided in the first instance that
9 you would be asked to be the deciding official
10 for Ms. Chambers' removal, who made that decision
11 initially to ask you?

12 A. No.

13 Q. When you asked Mr. Manson -- let me ask
14 you what exactly did you tell Mr. Manson and what
15 did he say in regard to your appointment in this
16 capacity?

17 A. I told Mr. Manson that I had been asked
18 to be the deciding official, and he agreed that I
19 was the appropriate person to assume that
20 responsibility.

21 Q. Okay. Was there anything specific said
22 by you or by him other than what you have just

1 disclosed?

2 A. No.

3 Q. Did he appear already aware of the fact
4 that you had been asked to be the deciding
5 official?

6 A. No.

7 Q. It was news to him?

8 A. Yes.

9 Q. Okay. Do you know whether the Secretary
10 of Interior was aware of your appointment as the
11 deciding official?

12 A. No.

13 Q. You don't know, or she was not?

14 A. To my knowledge, she was not.

15 Q. Okay. How about the director of the
16 National Park Service, Ms. Mainella?

17 Would she have known?

18 A. I don't know.

19 Q. Okay. How about Mr. Don Murphy? Would
20 he have known that you were appointed as the
21 deciding official?

22 A. I believe he was.

1 Q. Okay. And do you know at what point he
2 became aware of that?

3 A. I don't.

4 Q. Okay. How did you come to know that he
5 was aware?

6 A. I believe Mr. Teufel informed me.

7 Q. Okay. Was anyone with you when Mr.
8 Teufel informed you that or asked you to be the
9 deciding official?

10 A. No.

11 Q. So basically just Mr. Teufel and
12 yourself were present?

13 A. Yes.

14 Q. It was in your office?

15 A. Yes.

16 Q. Okay. During the workday?

17 A. Yes.

18 Q. When did you first see or review the
19 signed proposed removal document regarding Chief
20 Chambers?

21 A. Soon after it was signed on I believe it
22 was December the 18th.

1 Q. Okay. So why do you say you saw it soon
2 after it was signed?

3 A. Because as the deciding official, it was
4 delivered to me.

5 Q. I see. Do you recall when it was in
6 fact delivered to you?

7 A. Do I? No, I don't.

8 Q. When?

9 A. No, I do not.

10 Q. Okay. How was it delivered?

11 A. By hand.

12 Q. Okay. And who delivered it?

13 A. I don't recall. I don't, I did not, I
14 don't believe I took direct delivery of it.

15 Q. All right. Were you given a written
16 charge or task assignment or description in
17 regard to your performing this role as deciding
18 official?

19 A. A written?

20 Q. Yes.

21 A. No.

22 Q. So no one explained in writing what was

1 expected of you in this capacity as the deciding
2 official?

3 A. No.

4 Q. Okay. Were you given any training in
5 regard to performing this role as deciding
6 official?

7 A. No.

8 Q. Did anyone verbally describe to you the
9 nature of the task that you would be performing
10 as deciding official?

11 A. Yes.

12 Q. Okay. And who gave you that verbal
13 description?

14 A. Counsel.

15 Q. Okay. And which counsel?

16 A. I believe it was Jackie Jackson.

17 Q. Okay. All right. And what, what were
18 you told was your task in performing the role as
19 deciding official?

20 MR. L'HEUREUX: Objection --
21 attorney-client privilege.

22 Instruct the witness not to answer.

1 BY MR. HARRISON:

2 Q. Do you recall the time period you were
3 given the explanation by Ms. Jackson regarding
4 the task you were to perform?

5 A. No.

6 Q. Would it have been before Christmas?

7 A. I don't recall.

8 Q. You don't. Okay. Who determined what
9 steps would be taken to investigate the matters
10 raised regarding the proposed removal of Chief
11 Chambers?

12 A. Myself and counsel.

13 Q. Okay. You did that in conjunction with
14 counsel?

15 A. Yes.

16 Q. Which counsel worked with you in that
17 regard?

18 A. Jackie Jackson.

19 Q. Okay. All right. Can you explain when
20 you first began an active inquiry into Ms.
21 Chambers' proposed removal, if you ever did?

22 A. If you mean by active inquiry,

1 interviewing people about the facts surrounding
2 the issue, that would have been about
3 approximately the 10th of February.

4 Q. Okay.

5 A. 2004.

6 Q. Thank you. Did you take any active
7 steps to investigate the matters involved in Ms.
8 Chambers' proposed removal prior to your
9 interviews beginning around February 10th, 2004?

10 A. I read her reply and all of the attached
11 documents several times.

12 Q. Okay.

13 A. As well as the proposal to remove.

14 Q. Um-hm. All right. In addition to
15 reviewing the proposed removal and reading Ms.
16 Chambers' reply, did you do any steps beyond
17 those to prepare for those interviews that began
18 about February 10th, 2004?

19 A. I believe I might have reviewed some
20 information about the Douglas factors.

21 Q. Okay. Why did you do that?

22 A. Because it, it was my understanding that

1 the Douglas factors were commonly used elements
2 of a personnel decision.

3 Q. Did you review that information on your
4 initiative or on someone's suggestion?

5 A. They were provided to me by counsel.

6 Q. Okay. And you reviewed those factors
7 prior to the first interview about February 10th,
8 or was it after?

9 A. I don't recall that.

10 Q. Okay. What was the nature of the
11 information you reviewed about the Douglas
12 factors?

13 A. It was a list of the twelve Douglas
14 factors and a description of what constituted
15 those factors.

16 Q. All right. Do you know who was the
17 author of that document?

18 A. No.

19 Q. Okay. Was there anything else you
20 reviewed document-wise prior to the beginning of
21 those interviews in February 2004?

22 A. No.

1 Q. All right. Did you discuss with anyone
2 other than your counsel or other than counsel for
3 the agency any issues related to Ms. Chambers'
4 removal prior to the interviews beginning in or
5 about February 10th, 2004?

6 A. No.

7 Q. Now you had indicated that you decided
8 to remove yourself from the budget meetings
9 regarding the U.S. Park Police in December
10 apparently around the time you were notified that
11 you would be the deciding official, is that
12 correct?

13 A. Yes.

14 Q. Okay. Did you do that on your own
15 initiative, or did someone recommend that, that
16 you stop going to the meetings?

17 A. My own initiative.

18 Q. Okay. Did you discuss your plan to
19 remove yourself from those meetings with anyone
20 and seek concurrence on that, or did you just do
21 it?

22 A. I advised my supervisor, Craig Manson,

1 that I would not be involved in any discussions
2 concerning the U.S. Park Police, its management,
3 or any discussions regarding the proposed removal
4 of Teresa Chambers until a final determination
5 was made.

6 Q. Okay. And did you explain to Mr. Manson
7 why you had made that decision to so remove
8 yourself from those meetings and discussions?

9 A. Yes.

10 Q. What did you tell him?

11 A. I told him I felt it was very important
12 that I make this decision independent of any
13 input from anybody else based solely on the facts
14 and the interviews of the case, and the
15 information that I gleaned during my
16 investigation of the facts concerning the
17 proposed removal, and Teresa Chambers' reply.

18 Q. Okay. Now how long had you been
19 participating in the budget meetings regarding
20 U.S. Park Police prior to being asked to be the
21 deciding official?

22 A. From approximately July of '03 until

1 mid-December of '03.

2 Q. Okay. So maybe four or five months,
3 whatever that would be?

4 A. Five months I guess.

5 Q. Okay. Do you recall ever meeting a lady
6 by the name of Pamela Blyth?

7 A. Yes.

8 Q. And who is Pamela Blyth?

9 A. I don't know her exact title. She was I
10 believe an assistant or an executive assistant to
11 the chief.

12 Q. Okay. And in what role would you have
13 encountered her? In what capacity?

14 A. She attended the meetings.

15 Q. She did. And did she participate in
16 those budget meetings?

17 A. Yes.

18 Q. Okay. Do you know the nature of her
19 role or her participation in those meetings?

20 A. She presented information.

21 Q. Okay. Do you recall Ms. Blyth in those
22 meetings ever raising a concern that budgets for

1 the United States Park Police were being
2 formulated by Bruce Sheaffer or his office and
3 forwarded to the other offices such as the
4 Department of Interior budget office without
5 first getting input and concurrence from the U.S.
6 Park Police themselves?

7 A. No.

8 Q. Okay. Do you recall Ms. Blyth ever
9 raising a concern that the process being used to
10 formulate the U.S. Park Police budget might be
11 illegal?

12 A. No.

13 Q. Okay. Do you recall anyone raising a
14 concern in those meetings or in any other meeting
15 that the process being used to formulate the
16 budget for the U.S. Park Police might be illegal?

17 A. No.

18 Q. Were you aware during the summer, fall
19 of 2003 that there was an effort or an interest
20 by Mr. Murphy and Director Mainella to detail Ms.
21 Blyth out from her role in assisting the chief on
22 financial and other matters?

1 A. No.

2 Q. You were not aware of that?

3 A. I was not aware of that.

4 Q. Did you ever become aware of it prior to
5 today?

6 A. Yes.

7 Q. Okay. And when did you first become
8 aware of it?

9 A. When I read the proposal to remove, and
10 Teresa Chambers' reply.

11 Q. Understood. Did you ever have occasion
12 to learn that Ms. Chambers spoke to The
13 Washington Post in an interview that was
14 eventually published on December 2nd, 2003?

15 A. Yes.

16 Q. Okay. And when did you learn that?

17 A. I received an e-mail, a carbon copy of
18 an e-mail from Teresa indicating that she had had
19 an interview.

20 Q. Okay. Do you think that was prior to
21 the publication of the interview?

22 A. That's my recollection.

1 Q. So she was giving folks a heads-up that
2 it had happened and might be coming out?

3 A. It was not a very specific report.

4 Q. Okay. So did you notice the article
5 when it did come out on December 2nd?

6 A. Yes.

7 Q. Okay. And did you have occasion to read
8 it?

9 A. Yes.

10 Q. Okay. Do you recall when you might have
11 read it?

12 A. That morning.

13 Q. Okay. Before coming to work, or --

14 A. Yes.

15 Q. Okay. Were you aware that Ms. Chambers
16 conducted any media interviews on that same day,
17 December 2nd, beyond The Washington Post article,
18 television, radio, things like that?

19 A. What was the question?

20 Q. Were you aware that those interviews
21 happened?

22 A. No. No.

1 Q. Okay. Were you aware, did you become
2 aware at any time prior to today that Ms.
3 Chambers had interviewed with television or radio
4 on or about December 2nd, 2003?

5 A. I don't recall.

6 Q. Did you go to work on December 2nd,
7 2003?

8 A. Yes.

9 Q. Did you have occasion to be involved in
10 any discussion even in passing that referenced
11 The Washington Post article of December 2nd in
12 which Ms. Chambers was quoted or referred to?

13 A. Yes.

14 Q. Okay. Do you recall who you might have
15 discussed that article with?

16 A. No.

17 Q. You're just assuming it was discussed
18 with someone?

19 A. Yes.

20 Q. I see. What is your day-to-day
21 interaction with Mr. Don Murphy, if any?

22 A. I see him some days, I don't see him

1 other days.

2 We consult on matters from time to time.

3 Q. Okay. Would you consider him a
4 colleague?

5 A. Yes.

6 Q. Okay. A friend?

7 A. Yes.

8 Q. Okay. Did you ever become aware that
9 Ms. Chambers had filed a complaint regarding Mr.
10 Murphy?

11 A. Did I ever become aware?

12 Q. Yes, as of today.

13 A. Rephrase for me.

14 Q. Have you ever learned prior to today
15 that Mr. Murphy was the subject of a complaint
16 filed by Ms. Chambers?

17 A. Yes.

18 Q. Okay. When did you learn that?

19 A. I don't recall exactly when I learned
20 that.

21 Q. Give me a ballpark.

22 A. Some time early in '04.

1 Q. Okay. This would have been I take it
2 prior to your interview starting in February 10th
3 of 2004?

4 A. Possibly. I don't recall exact date.

5 Q. How did you come to learn of this
6 complaint?

7 A. I believe it was in the reply, but I
8 couldn't be certain of that.

9 Q. Okay. May have been in the material you
10 read?

11 A. Yes.

12 Q. Have you ever reviewed the complaint
13 document that Ms. Chambers filed regarding Mr.
14 Murphy?

15 A. No.

16 Q. Do you know the status of that
17 complaint?

18 A. No.

19 Q. Okay. Did you inquire into the status
20 of that complaint in performing your duties as
21 the deciding official for Ms. Chambers' removal?

22 A. No.

1 Q. Okay. When you were, before you became
2 the deciding official and you were participating
3 in the budget meetings, as I understood the task,
4 that you perceived, you were preparing, as I
5 understand it, the information resources
6 available, expected budget shortfall, and
7 basically what the mission was of the U.S. Park
8 Police and what they needed to accomplish in
9 trying to find a way to accomplish the mission
10 within the resources available.

11 Is that more or less accurate?

12 A. No.

13 Q. How is that wrong?

14 A. I was not preparing information.

15 Q. Okay. You were reviewing information?

16 A. Yes.

17 Q. Okay. Eventually had you gotten to the
18 stage, you would have attempted to do the
19 comparison I'm talking about and offer advice on
20 it?

21 A. Yes.

22 Q. Never quite got there?

1 A. Right.

2 Q. In terms of the information you
3 received, did you actually receive information in
4 these three categories -- resources available,
5 budget shortfall, and mission statement?

6 A. Not, not in that format, or I wouldn't
7 say I got it that way.

8 Q. Okay. Did you get any information
9 regarding resources available?

10 A. Well, I recall getting some, some -- we
11 looked at different components of what the Park
12 Police were doing.

13 Q. Okay.

14 A. And so we got partial information. We
15 got information about what it cost to do a
16 certain function, where the money came from,
17 whether there were reimbursables, things of that
18 nature.

19 Q. Okay.

20 A. But I have never seen a complete budget
21 for the U.S. Park Police.

22 Q. That was my next question. Thank you

1 for answering it in advance. Okay.

2 So you didn't get that far in your
3 deliberations?

4 A. No.

5 Q. Was it planned at any point to share
6 with this committee or group the entire budget
7 information?

8 A. I don't know.

9 Q. Don't know? Okay. Were you given a
10 comprehensive description of the budget
11 shortfall?

12 A. Not that I recall.

13 Q. Were you given a complete statement of
14 the U.S. Park Police mission?

15 A. No.

16 Q. Okay. Do you know whether a statement
17 of the U.S. Park Police mission existed?

18 A. I don't know.

19 Q. Do you know whether anyone or entity had
20 responsibility to develop the mission statement
21 for the U.S. Park Police?

22 A. I don't know.

1 Q. Were you ever aware that Mr. Murphy had
2 communicated to Ms. Chambers on December the 2nd,
3 2003, that Ms. Chambers was not to conduct any
4 additional interviews with the media without his
5 or the director's approval?

6 A. No.

7 Q. And you didn't know that even as up to
8 today?

9 A. I don't know that to have occurred.

10 Q. Okay. Did you receive any information
11 regarding Mr. Murphy's communications with Ms.
12 Chambers on December 2nd regarding communications
13 with the media?

14 A. Yes.

15 Q. Okay. What was your understanding, what
16 is your understanding of what that communication
17 was between Mr. Murphy and Ms. Chambers?

18 A. My understanding was, is that she was
19 advised not to conduct interviews with the media
20 unless she cleared the topic of discussion with
21 Deputy Director Murphy.

22 Q. Okay. Or Director Mainella, or just was

1 it just Murphy?

2 A. I don't know.

3 Q. Okay. So the topic of discussion needed
4 to be cleared?

5 That was your understanding?

6 A. Yes.

7 Q. Okay. Did you understand that Mr.
8 Murphy would exercise -- how shall I say it --
9 approval over the content of what Ms. Chambers
10 would say in such interviews?

11 A. No.

12 Q. Okay. Do you know whether Mr. Murphy
13 ever denied permission for Ms. Chambers to engage
14 in any interviews after December 2nd?

15 A. No.

16 Q. You don't know either way?

17 A. I don't know that he did.

18 Q. Okay. And you don't know that he didn't
19 I take it?

20 A. Yeah. That would be safe.

21 Q. Did you make an inquiry in performing
22 your duties as the deciding official to determine

1 whether or not Mr. Murphy had in fact restricted
2 or prevented any interviews with the media by
3 Chief Chambers?

4 A. Yeah. I believe that was part of the
5 investigation.

6 Q. Okay. And was that an inquiry you
7 yourself did, or did someone else perform that?

8 A. I did.

9 Q. And how did you perform that inquiry?

10 A. With a court reporter in person.

11 Q. That would be the, essentially the
12 transcript we received of your interviews with
13 certain witnesses?

14 A. Yes.

15 Q. Okay. And do you recall asking those
16 witnesses specifically about any interviews that
17 Ms. Chambers might have been directed not to
18 conduct?

19 A. Can you say that one again?

20 Q. I'll do my best. Did you ask in those
21 interviews the witnesses that you interviewed on
22 the record whether or not Ms. Chambers had been

1 directed to not conduct any interviews with the
2 media, or certain interviews?

3 A. I don't have perfect recollection of all
4 the questions I asked, but I believe I asked
5 that.

6 Q. Okay. And do you recall the answer that
7 you were given?

8 A. My recollection is that she was not told
9 not to have any interviews.

10 Q. Okay. I take it you became aware that
11 Ms. Chambers was placed on administrative leave
12 on December the 5th of 2003?

13 A. Yes.

14 Q. Do you know whether any restriction was
15 placed on Ms. Chambers in terms of having media
16 interviews after she was placed on administrative
17 leave?

18 A. I'm not aware of any.

19 Q. Did you interview Ms. Pamela Blyth as
20 part of your on-the-record interviews?

21 A. No.

22 Q. And was there a reason why you did not?

1 A. I didn't feel it was necessary.

2 Q. Okay. Did you interview Mr. Ben Holmes
3 on the record as part of your inquiry?

4 A. No.

5 Q. And was there a reason for that?

6 A. I didn't feel it was necessary.

7 Q. Did you interview the budget officer for
8 the -- pardon me -- for the U.S. Park Police,
9 Shelly Thomas?

10 A. No.

11 Q. Okay. And why was that?

12 A. Did not believe it was necessary.

13 Q. How many persons all together did you
14 interview approximately?

15 A. Give me a minute.

16 Q. Sure.

17 (There was a pause in the proceedings.)

18 THE WITNESS: I believe it was five or
19 so people I interviewed in person.

20 BY MR. HARRISON:

21 Q. Okay. Was there any other kind of
22 interview that you conducted or was conducted?

1 A. Excuse me. That was six.

2 Q. Okay. You said in person?

3 A. Yes.

4 Q. Why did you make that distinction?

5 A. Because two inquiries were made via
6 affidavit.

7 Q. I see. And what two inquiries were
8 those?

9 A. That would have been David Fahrenthold,
10 the reporter for The Washington Post, and Randy
11 Myers, solicitor for the Department of Interior.

12 Q. Okay. And I take it that you did not
13 directly get an affidavit from The Washington
14 Post reporter?

15 A. No.

16 Q. That would not be a normal process. How
17 did you go about making that inquiry?

18 A. We had one of our people in our
19 communications office contact Mr. Fahrenthold,
20 ask him some questions, and that person prepared
21 an affidavit certifying what Mr. Fahrenthold
22 said.

1 Q. And that person was Mr. John Wright?

2 A. Yes.

3 Q. And who gave Mr. Wright the task to
4 perform that interview of Mr. Fahrenthold?

5 A. Well, I don't recall who actually gave
6 that task to him.

7 Q. Okay. Who decided that Mr. Wright
8 should perform that task?

9 A. I don't know.

10 Q. Okay. How did you first come to know
11 that Mr. Wright had in fact prepared a
12 declaration after talking with the reporter?

13 A. When I got the declaration.

14 Q. It was handed to you by someone?

15 A. Yes.

16 Q. Okay.

17 A. Or it was delivered to my office.

18 Q. I understand. Do you recall who shall I
19 say arranged for the delivery to your office of
20 that affidavit?

21 A. No.

22 Q. Okay. Did you ever make a conscious

1 decision to have the inquiry of The Washington
2 Post reporter done by way of an affidavit of a
3 third party versus interviewing the reporter
4 yourself?

5 Was that a conscious decision you made?

6 A. Yes.

7 Q. Okay. So I guess I'm a little confused.

8 I believe that --

9 A. Well --

10 Q. Let me finish my question.

11 A. Yes.

12 Q. And I'll give you a full chance to
13 explain.

14 I believe you said that you weren't
15 really aware that the declaration of Mr. Wright
16 was going to be prepared regarding an interview
17 with The Washington Post reporter, David
18 Fahrenthold, until you received the declaration.

19 Did I hear you correctly?

20 A. No. What you asked was whether I knew
21 Mr. Wright was going to be doing that, and I did
22 not know.

1 What I knew was somebody in the
2 communications office would be contacting The
3 Washington Post reporter.

4 Q. Okay. So tell me what decision you made
5 in regard to how this information would be
6 collected regarding The Washington Post reporter.

7 What exactly did you decide about that?

8 A. I was, I developed the questions to be
9 asked of, the questions of The Washington Post
10 reporter.

11 Q. Okay. And did you write those questions
12 down on a piece of paper?

13 A. Yes.

14 Q. Okay.

15 A. Well, I don't recall that I wrote them
16 down on a piece of paper.

17 Q. Okay. Someone else wrote them down?

18 A. I don't recall. I'm pretty certain they
19 were probably given to Wright, but I don't recall
20 who wrote them down.

21 Q. How did you communicate the questions to
22 anyone?

1 A. Through counsel.

2 Q. Okay. Did you verbally tell counsel
3 your questions?

4 A. We discussed it, yes.

5 Q. Okay. You didn't type it on your
6 computer and e-mail it to someone or --

7 A. No.

8 Q. Didn't put it in a memo?

9 A. No, not that I recall.

10 Q. Okay. So do you know of your own
11 personal knowledge what questions were given to
12 Mr. Wright to ask?

13 Were you present when Mr. Wright was
14 given the task?

15 A. No.

16 Q. Okay. You didn't see a document given
17 to Mr. Wright with the questions on it?

18 A. No.

19 Q. So do you know exactly what was told to
20 Mr. Wright that his task was?

21 Do you personally know?

22 A. My recollection of his task was he was

1 to inquire as to the veracity of the quotes in
2 the article on December 2nd.

3 Q. That's what you wished to be done I take
4 it?

5 A. Yes.

6 Q. Do you know what Mr. Wright was told to
7 be done?

8 A. No. I did not communicate with Mr.
9 Wright.

10 MR. HARRISON: All right. Let me show
11 you a document.

12 Let's mark this as Hoffman Deposition
13 Exhibit 1 if we could.

14 (Hoffman Exhibit No. 1
15 was marked for
16 identification.)

17 BY MR. HARRISON:

18 Q. And just tell me if you recognize that,
19 sir?

20 A. I do.

21 Q. Is this the declaration of Mr. John
22 Wright that you referred to?

1 A. Yes.

2 Q. All right. Take a moment to refresh
3 your memory on the context of this, and then I'll
4 ask you a question about it.

5 (The witness reviewed the document.)

6 THE WITNESS: Okay.

7 BY MR. HARRISON:

8 Q. Now there are certain questions and
9 answers reflected here by Mr. Wright in this
10 two-page declaration regarding what he asked the
11 reporter and what his recollection is of what the
12 reporter told him.

13 Are there any questions that you wished
14 to have answered that are not reflected in this
15 two-page declaration?

16 A. No.

17 Q. Okay. Do you believe that the questions
18 reflected here and the -- well, just the
19 questions are the ones that you communicated to
20 have asked?

21 A. Yes.

22 Q. Okay.

1 (There was a pause in the proceedings.)

2 BY MR. HARRISON:

3 Q. There is a reference to a couple
4 financial figures here near the bottom of the
5 first page, item No. 2 at the end.

6 There's a quote. It is introduced by
7 apparently Mr. Wright saying I read him the
8 following statements that appeared in his
9 December 2nd, 2003 article, and several quotes
10 are given, the last of which says she said she
11 has to cover a \$12 million shortfall for this
12 year and has asked for \$8 million more for next
13 year.

14 Do you see that?

15 A. Yes.

16 Q. And had you asked that Mister, well, not
17 Mr. Wright, but that someone inquire with the
18 reporter about those two figures?

19 A. Not specifically.

20 Q. Okay. Had you asked that someone
21 inquire with the reporter about any specific
22 financial figures that were referred to in The

1 Post article, any numbers?

2 A. No.

3 Q. Okay. Do I take from your testimony
4 that your request was that basically each of the
5 quotes attributed to Ms. Chambers in The Post
6 article be verified as having been something Ms.
7 Chambers actually said?

8 A. Yes.

9 Q. Okay. And do you realize that there are
10 quotes or at least statements attributed to Ms.
11 Chambers in the article that are not represented
12 or discussed in this affidavit?

13 A. I haven't read that article in a while,
14 so I can't answer that.

15 Q. Okay. Do you recall Ms. Chambers
16 referencing a \$7 million figure in The Post
17 article?

18 A. I don't recall that, no.

19 Q. Okay. I believe we have marked The
20 Washington Post article, but I couldn't tell you
21 at the moment.

22 (Hoffman Exhibit No. 2

1 was marked for
2 identification.)

3 BY MR. HARRISON:

4 Q. Now if you would take a moment to look
5 over this Exhibit No. 2, and when you're ready,
6 let me know whether you recognize it as the
7 December 2nd Washington Post article we have been
8 discussing.

9 (The witness reviewed the document.)

10 THE WITNESS: It looks like the article,
11 but this is not the format in which I have seen
12 it before, so I can't be certain that this is the
13 exact article.

14 BY MR. HARRISON:

15 Q. Okay. I appreciate that. If you would
16 turn to the third page, you'll see the second
17 paragraph there, "She said a more pressing need
18 is an infusion of federal money to hire recruits
19 and pay for officers' overtime. She said she has
20 to cover a \$12 million shortfall for this year
21 and has I asked for \$8 million more for next
22 year. She also would like \$7 million to replace

1 the force's aging helicopter."

2 Do you see that?

3 A. Yes.

4 Q. And you don't see the \$7 million
5 referenced in the declaration?

6 A. Pardon me?

7 Q. The declaration of John Wright, do
8 you --

9 A. No.

10 Q. Okay. And the reason that it is
11 excluded in the declaration of Mr. Wright is
12 apparently not due to any restriction you're
13 tasking of the media office to make the inquiry,
14 you basically wanted to confirm each of the
15 quotes made by Chief Chambers, as I understand
16 it?

17 A. Well, Mr. Wright was directed to verify
18 the quotes that were questioned in Teresa
19 Chambers' reply.

20 Q. That were questioned? What does that
21 mean?

22 A. In Ms. Chambers' reply, she indicated

1 that some of the quotes were not accurate, and
2 she specified which quotes she believed were not
3 accurate, and so those were the quotes that we
4 asked Mr. Wright to verify.

5 Q. Did you pick those quotes out yourself?

6 A. No.

7 Q. Did you identify the quotes that Ms.
8 Chambers questioned yourself?

9 A. Well, yeah.

10 Q. Okay. So you would have given someone a
11 specific list of quotes that Ms. Chambers
12 identified in her reply that she questioned, and
13 you would have given those specific quotes to
14 someone to follow through on, is that correct?

15 A. I don't think that's a correct
16 characterization.

17 Q. No? Okay. So let me be clear. I
18 thought from your prior testimony that you had
19 tasked someone, perhaps through counsel, to have
20 the media office make an inquiry to confirm that
21 Ms. Chambers' quotations in The Post article were
22 in fact correctly attributed to her.

1 A. Let me try and clarify that.

2 Q. Please.

3 A. Her reply specifically stated that she
4 did not make certain statements attributed to her
5 in The Washington Post article.

6 Q. Um-hm.

7 A. The direction was, was for somebody in
8 the communications office to ascertain from The
9 Post reporter whether or not with respect to
10 those quotes in her reply, whether or not those
11 were accurate quotes.

12 Q. Um-hm. Did you specify which quotes
13 were in question, or leave that to someone else?

14 A. I left that to somebody else.

15 Q. Okay. Do you know who it got left to?

16 A. I don't recall specifically, counsel.

17 Q. Okay. Was it an issue for you during
18 your inquiry into Ms. Chambers' removal to
19 determine as a factual matter exactly what the
20 total quantity of funds Ms. Chambers was
21 representing as was needed for the U.S. Park
22 Police budget, in other words, what the shortfall

1 was or what additional funding was being
2 requested?

3 Was that an issue for you to determine
4 what that total amount was she was talking about?

5 A. Can you rephrase that for me? I'm
6 sorry.

7 Q. I'll try to rephrase it or possibly
8 restate it.

9 A. Yeah.

10 Q. I take it from your, your memo which we
11 haven't gotten to yet -- we might as well
12 identify it.

13 Let me -- give me just a moment to get
14 some copies.

15 Let's go ahead and mark -- well, we
16 can't mark that one.

17 (There was a pause in the proceedings.)

18 MR. HARRISON: Let's go off the record
19 for a second.

20 Let's take a short break.

21 (A recess was taken.)

22 BY MR. HARRISON:

1 Q. Now we're going to try to get some
2 clarification, Mr. Hoffman, on this declaration
3 of Mr. Wright and what it did and why.

4 As I understand your testimony of the
5 moment, there were specific quotes in The
6 Washington Post article, quotes that Ms.
7 Chambers, in your recollection, had questioned
8 that they may not be accurate quotes of her, and
9 that you wanted to find out whether they were
10 accurate quotes of her or not from The Washington
11 Post.

12 Is that fair?

13 A. Um-hm.

14 Q. Okay.

15 A. Yes.

16 MR. L'HEUREUX: You have to answer yes
17 or no.

18 THE WITNESS: I followed my a-huh with
19 yes.

20 BY MR. HARRISON:

21 Q. Okay. Now before we get into the
22 details, did you personally decide on your

1 initiative that you yourself would not interview
2 The Washington Post reporter?

3 Did someone else decide that question?

4 A. Yes.

5 Q. And that's an ambiguous answer. Yes
6 what?

7 A. That's an ambiguous question.

8 Q. Yes, you decided?

9 A. Rephrase the question for me.

10 Q. I will. I'll only give you part of it
11 so it will be unambiguous.

12 Did you decide that you would not
13 interview The Washington Post reporter about
14 these questions and quotations?

15 A. Yes.

16 Q. Okay. And why did you decide that you
17 would not interview The Washington Post reporter?

18 A. Because the practice is with media that
19 they will not subject themselves to direct
20 interrogation in these sorts of matters, and we
21 felt it was best that if somebody with our
22 communications office who worked regularly with

1 the reporters would be better suited to ask these
2 questions and prepare an affidavit as to what the
3 answers were.

4 Q. Okay. When you say we felt, who was the
5 we?

6 A. Myself and counsel.

7 Q. Okay. So but you are saying you made
8 the decision to not interview Mr. Fahrenthold
9 yourself?

10 A. Yes.

11 Q. Okay. Had you considered interviewing
12 him yourself?

13 A. Fleetingly maybe.

14 Q. Okay. All right. Now do I understand
15 your testimony that the only aspects of The
16 Washington Post article that were to be inquired
17 into by the media office, which turns out to be
18 Mr. Wright, were those quotations in The Post
19 article that Ms. Chambers questioned in her
20 reply?

21 A. It was certainly to include those quotes
22 that were disputed in her reply.

1 There may have been other quotes that
2 were germane to the proposal to remove or her
3 reply that I felt were, that I felt it was
4 necessary to ascertain whether or not she made
5 those quotes.

6 Q. And I believe you said that was never,
7 to your knowledge, written down which quotes were
8 to be inquired into?

9 A. Yes.

10 Q. Okay. Certainly you've never seen a
11 document with that list?

12 A. That's right.

13 Q. Okay. Now when I attempted to determine
14 earlier why Ms. Chambers' reference in The Post
15 article to a \$7 million figure was not included
16 in your inquiries, I believe your answer was
17 because the only things being inquired into were
18 the quotes Ms. Chambers questioned, and now I
19 believe you're telling me that what was to be
20 inquired into was broader than that.

21 Do I hear you correctly now?

22 A. Yes.

1 Q. Okay. Can you define for us with
2 precision what you exactly wanted to be inquired
3 into?

4 A. With respect to the quote in question
5 regarding the \$12 million and the \$8 million, I
6 wanted to know if Teresa Chambers was quoted
7 accurately when it came to the disclosure of
8 figures that were in negotiation with OMB for the
9 FY '05 budget.

10 Q. Okay. And did you communicate that to
11 someone to inquire on your behalf?

12 A. Yes.

13 Q. Okay. Do you know whether Mr. Wright
14 was given that communication?

15 A. I did not have a conversation with Mr.
16 Wright.

17 Q. So you're not quite sure what he was
18 told?

19 A. Right.

20 Q. Okay. Now that you have identified one
21 specific thing you wanted to be inquired into and
22 why, does that exhaust the list of what you

1 wanted to be inquired into regarding this
2 article?

3 A. No. It's not exhaustive.

4 Q. Okay. Can you tell me as precisely and
5 completely as you can everything you wished to be
6 inquired into regarding The Post article and why?

7 A. I don't recall exactly what I
8 articulated that I wanted inquired into.

9 Q. Okay. So you couldn't tell me whether
10 Mr. Wright's affidavit or declaration speaks to
11 all the questions you had in mind at the time,
12 could you?

13 A. I believe it does.

14 Q. Even though you don't know what they
15 were?

16 A. Well, I don't recall exactly what I may
17 have directed Mr. Wright to inquire at.

18 Q. All right.

19 A. Because --

20 Q. I understand that. So how can you tell
21 whether everything you asked him is in this
22 affidavit?

1 A. Because when I got the affidavit, it
2 answered the questions I wanted answered at the
3 time.

4 I recall then. That was then. This is
5 now.

6 Q. Okay. So you recall thinking this was a
7 complete answer to the question you had asked?

8 A. Yes.

9 Q. Okay. So that brings me back to my
10 earlier question.

11 Why didn't you ask about the \$7 million
12 figure?

13 A. Because the \$7 million figure is not a
14 factor in the proposal to remove, nor a factor in
15 the issue at hand. The issue --

16 Q. You can continue if you wish.

17 A. I think I answered the question.

18 Q. I appreciate it. How would you define
19 the issue at hand regarding Ms. Chambers' removal
20 in regard to these budget figures referenced in
21 The Post?

22 What was that issue?

1 A. The issue was did Teresa Chambers reveal
2 budget figures that were in negotiation within
3 the Executive Branch prior to, to the President's
4 budget being fully developed.

5 Q. All right. And in order to determine
6 the answer to that question, or issue, you would
7 have to determine what figure Ms. Chambers was
8 discussing in the press and what figures were
9 being proposed in the budget process and compare
10 the two I take it, is that correct?

11 A. Yes.

12 Q. Did you do that?

13 A. Yes.

14 Q. Okay. What figures were being proposed
15 in the budget process for the U.S. Park Police at
16 that time?

17 A. The U.S. Park Police had asked for \$8
18 million more in FY '05, FY '05 budget.

19 Q. Okay. And do you know what stage that
20 budget was in on December 2nd, 2003?

21 A. I don't recall the exact stage it was
22 in, but it was commonly known that the passback

1 was not going to include the \$8 million.

2 Q. Okay. And did you know that yourself?

3 A. Yes.

4 Q. Okay. And did you know that from one of
5 your interviews, or did you know that from some
6 other activity of your own?

7 A. It was a topic of discussion during the
8 budget meetings that we were having with the Park
9 Service.

10 Q. You learned it before you were appointed
11 as the deciding official?

12 A. Yes.

13 Q. Now this \$8 million figure that you're
14 saying was commonly known to have been asked for,
15 who exactly asked for it, if you know?

16 A. It was part of the Department of the
17 Interior's budget.

18 Therefore, it was part of the National
19 Park Service budget, part of the U.S. Park Police
20 budget.

21 Q. Okay. Do you know who was responsible
22 for making that figure \$8 million versus 12 or 27

1 or a hundred or who crafted it to be 8 million?

2 A. I don't know who exactly came up with
3 the \$8 million figure.

4 Q. Okay. Do you know what figure Chief
5 Chambers requested as being the amount she
6 actually needed to perform her duties during the
7 internal budget deliberations, some of which you
8 attended?

9 A. I did not attend budget deliberation
10 meetings.

11 Q. Okay. For future budgets, you did not?

12 A. Right.

13 Q. Okay. You did attend the meeting where
14 Ms. Chambers identified a shortfall?

15 A. Yes. Yes.

16 Q. Okay. All right. Do you know, sitting
17 here today, what total amount of money Ms.
18 Chambers believed was necessary to perform her
19 duties considering the shortfall for 2004, the
20 additional funds she expected to need for 2000,
21 for fiscal year '05, including the aging
22 helicopter she wished to be replaced?

1 Do you know what that total figure would
2 be?

3 A. Not including helicopters, no.

4 Q. Okay. If you would look back at The
5 Washington Post article for a moment to the third
6 page near the top, the second paragraph, I
7 believe you'll see three different numbers
8 referenced and attributed to Ms. Chambers not in
9 quotations -- a \$12 million figure regarding a
10 shortfall, an \$8 million figure for next year,
11 and a \$7 million figure for an aging helicopter.

12 Do you see those three numbers?

13 A. Yes.

14 Q. And if you add those up, would that be
15 \$27 million?

16 A. Yes.

17 Q. Just as a matter simple mathematics,
18 okay.

19 Now part of this paragraph is reflected
20 in Mr. Wright's affidavit.

21 If you would look to Mr. Wright's
22 affidavit or declaration, you'll see the fourth

1 quote in quotation marks, and apparently he is
2 quoting The Washington Post and not, give him the
3 benefit of the doubt, not quoting Ms. Chambers,
4 because The Post article does not use quotes
5 regarding this particular material.

6 I think you'll agree with me on that.

7 Would you?

8 A. Well, as I indicated, I have not -- this
9 is not the copy of the article I recall.

10 I'll concede that.

11 Q. Well, your counsel is welcome to object
12 if they believe that it's an inaccurate copy of
13 the article.

14 A. I'll concede that those aren't in
15 quotes.

16 Q. Okay. Thank you. So Mr. Wright has
17 quoted partially from that paragraph, and he says
18 she said she has to cover a 12 million shortfall
19 for this year, and has asked for 8 million more
20 for next year.

21 Is it fair to say that the fact that Mr.
22 Wright quoted that part of the paragraph and left

1 out the reference to 7 million was either his
2 decision or someone else's decision and not
3 yours.

4 A. My interest was in knowing whether or
5 not Teresa Chambers revealed budget figures that
6 were in negotiation with OMB at the time while
7 the President's budget was in development, and
8 Mr. Wright's inquiry goes to exactly what I
9 wanted answered.

10 The \$7 million pertaining to helicopters
11 was not an issue.

12 It says in the article she would like.

13 Q. Right.

14 A. All park managers, all managers of any
15 agency have likes.

16 Those are not necessarily part of budget
17 proposals that are being negotiated within the
18 Executive Branch.

19 Q. So the answer to my question is what?

20 A. Ask your question again.

21 Q. The question is the fact that this
22 declaration by Mr. Wright speaks to two of the

1 three figures noted in The Post but not the
2 third, doesn't mention the 7 million, is the fact
3 that his affidavit speaks to those two and not
4 the third figure, was that his decision, was it
5 your decision, or was it someone else's?

6 A. I believe Mr. Wright's inquiry answered
7 the question I asked to be answered, so I guess I
8 would say that that was my question.

9 Q. Okay. So you didn't I take it ask any
10 inquiry to be made about the \$7 million figure
11 yourself?

12 A. No.

13 Q. Was it important to you to determine, in
14 your role as the deciding official to know how
15 Ms. Chambers came to talk about these three
16 figures in The Washington Post, in other words,
17 what was she asked by the reporter, and what did
18 she say?

19 A. No.

20 Q. Okay. So you didn't ask Mr. Wright or
21 anyone in the media office to determine -- for
22 example, since you'll notice in The Post article

1 this discussion is not in quotations, so it's not
2 offered to be a precise quote of Ms. Chambers.

3 You didn't ask, for example, the media
4 office to determine whether the reporter might
5 have asked Ms. Chambers how much money do you
6 need to perform your job?

7 That was not part of your inquiry?

8 A. No.

9 Q. Okay. And do you know sitting here
10 today whether Mr. Fahrenthold might have asked
11 Ms. Chambers what do you need, and in response,
12 Ms. Chambers says I need this, this, and this?

13 A. No.

14 Q. Okay. Do you know whether Ms. Chambers
15 told The Washington Post reporter that the total
16 amount of money she needed was \$27 million?

17 A. No.

18 Q. Okay. As far as you're concerned,
19 that's irrelevant to your inquiry?

20 A. Yes.

21 Q. Okay. If you'll look at The Washington
22 Post article, the second paragraph on the last

1 page, do you see the word OMB there anywhere,
2 Office of Management and Budget?

3 A. No.

4 Q. No. Do you see the Department of
5 Interior budget office referenced there anywhere?

6 A. No.

7 Q. No. Do you see any reference to
8 anyone's budget document in that paragraph?

9 A. Using those specific words, no.

10 Q. Okay. Now did you ask the media office
11 to inquire whether the paraphrase here that says
12 Ms. Chambers asked for 8 million more for next
13 year was an accurate paraphrase?

14 It is obviously not in quotations.

15 A. Yes.

16 Q. Okay. And did you ever talk to Mr.
17 Wright about his conversation with Mr.
18 Fahrenthold?

19 A. No.

20 Q. Okay. You accepted his declaration
21 without any additional clarification?

22 A. Yes.

1 Q. Did you ever notify Ms. Chambers that
2 you obtained this affidavit from Mr. Wright?

3 A. No.

4 Q. So you I take it did not invite Ms.
5 Chambers to respond to it?

6 A. No.

7 Q. Mr. Wright's affidavit?

8 A. No.

9 Q. No. Okay. All right. Now going back
10 to Mr. Wright's affidavit, he has got four things
11 in quotations there.

12 The first one in item 2, "Chambers said
13 traffic accidents have increased on the
14 Baltimore-Washington Parkway, which now often
15 that two officers on patrol instead of the
16 recommended four."

17 That doesn't seem to be talking about
18 budget, does it?

19 A. No.

20 Q. Okay. Is it your recollection that you
21 asked that specific quotation to be inquired
22 into?

1 A. Yes.

2 Q. Okay. And why was that?

3 A. Because it speaks to staffing levels
4 that should not be disclosed by a chief of any
5 police department.

6 Q. Staffing levels?

7 A. Staffing levels, patrols, that
8 information that might be useful to bad guys.

9 Q. So how broad is that restriction, in
10 your understanding?

11 What can you not disclose regarding
12 staffing?

13 A. Well, there's obviously a certain amount
14 of judgment involved, but generally speaking, you
15 don't disclose information that would make it
16 easier for bad guys to plan their activities if
17 it's not necessary to do so.

18 Q. Easier for bad guys, is there a
19 regulation, policy document or procedure that
20 references not disclosing information that might
21 make it's easy for bad guys to do something?

22 A. No.

1 Q. Okay. Did you review a specific
2 regulation or law that caused you to have this
3 particular quotation inquired into?

4 A. No.

5 Q. Okay. Did you review any specific
6 policy document that caused you to have this
7 particular quotation to be inquired into?

8 A. No.

9 Q. Okay. Is there a document that you have
10 seen that Ms. Chambers would have seen that would
11 specifically prohibit discussing matters such as
12 two officers on patrol instead of the recommended
13 four?

14 A. No.

15 Q. Okay. Is there a document that you
16 reviewed that documented that Ms. Chambers had
17 been instructed verbally to not disclose
18 information regarding staffing of the nature of
19 two officers on patrol instead of the recommended
20 four?

21 A. No.

22 Q. Okay. Do you think Ms. Chambers making

1 this particular statement in and of itself would
2 be a basis for her removal?

3 Just this one statement we're talking
4 about at the moment.

5 A. Probably not.

6 Q. Okay. That first statement, if you
7 would look to find it in The Washington Post
8 article, and I think you still have it in front
9 of you?

10 A. Um-hm.

11 Q. Can you tell me whether that particular
12 statement was in quotations in The Washington
13 Post article?

14 And I can help you by looking at the
15 first page, the second paragraph.

16 A. It does not appear to be in quotes in
17 this version.

18 Q. Okay. Now the second statement on Mr.
19 Wright's declaration, "It's fair to say where
20 it's green, it belongs to us...Well, there's not
21 enough of us to go around to protect those green
22 spaces anymore."

1 I believe you will find that in
2 quotations in The Washington Post article in the
3 third paragraph on the first page.

4 Do you see that?

5 A. Yes.

6 Q. Okay. Did you specifically ask for that
7 particular quotation to be inquired into?

8 A. Yes.

9 Q. And why was that?

10 A. Because it went to the issue of all the
11 discussions about how to meet the shortfall that
12 had occurred, and many times, the discussions
13 were the need as recommended by the NAPA study to
14 more narrowly focus the activities of the U.S.
15 Park Police to be confined to its core mission
16 critical activities, and --

17 Q. Okay.

18 A. This protecting every green space in the
19 District, which are also the jurisdiction of the
20 Metropolitan Police Department, was discussed
21 many times as not being a core mission of the
22 U.S. Park Police.

1 Q. Now I understand your reference to
2 discussions, and I believe you told me you never
3 saw a mission statement, completed mission
4 statement for the Park Police, is that correct?

5 A. No, I don't believe I did.

6 Q. You don't believe you saw one?

7 A. Yeah.

8 Q. Okay. So are you saying that an
9 official determination was made as to what was
10 within the mission of the Park Police and what
11 fell outside of it as of December 2nd, 2003?

12 A. No.

13 Q. Okay. So are you saying that Ms.
14 Chambers was being disciplined in her removal in
15 part because she allowed activities to be
16 conducted by Park Police staff that fell outside
17 their mission?

18 A. No.

19 Q. Are you saying that you inquired into
20 matters such as this second quotation as part of
21 your inquiry even though it had nothing to do
22 with the basis for her removal?

1 A. I would not say that, no.

2 Q. Okay. You did have inquired into you
3 said?

4 A. Yes.

5 Q. And explaining why, you said it was
6 related to NAPA and the mission of the Park
7 Police and the scope of that mission.

8 Did I hear you correctly?

9 A. Yes.

10 Q. And I believe you'll agree with me that
11 the mission of the Park Police was not at that
12 time officially defined.

13 Are you with me so far?

14 A. No. You asked me if I had actually seen
15 a mission of the Park Police.

16 Q. That's fair.

17 A. I have not.

18 Q. So it was officially defined, but you
19 haven't seen it?

20 A. It was defined to the extent that the
21 NAPA report suggested that the Park Police
22 activities be confined to its core mission

1 critical activities such as securing current
2 monuments, and that -- I don't recall everything
3 it said, but that was certainly a principal duty
4 of the, of the U.S. Park Police was to secure the
5 monuments and protect visitors from harm in the
6 Mall area.

7 Q. Of course, but isn't it true that the
8 NAPA study was really talking about and
9 recommending refining the mission of the Park
10 Police?

11 It was not noting a violation or
12 exceedence of the defined mission, is that fair?

13 A. I don't think I would put it that way,
14 but --

15 Q. Well, are you saying that the NAPA study
16 said here is the official mission of the Park
17 Police written out in document X, approved by the
18 director of the Park Service or the Secretary,
19 and here is what the Park Police are doing, this
20 is a violation of that?

21 Did they say that?

22 A. It was my understanding of the NAPA

1 report that they felt that the Park Police had
2 taken on duties that were outside the mission for
3 which it was established and authorized, and its
4 recommendation was that the Park Police constrain
5 its focus back to those core missions for which
6 it was authorized and established.

7 Q. Did the NAPA study identify a document
8 that officially defined the mission of the Park
9 Police?

10 I'll stop there.

11 A. I don't recall.

12 Q. Did the NAPA study not recommend the
13 National Park Service initiate an effort to
14 define and refine the mission of the Park Police?

15 A. That's not the way I recall it.

16 Q. Okay. So is it your -- well, let me ask
17 you this.

18 Have you made any findings yourself that
19 the United States Park Police, under the
20 direction of Teresa Chambers, had exceeded in its
21 activities its defined mission?

22 Did you make findings of that nature?

1 A. No.

2 Q. Okay. Did you understand that one of
3 the reasons Ms. Chambers was proposed to be
4 removed had to do with the U.S. Park Police under
5 her direction engaging in activities that
6 exceeded its defined mission?

7 A. No.

8 Q. Okay. Take me back to the question I
9 asked you a moment ago.

10 In Mr. Wright's declaration, the second
11 quotation we're talking about -- it's fair to say
12 where it's green, it belongs to us, there's not
13 enough of us to go around to protect those green
14 spaces anymore -- when I asked you did you have
15 that inquired into, you said yes?

16 A. Um-hm. Yes.

17 Q. When I asked you why, you said it was
18 related to NAPA and the mission of the Park
19 Police, and when I asked you if you were
20 inquiring into matters beyond those at issue in
21 the removal of Ms. Chambers, you said you
22 wouldn't say that.

1 So now I'm still confused. Why did you
2 have this matter inquired into?

3 A. Because what I already said, and it also
4 goes to the issue of staffing.

5 It looked to me like a push-back to
6 direct orders to provide appropriate staffing at
7 the monuments.

8 Q. When you say it looked like, what is the
9 it?

10 A. This, this quote.

11 Q. It looked like a push-back did you say?

12 A. Yeah. The general tenor of the article
13 is that, that because the Park Police was
14 required, being required to increase staffing at
15 the monuments, they were not able to
16 appropriately staff these other areas, and the
17 direction to the Park Police and to Teresa
18 Chambers was to staff the monuments according to
19 a recommendation received from the Secret
20 Service, and this looked to me as though there
21 was resistance to that recommendation.

22 Q. To staff the monuments; so what

1 direction is it you're referring to to staff the
2 monuments at a certain level?

3 Do you recall a document or a particular
4 directive?

5 A. There was a document that made
6 recommendations on staffing levels.

7 Q. Okay. And you've seen that?

8 A. Yes.

9 Q. Okay. And I take it -- and you don't
10 need to give me any sensitive details here in
11 answering this question.

12 I'm taking it that that directive was in
13 response to the events of September 11th, 2001,
14 and the need to deal with ongoing threats from
15 terrorist attacks?

16 A. Yes.

17 Q. Is that fair? Okay. Now are you aware
18 of any directive either accompanying the
19 directive you're referring to or later that
20 instructed Chief Chambers to abandon protecting
21 parkways, certain parks, any specific activity,
22 abandon any specific activity in order to

1 properly staff the monuments according to the
2 security directive?

3 A. No.

4 Q. Okay. So you were sort of reading a
5 little between the lines here and thinking maybe
6 the chief is resistant to staffing the monuments
7 according to the directive and wants to continue
8 to use some of those same resources in these
9 other areas?

10 MR. L'HEUREUX: Objection to the form of
11 the question.

12 BY MR. HARRISON:

13 Q. Is that a fair understanding of what
14 you're saying?

15 You can answer.

16 A. Can you say it again for me?

17 Q. I don't know. We'll try. Were you, in
18 looking at this quotation in The Washington Post,
19 and it's a quotation in the affidavit, and it is
20 a quotation in The Post, were you reading between
21 the lines there and thinking this indicates to me
22 that Chief Chambers may be resistant to staffing

1 the monuments at the level required by the
2 security directive and maybe wishing to use some
3 of those resources that should go to protecting
4 the monuments to basically have assigned to these
5 green spaces and other areas?

6 Is that how you're reading that?

7 A. I don't -- I wouldn't put it that way.

8 Q. Okay. Can you be as precise as you can
9 in putting it the way you would put it?

10 A. What this statement went to was, was a
11 resistance on the part of the Park Police to
12 reallocate its resources to fit within the budget
13 shortfall that it had to recoup and to secure the
14 monuments, for which it's primarily responsible.

15 Q. Okay.

16 A. And that budget shortfall goes to the
17 discussions of the budget development later in
18 the article.

19 Q. So why exactly was it you had this
20 inquired into?

21 I understand why you might have a
22 personal interest in it.

1 Why was it inquired into as part of your
2 duties as the deciding official in this case?

3 MR. L'HEUREUX: Objection to the form of
4 the question.

5 Objection to the characterization that
6 he had a personal interest.

7 MR. HARRISON: Understood.

8 BY MR. HARRISON:

9 Q. You may answer.

10 A. I wanted to know if she said that.

11 Q. And why was it, why did you want to know
12 that in your duties as deciding official in this
13 case?

14 A. Because I thought it went to her
15 thinking in terms of why she was making these
16 statements in public.

17 Q. Okay. Which statements were you wanting
18 to know why she was making them?

19 A. I didn't know, want to know why she was
20 making them.

21 Q. I must have misunderstood your answer.
22 I thought you just said that you made this

1 inquiry in the second quotation because it went
2 to her reasons or motivations for making the
3 statements she made.

4 A. So I wanted to confirm that she said it.
5 That's why I --

6 Q. Wanted to confirm that she said what?

7 A. It's fair to say where it's green,
8 yadda, yadda, yadda.

9 Q. And why does that matter to anything to
10 do with your inquiry?

11 A. I already answered that.

12 Q. Well, I thought your answer was because
13 it gave you insight into her reasons for making
14 other statements.

15 Did I mishear you?

16 A. No. What it did was is it, it lent
17 support to the fact that she was not accepting
18 that she needed to pare down the activities of
19 the U.S. Park Police, that she needed to address
20 a \$12 million shortfall, and that she was not
21 going to get the \$8 million that they had asked
22 for.

1 Q. And let's say it did mean those things.
2 Why does that matter to your inquiry in the
3 removal decision?

4 A. Because she, it matters because it helps
5 support the argument that she disclosed budget
6 figures that were in play being as part of the
7 development of the President's '05 budget.

8 Q. You're saying it gives her a motive to
9 make a disclosure?

10 Is that what you're saying?

11 A. I think it's, what it does is it
12 supports the fact that she did not support the
13 way the budget development was going.

14 Q. Um-hm. So let's assume for the moment
15 that Ms. Chambers had made statements to The
16 Washington Post because she believed that the way
17 the budget process was going in the moment was
18 going to leave the U.S. Park Police with
19 insufficient resources to simultaneously protect
20 the national monuments and the public on the
21 parkways and the parks.

22 Let's say she believed that's the way

1 that budget process was going, and she made a
2 disclosure to The Washington Post saying we need
3 more money in order to avoid these dangers from
4 terrorism or from traffic accidents or from crime
5 in the parks.

6 Did you, would you consider that to be
7 some sort of breach of protocol, procedure?

8 A. No.

9 Q. No. Okay. So this quotation, the
10 second one here in Mr. Wright's affidavit is not
11 in and of itself a violation of any protocol or
12 procedure, in your view?

13 A. No.

14 Q. Okay. And Ms. Chambers wasn't in any
15 way, in your view, subject to removal because of
16 it?

17 A. No.

18 Q. All right. Do you believe that Ms.
19 Chambers was removed either based on your
20 decision or based on the proposal by Mr. Murphy
21 in whole or in part because of the way Ms.
22 Chambers dealt with the budget deficit or

1 shortfall?

2 A. No.

3 Q. Okay. Do you believe that Ms. Chambers
4 was removed in whole or in part either based on
5 your decision or Mr. Murphy's proposal because of
6 any expression on her part of what she needed
7 resource-wise to protect the public or the
8 monuments?

9 A. No, not per se.

10 Q. Not per se, okay. Do you believe that
11 Chief Chambers would have a, a right to tell the
12 public if she believed more resources were needed
13 to protect the public?

14 A. Within certain boundaries, yes.

15 Q. Okay. And can you, as precisely as you
16 can, define what those boundaries are in your
17 view?

18 A. Yes. You do not disclose budget figures
19 that are being negotiated in development of the
20 President's budget, and you do not disclose
21 information that's classified and would otherwise
22 aid and abet terrorists in potentially damaging

1 our national icons.

2 Q. What classified information, if any, was
3 disclosed by Ms. Chambers?

4 A. The staffing level at the monuments.

5 Q. All right. And do you still have The
6 Washington Post article in front of you?

7 A. Yes.

8 Q. And could you tell us which information
9 in that article fits the description of
10 classified information regarding staffing of the
11 monuments?

12 A. I'm going to go to the, the quote here
13 in the declaration of John Wright.

14 It says, "The Park Police's new force of
15 20 unarmed security guards will begin serving
16 around the monuments in the next few weeks,
17 Chambers said. She said she eventually hopes to
18 have a combination of two guards and two officers
19 at the monuments."

20 Q. Um-hm. Is that the extent of it?

21 (The witness reviewed the document.)

22 BY MR. HARRISON:

1 Q. I take it you're reviewing The Post
2 article?

3 A. Yes.

4 Q. Okay.

5 (The witness reviewed the document.)

6 THE WITNESS: No, that's not the extent
7 of it.

8 BY MR. HARRISON:

9 Q. Okay. What else?

10 A. The top of page 2, it says that "The
11 Park Police said this spring, after a survey by
12 the U.S. Secret Service and endorsed by the
13 Department of Homeland Security, the Department
14 of the interior adopted rules acquiring four
15 officers to be posted at all times outside the
16 Washington Monument and the Lincoln and Jefferson
17 Memorials. Previously, the Washington Monument
18 had one or two officers stationed, and the two
19 memorials had one each."

20 Q. Okay. Thank you.

21 A. I'm still reading it.

22 Q. Take your time.

1 (The witness reviewed the document.)

2 THE WITNESS: I believe the third
3 paragraph on that page is germane to that
4 discussion.

5 BY MR. HARRISON:

6 Q. On the second page?

7 A. Yes.

8 Q. What is that?

9 A. "A Homeland Security spokesman said
10 yesterday that he was aware of the Secret Service
11 survey but had no further information about its
12 findings."

13 Q. Okay. Got that. Anything else?

14 A. I'm still reading. I'm a slow reader.

15 Q. Take your time. We're not in a hurry.

16 (The witness reviewed the document.)

17 THE WITNESS: The fifth paragraph says
18 in many cases, police said, more officers on
19 the -- never mind. Scratch that.

20 MR. HARRISON: Scratch that?

21 (The witness reviewed the document.)

22 THE WITNESS: Bottom of that page is the

1 quote I earlier referred to.

2 MR. HARRISON: Yes, it is.

3 (The witness reviewed the document.)

4 THE WITNESS: The paragraph at the top
5 of page 3, "Those such guards have worked inside
6 the Washington Monument and the White House
7 Visitor Center, Chambers said they had not
8 previously been used outside monuments in place
9 of a police officer," characterizing the type of
10 security provided at the monuments.

11 (The witness reviewed the document.)

12 THE WITNESS: Then the second to the
13 last paragraph, "In recent weeks, the Park Police
14 administration and the force's union have said
15 they fear that the stationery posts on the Mall
16 have hurt anti-terrorism efforts, because fewer
17 officers are able to patrol the area. Chambers
18 said that she does not disagree with having four
19 officers outside the monuments but that she would
20 also want to have officers in plainclothes or
21 able to patrol rather than simply standing guard
22 in uniform."

1 BY MR. HARRISON:

2 Q. Okay. Does that exhaust the list?

3 A. Pertaining to staffing and the icons,
4 yes.

5 Q. Thank you. We're just doing one at a
6 time.

7 Now looking at those paragraphs in
8 particular, I'm just going to take them in the
9 sequence they occur in the article.

10 The first one that occurs in the article
11 you mentioned is at the top of page 2, and I
12 would like you to tell me the exact words in that
13 paragraph that you believe are of this classified
14 nature regarding staffing that concern you.

15 I assume not every word is offensive, so
16 which part is the sensitive information, or
17 classified?

18 A. The part that says that the Department
19 of the Interior adopted rules requiring four
20 officers to be posted at all times outside the
21 Washington Monument and the Lincoln and Jefferson
22 Memorials.

1 Q. Okay. So it's the specifics of the four
2 officers being posted?

3 A. Yes.

4 Q. Okay. And then the next paragraph you
5 mention was two paragraphs down, which is the
6 third paragraph on page 2.

7 Is there any specific language there
8 that you find to violate the prescription on
9 classified information regarding staffing?

10 A. The reason that I highlighted that
11 paragraph is is I think it speaks to the fact
12 that the Homeland Security spokesman knew better
13 than to talk about staffing levels to a reporter.

14 Q. It's not an offending paragraph per se?

15 A. Right.

16 Q. Okay. It doesn't, as far as you know,
17 establish or specify a rule or policy or
18 procedure?

19 You're just noting that someone else is
20 engaging in a different practice?

21 A. Yes.

22 Q. Okay. The next paragraph that you noted

1 would be at the bottom of the second page, and
2 that was the one noted in the declaration of John
3 Wright?

4 A. Um-hm.

5 Q. Which specific language do you find to
6 be the offending language there?

7 A. The whole paragraph.

8 Q. Okay. The next paragraph you mentioned
9 was near the bottom of page 3 I believe.

10 No. Hang on. The top of page 3, and
11 what language in that first paragraph at the top
12 of page 3 would be the offending language?

13 A. The whole paragraph.

14 Q. Okay. And the last paragraph you
15 mentioned was the next to last paragraph on page
16 3. Starts out in recent weeks.

17 Is there any particular language you
18 find to be the offending language in that
19 paragraph?

20 A. I guess not with respect to disclosure
21 of information that was inappropriate to
22 disclose, no.

1 Q. Okay. Okay. Looking to the second page
2 and the top paragraph that we had just mentioned,
3 the language that concerns you there was the
4 Department of the Interior adopted rules
5 requiring four officers to be posted at all times
6 outside the Washington Monument and the Lincoln
7 and Jefferson Memorials.

8 Who is it to your personal knowledge who
9 made that particular statement to The Washington
10 Post as published in this article?

11 Who gave that information to The Post?

12 A. I don't know. It's attributed to Park
13 Police.

14 Q. Okay. Did you ask Mr. Wright or the
15 media office to find out who had said that?

16 A. No.

17 Q. Okay. Do you believe it was Ms.
18 Chambers?

19 A. I had no reason to.

20 Q. Okay. Did you take any action or did
21 the National Park Service take any action against
22 any person other than Ms. Chambers for statements

1 in this article?

2 A. No.

3 Q. Okay. Are you aware of any action that
4 has been proposed against any other official or
5 staff member for statements in this article other
6 than Ms. Chambers?

7 A. No.

8 Q. Have you seen a document that either
9 specifically refers to this particular statement
10 or a category of information within which this
11 statement would fall that declares this
12 information to be quote, quote, classified?

13 A. Yes.

14 Q. And what document is that?

15 A. The Secret Service report.

16 Q. The Secret Service report; could you be
17 a little more specific about the title, date,
18 author?

19 What report are we talking about?

20 A. I don't recall the title, date, author
21 other than it being the United States Secret
22 Service.

1 Q. Okay. Was the purpose of that report to
2 classify information as anything classified
3 secret sensitive?

4 A. My recollection was that law enforcement
5 sensitive.

6 Q. Well, what was the purpose of that
7 report?

8 A. To make recommendations about the
9 staffing needs at the Washington Monument,
10 Jefferson Memorial, and Lincoln Memorial.

11 Q. Okay. And you read the entire report
12 yourself?

13 A. Some time ago, yes.

14 Q. Okay. When did you read it?

15 A. I don't recall.

16 Q. Okay. Prior to December 2nd, 2003?

17 A. Yes.

18 Q. So you read this document prior to your
19 become the deciding official in this case?

20 A. Yes.

21 Q. Okay. Is it that document on which you
22 rely for your conclusion as the deciding official

1 in this case that Ms. Chambers' statements to The
2 Washington Post were classified?

3 A. Would you say that again for me?

4 Q. I would. Is it that document, and by
5 that document, I mean this Secret Service report
6 that you have not otherwise specifically
7 identified, but was making, as I understand it,
8 recommendation regarding staffing at the icons?

9 Is that, did I understand that
10 correctly?

11 A. I'm sorry.

12 Q. I'm sorry. We'll back up. The Secret
13 Service report, let's start with that.

14 What did it make recommendations
15 regarding?

16 A. Staffing at the Lincoln Memorial,
17 Jefferson, Lincoln, yeah, Jefferson Memorial and
18 Washington Monument.

19 Q. Just those two?

20 A. Three.

21 Q. Three?

22 A. Jefferson, Lincoln, and the Washington.

1 Q. And they're considered icons, if I
2 understand the term correctly?

3 A. Yes.

4 Q. Okay. All right. Now that particular
5 document that you have read some time in the past
6 before you became a deciding official in this
7 case, is that the document on which you relied
8 for determining that Ms. Chambers' statements to
9 The Washington Post were, quote, classified,
10 unquote?

11 A. That's the document on which I say that
12 her statements were disclosing classified
13 information that was not part of the decision
14 because that was not part of the proposal to
15 remove.

16 Q. What was not part of the proposal to
17 remove?

18 A. That she disclosed classified
19 information.

20 Q. I see. Okay. So the classified concept
21 is just something coming from you personally, not
22 from the proposal to remove?

1 A. It reinforced that she disclosed
2 sensitive security information.

3 Q. Okay. So is it fair to say that when
4 you served in your role as a deciding official in
5 this case, Teresa Chambers, reviewing the
6 statements in The Washington Post by Ms.
7 Chambers, that you believed that some of those
8 statements were revealing classified information
9 based on your reading of the Secret Service
10 report?

11 A. I'm not sure I track that question.

12 Q. Try it one more time. When you received
13 your role as the deciding official in this case,
14 and you reviewed Ms. Chambers' statements in The
15 Washington Post, did you believe at that time
16 that some of Ms. Chambers' statements to The Post
17 revealed classified information based on your
18 reading of the Secret Service report?

19 A. Yes.

20 Q. How would you define the issue raised in
21 the proposed removal and that was put before you
22 in regard to Ms. Chambers' disclosure to The

1 Washington Post -- for the moment, we'll put
2 aside the budget issues, but on what might be
3 called security-related information, what, if
4 it's not classified information, how would you
5 define that issue?

6 A. Sensitive information.

7 Q. Okay.

8 A. Sensitive security information.

9 Q. Sensitive security information?

10 A. Um-hm.

11 Q. Okay. Not law enforcement sensitive,
12 but security sensitive?

13 A. Sensitive, small letter S.

14 Q. Not as a term of art?

15 A. Right.

16 Q. Okay. How did you define the word
17 sensitive in performing your task in this case?

18 A. As disclosing information that should
19 not otherwise be revealed publicly because it
20 poses additional risk to those icons and the
21 visitors who visit those icons.

22 Q. That was your working definition?

1 A. Yes.

2 Q. Okay. Is that in writing anywhere that
3 I could go and look at?

4 A. No.

5 Q. Okay. Were you given that definition by
6 any agency official to use in performing your
7 duties?

8 A. No.

9 Q. Do you know if Ms. Chambers has ever
10 been given that definition by anyone of sensitive
11 information?

12 A. I don't know what Ms. Chambers has ever
13 been given.

14 Q. That's my question.

15 A. No.

16 Q. Okay. Is that definition to be found in
17 any law that you're aware of?

18 A. Not that I'm aware of.

19 Q. Okay. So there is no law that states
20 that definition you're aware of, there is no
21 document that you can point me to, and no
22 official of the agency gave it to you, so

1 basically it was your own adoption I take it?

2 A. It seemed to me to be fairly basic
3 common sense.

4 Q. Which is why you adopted it?

5 A. Yes.

6 Q. Okay. Was it important to you in
7 deciding whether or not to sustain the proposed
8 removal of Ms. Chambers to ensure that Ms.
9 Chambers had been given what we informally call
10 due process, that she had been put on notice of
11 what her the expectations were for her and given
12 a fair chance to comply?

13 A. It is my assumption that anybody who
14 assumes the role of chief of the U.S. Park Police
15 would know full well that you do not disclose
16 staffing and security information because it
17 could potentially endanger national icons or
18 their visitors.

19 Q. Could you now answer my question?

20 A. Ask your question again.

21 Q. You don't remember it?

22 A. No.

1 Q. Okay. My question was was it important
2 to you in performing your role in deciding
3 whether or not to sustain the proposed removal to
4 be sure that Ms. Chambers had been given what we
5 informally call due process, fair notice of the
6 expectations placed upon her and a chance to
7 comply?

8 A. I was asked to decide whether or not
9 based on her actions, whether she had committed
10 the charges brought before her and whether those
11 charges warranted her removal.

12 Q. Beyond that, there was no due process
13 consideration?

14 A. Well, there was, I believe there was a
15 due process.

16 The due process is she was given the
17 proposal to remove.

18 She was entitled and given an
19 opportunity, including an extension, to reply.

20 She was given an opportunity to oral
21 reply, which she declined, and I took into
22 account all of that information.

1 That to me is due process.

2 Q. Okay. You don't include in your concept
3 of due process that an employee be given a notice
4 of what she is expected to comply with before she
5 is charged with violating the requirement, do
6 you?

7 Is that within your concept?

8 A. I find it inconceivable that the chief
9 of the U.S. Park Police does not know.

10 Q. That's not my question. Answer my
11 question.

12 A. Your question is beyond me. Ask it
13 again.

14 Q. Is it within your concept of due process
15 that before an employee, whether it be yourself
16 or anyone else in your agency, is charged with a
17 violation of a particular requirement that they
18 be put on notice of what the requirement is?

19 MR. L'HEUREUX: Objection -- relevance.
20 You can answer the question.

21 THE WITNESS: Yes, I would think that
22 she would know, have been informed not to

1 disclose sensitive information.

2 BY MR. HARRISON:

3 Q. Do you believe that it is within the
4 concept of the due process that an employee has a
5 right to be noticed of a, of the requirements
6 that they are expected to comply with before
7 they're charged with a violation of those
8 requirements?

9 MR. L'HEUREUX: Same objection.

10 THE WITNESS: Yeah, and I don't
11 understand what you mean by noticed.

12 BY MR. HARRISON:

13 Q. I can help you with that. Let's say
14 that tomorrow, you're charged with not being at
15 work on time, and the charge said you didn't
16 arrive at 5:00 a.m., and you never had been told
17 that the report time was 5:00 a.m., and you had
18 been reporting at six or seven or eight and
19 thought that was perfectly fine.

20 Do you believe you would have a right to
21 know that the report time was 5:00 a.m. before
22 you would be charged with not reporting to work

1 on time?

2 A. Yes.

3 Q. Okay. Now that's the same concept I'm
4 using here.

5 If an employee is to be charged with
6 revealing classified information or sensitive
7 information or anything else, budget information,
8 is it within your understanding of due process
9 they should be noticed in advance of what the
10 expectations are that they are to comply with
11 before they get charged with a violation of those
12 expectations?

13 A. Yes.

14 Q. Thank you. Did you make an inquiry
15 during your investigation of this case to
16 determine precisely what notice Ms. Chambers had
17 been given regarding what was expected of her in
18 terms of release of information regarding
19 staffing at monuments?

20 A. No.

21 Q. Okay. Did you make an inquiry as part
22 of your investigation to determine what notice

1 Ms. Chambers had been given regarding disclosure
2 of budget-related information?

3 A. Yes.

4 Q. What was the nature of that inquiry?

5 A. I asked Bruce Sheaffer, Don Murphy, and
6 Fran Mainella if Teresa Chambers had been advised
7 of her obligation under the OMB circular not to
8 disclose budget information while the President's
9 budget is in development, and all three confirmed
10 that she was at meetings where that information
11 was provided to all the attendees, at a minimum.

12 Q. They confirmed she was never shown a
13 circular, didn't they?

14 A. I believe that's true, yes.

15 Q. Okay. Did you receive any sort of
16 transcript or minutes of any meeting in which Mr.
17 Murphy, Ms. Mainella, or Mr. Sheaffer relied in
18 stating that they had noticed Ms. Chambers of the
19 expectations regarding disclosure of budget
20 information?

21 A. No.

22 Q. Okay. Is it fair to say that you relied

1 on essentially their testimony in regard to what
2 Ms. Chambers had been told?

3 A. Yes.

4 Q. Now I was earlier going, going to show
5 you Ms. Chambers' reply, which we have
6 photocopied for that purpose in order to
7 determine which quotations in The Washington Post
8 she had challenged in her reply because you had
9 told me that those were the ones that you had
10 focused on in charging the media office to
11 inquire with The Washington Post about certain
12 quotations and not others.

13 I believe, and correct me if I'm wrong,
14 that I no longer need to do that because your
15 current position is that the charge to the media
16 office was not limited to just inquiring into
17 those quotations related to what Ms. Chambers
18 challenged in her reply.

19 Am I correct at the moment?

20 A. Yes.

21 Q. Okay. When did you first learn that Ms.
22 Chambers had been put on administrative leave?

1 A. I don't recall.

2 Q. Had you learned it prior to the time of
3 your being appointed as the deciding official?

4 A. Yes.

5 Q. Okay. Do you know who would have
6 communicated that to you?

7 A. I don't recall.

8 Q. And I take it you don't recall how you
9 learned it?

10 A. No.

11 Q. Okay. Did you provide any input into
12 deliberations as to any action taken against Ms.
13 Chambers prior to your becoming the deciding
14 official?

15 A. No.

16 Q. Okay. Did you ever discuss Ms. Chambers
17 with Mr. Murphy other than your interview of him?

18 A. When?

19 Q. Any time ever.

20 A. Yes.

21 Q. Okay. When was that?

22 A. Well, we had discussions on or around

1 the time we were having the meetings to discuss
2 how to adjust to the shortfall and address the
3 recommendations of the NAPA report.

4 Q. Um-hm. And so you discussed Ms.
5 Chambers with Mr. Murphy in that context?

6 A. Yes.

7 Q. Okay. What was the reason Ms. Chambers
8 came up specifically in those discussions?

9 A. It was my impression that Ms. Chambers
10 was resistant to implementing the recommendations
11 of the NAPA report, and resistant to making any
12 adjustments in the U.S. Park Police operations in
13 order to accommodate the budget shortfall.

14 Q. Okay. What was Mr. Murphy's impression
15 in that regard, if you know?

16 A. He more or less concurred.

17 Q. Okay. And you discussed that with him?

18 A. Yes.

19 Q. Okay. Did you discuss what to do about
20 it?

21 A. No.

22 Q. Okay. Is it fair to say that you and

1 Mr. Murphy wished that the chief to take a
2 different course in that regard?

3 A. Yes.

4 Q. Did you communicate that to the chief?

5 A. Yes.

6 Q. And do you recall when you did that?

7 A. During those meetings.

8 Q. Okay. Do you recall what you might have
9 said in that regard?

10 A. We continually --

11 Q. I mean you specifically.

12 A. Yes. I said on numerous occasions that
13 the fact of the case, the facts of the incidents
14 are that you have a \$12 million shortfall in FY
15 '04, and you're going to have to address that
16 through reducing some of the activities of the
17 Park Police because we could not see any other
18 way to, to meet that need.

19 Q. Okay.

20 A. And that that required looking at what
21 activities are mission critical and which ones
22 are being appropriately covered by other law

1 enforcement entities and therefore not necessary
2 for the U.S. Park Police to carry out.

3 Q. Okay. And you were talking about fiscal
4 year '04 at that point?

5 A. Yes.

6 Q. Okay. So is it fair to say that you and
7 Mr. Murphy were directing or recommending, and I
8 don't know which, you can tell me, service
9 cutbacks in the U.S. Park Police?

10 A. We were recommending at that time, but
11 we were still in the information collection
12 stage.

13 Q. When was -- this was in the summer and
14 fall of 2003?

15 A. Yes.

16 Q. Okay. Who would have the authority to
17 decide and approve to cut back a particular Park
18 Police service?

19 A. Well, certainly Teresa Chambers.

20 Q. No one higher than the chief would have
21 to approve a service cutback?

22 A. I would think as a matter of protocol

1 that she would do that with the concurrence of
2 her immediate supervisor, Don Murphy.

3 Q. Okay. Could the chief do it even if --
4 let's say she notified Mr. Murphy as a matter of
5 protocol, and Mr. Murphy said I don't want to do
6 that.

7 Could the chief go ahead and do it,
8 service cutback?

9 A. I don't know.

10 Q. Okay. Mr. Murphy being the chief's
11 superior -- well, let me just ask you is Mr.
12 Murphy the chief's superior?

13 A. Yes.

14 Q. Okay. So if Mr. Murphy wanted a service
15 cutback to live within a budget, he could direct
16 it if he chose?

17 A. Yes.

18 Q. Okay. Did Mr. Murphy direct service
19 cutbacks?

20 A. Not that I'm aware of.

21 Q. If Ms. Chambers as the chief decided to
22 deal with a budget shortfall by removing the Park

1 Police from say the Wolf Trap facility and
2 cancelling 4th of July activities, would she have
3 the authority to do that on her own?

4 A. I don't know exactly where her
5 authorities lied.

6 It's clear that some decisions, it would
7 be prudent to get concurrence from the higher
8 authority, and in other cases, decisions are,
9 pretty clearly would rest within the chief.

10 Q. I take it from your answer you're not
11 able to tell me which decisions she can make and
12 which ones a higher authority should make?

13 A. Right.

14 Q. Okay. Do you recall the NAPA
15 recommendations, including a recommendation that
16 the Park Police, U.S. Park Police should
17 essentially withdraw from services in New York
18 and San Francisco?

19 A. Yes.

20 Q. Okay. Has the U.S. Park Police
21 withdrawn from services in New York and San
22 Francisco?

1 A. No.

2 Q. Has anyone, since Ms. Chambers' absence,
3 has anyone been fired or disciplined for failing
4 to withdraw the U.S. Park Police from New York
5 and San Francisco?

6 A. No.

7 Q. The budget submission -- excuse me just
8 a moment.

9 (There was a pause in the proceedings.)

10 BY MR. HARRISON:

11 Q. Do you know whether the U.S. Park Police
12 in their budget submission to the National Park
13 Service requested money for a new replacement
14 helicopter?

15 A. I don't know that.

16 Q. Okay. Did you ever review the budget
17 submissions from the U.S. Park Police to the
18 National Park Service?

19 A. No.

20 Q. Okay. Did you review the budget
21 submissions from the National Park Service to the
22 Department of Interior?

1 We're talking for this year '05 in these
2 cases.

3 A. No.

4 Q. Did you review the budget submission for
5 fiscal year '05 from the Department of Interior
6 to the Office of Management and Budget?

7 A. Yes.

8 Q. Did you review --

9 A. Yeah. Yes. I'm sorry.

10 Q. You did?

11 A. Yeah.

12 Q. And when did you do that?

13 A. The Park Service produces what's called
14 a green book, which is budget justifications, and
15 that's, that's delivered to me when we submit our
16 budget to -- actually I may be, I may be off in
17 the process, but I believe that's when the
18 Department of the Interior budget goes to OMB.

19 Q. Okay. Whatever you reviewed, it was
20 this thing called the green book?

21 A. Yes.

22 Q. And you did that I take it in your role,

1 in your normal job role, not in your function as
2 the deciding official in this case?

3 A. Oh, yes. Right.

4 Q. Is that correct?

5 A. Yes.

6 Q. Okay.

7 A. And I would say that the review is
8 cursory.

9 Q. Okay. I appreciate that, too. So at
10 the time, did you make a review specifically to
11 determine what budget numbers were included for
12 the U.S. Park Police in that document?

13 A. No.

14 Q. Okay.

15 A. Actually I believe that the green book
16 is produced after the President's budget is
17 approved.

18 Q. So it really wouldn't have been the
19 submission to OMB? It would be a post?

20 A. Yes. It's what's sent to the Hill.

21 Q. Okay. Now at some point in time, you
22 learned that the amount of money being requested

1 of OMB from the Department of Interior was going
2 to be cut by OMB to a smaller amount, is that
3 correct?

4 A. Yes.

5 Q. And when did you learn that?

6 A. It seemed to me that we received verbal
7 advice of that in early, first couple weeks of
8 November.

9 Q. 2003?

10 A. Yes.

11 Q. Okay. Did you receive a written notice
12 at some point?

13 A. I didn't.

14 Q. You didn't. Do you understand that one,
15 a written notice was sent back from OMB at some
16 point?

17 A. Yes.

18 Q. Is that something called a passback?

19 A. Yes.

20 Q. Okay. You never reviewed that?

21 A. No.

22 Q. Okay. Do you know when Chief Chambers

1 would have first learned that the OMB was going
2 to reduce the amount of the requested increase
3 for the U.S. Park Police?

4 A. My recollection is it was discussed
5 during those regular meetings we were having to,
6 about the shortfall.

7 Q. When was the last of those meetings that
8 you attended?

9 A. Late November, early December.

10 Q. Okay. Are you aware that Ms. Chambers
11 was interviewed by The Washington Post around
12 November 20th of 2003?

13 A. Yes.

14 Q. Okay. And The Post article came out
15 later on December 2nd?

16 A. Yes.

17 Q. Okay. Do you know whether or not Ms.
18 Chambers would have known at the time she spoke
19 with The Washington Post what the OMB's action
20 was going to be on the passback?

21 A. My recollection is yes, that that, those
22 passback numbers were discussed prior to November

1 20th in those meetings.

2 Q. Okay. Are you telling me that you
3 recall specifically a meeting at which Chief
4 Chambers was present and you were present in
5 which it was discussed that OMB was going to
6 reduce the amount of budget increase that was
7 requested by the Department of Interior for the
8 U.S. Park Police?

9 A. Yes.

10 Q. Do you recall which meeting that was?

11 A. No.

12 Q. Would there be minutes of that meeting?

13 A. No.

14 Q. Okay. And I take it -- correct me if
15 I'm mistaken -- that you were working on that
16 assumption and that understanding that Ms.
17 Chambers would have known that the amount of
18 money requested was not going to be granted by
19 OMB when she made her statements to The
20 Washington Post?

21 A. Yes.

22 Q. Okay. And that was the understanding

1 you operated under in making your decision as the
2 deciding official in her case?

3 A. Part of it, yes.

4 Q. I realize there were other things you
5 considered.

6 A. Yes.

7 MR. HARRISON: I need to take a short
8 break if no one would object.

9 (A recess was taken.)

10 MR. HARRISON: Let's go ahead and go
11 back on the record.

12 BY MR. HARRISON:

13 Q. Mr. Hoffman, when did you first begin
14 actively your steps towards deciding this matter
15 of Ms. Chambers?

16 You were appointed I think you said in
17 December?

18 A. Right.

19 Q. When did you first start doing anything
20 on this particular case?

21 A. When we received the reply.

22 Q. Okay. From Ms. Chambers?

1 A. Yes.

2 Q. And the steps you said there you
3 reviewed the reply and read it?

4 A. Yes.

5 Q. Okay. What was the next step that you
6 took?

7 A. Determined who to interview.

8 Q. Okay. And who do you recall having
9 interviewed?

10 A. I guess I just gave a number. I
11 recall --

12 Q. You did.

13 A. Interviewing Don Murphy, Fran Mainella,
14 Bruce Sheaffer, Deborah Weatherly, Steve Griles,
15 Craig Manson, and I think -- well, and by
16 affidavit, David Farenthold and Randy Myers.

17 Q. Okay.

18 A. I believe that's the complete list.

19 Q. All right. Was this list of witnesses
20 suggested to you by someone?

21 A. No.

22 Q. You determined it solely on your own?

1 A. Yeah. It was determined based on the
2 apparent disparities between the proposal to
3 remove and the reply by Teresa Chambers.

4 Q. So you identified the witnesses you
5 wanted to talk to based on those perceived
6 disparities?

7 A. Right.

8 Q. Okay. Now Ms. Weatherly is not an
9 employee of the Department of Interior?
10 She is a Congressional staffer, is that
11 correct?

12 A. Yes.

13 Q. So you have already identified a number
14 of staffers of the Interior Department or the
15 Park Police you did not interview.

16 Why did you go outside the agency to
17 speak with Ms. Weatherly in particular?

18 A. Because there was a clear disparity
19 between what the proposal to remove said that
20 Teresa Chambers conversation with Deborah
21 Weatherly caused, and what Teresa Chambers' reply
22 said that conversation, how she, how Teresa

1 Chambers characterized that conversation.

2 Q. In terms of what was said in the
3 conversation?

4 A. Yeah. Yes. I mean the proposal to
5 remove said that Teresa Chambers' conversation
6 with Deborah Weatherly caused her to have a lack
7 of confidence in the Department of the Interior
8 and the Park Service specifically, and that it
9 caused her great anxiety, and Teresa Chambers'
10 reply said oh, it was a very cordial
11 conversation, and we left chums.

12 Q. You wanted to clarify which version of
13 those two facts was correct?

14 A. Yes.

15 Q. Okay. So I take it it was important to
16 you as the deciding official to know whether or
17 not Ms. Chambers' conversation with Congressional
18 staffer Weatherly caused Ms. Weatherly to have a
19 lack of confidence in the National Park Service?

20 A. Yes.

21 Q. Okay. And it was important to you to
22 determine whether Ms. Chambers' conversation with

1 Ms. Weatherly caused Ms. Weatherly great anxiety?

2 A. Yes.

3 Q. All right. What was your ultimate
4 determination on those two facts?

5 A. That Ms. Weatherly, based on her
6 conversation with Teresa Chambers, had lost
7 confidence in the agency's intentions and
8 abilities to address the recommendations of the
9 NAPA study, and that she was indeed anxious if
10 you will, she was very upset by the conversation.

11 Q. Okay. You found those two facts
12 yourself?

13 A. Yes.

14 Q. And if I were to go to a document to
15 find, to review those fact findings of yours,
16 where would I look to?

17 A. The --

18 Q. July 9th memorandum, ten pages, that
19 discussed the Douglas factors?

20 A. No.

21 Q. No? Where would I go to?

22 A. Well, I would go to the interview I

1 conducted, the transcript of the interview that I
2 conducted with Deborah Weatherly.

3 Q. Okay. In that transcript, you say on
4 the record what your fact findings are?

5 A. No. She speaks to --

6 Q. She gives you information?

7 A. She, she clarifies that what the content
8 of the conversation was, what the tenor of the
9 conversation was, and how she felt about the
10 conversation.

11 Q. Okay. So you have her testimony there,
12 and you have Ms. Chambers' view in her reply?

13 A. Yes.

14 Q. And those two I take it you still
15 perceive to be disparate?

16 They don't match?

17 A. Yes.

18 Q. So you as a deciding official had to
19 find which version of those two facts was
20 correct?

21 A. Yes.

22 Q. And you told me what you found on those

1 two facts that we're talking about, and what I
2 asked you was where can I go to review the
3 content of your fact findings in that regard?

4 A. To the transcripts.

5 Q. And I believe we just clarified that
6 these transcripts give you the view of the
7 witness being deposed, but you do not state on
8 the transcripts what facts you found or why,
9 isn't that fair?

10 A. The facts are in the transcript.

11 Q. In the form of someone's testimony?

12 A. Yes.

13 Q. How do I know that you believe that
14 testimony versus Ms. Chambers' reply on a
15 particular point?

16 A. Well, there were other testimonies of
17 people who had conversations with Deborah
18 Weatherly soon after Teresa Chambers had her
19 conversation with Deborah Weatherly, and they
20 also confirmed that the circumstances articulated
21 in the proposal to remove were much more factual
22 than Teresa Chambers' replies.

1 Q. Let me attempt to make a conceptual
2 distinction for you.

3 I realize you're not a lawyer, right?

4 A. No.

5 Q. So you wouldn't necessarily be trained
6 in this distinction, so this is not a criticism
7 in any manner.

8 I would like you to distinguish
9 conceptually between the content of a decision on
10 a question versus the grounds that you might rely
11 on to make the decision.

12 Do you understand the distinction?

13 A. No. Run that by me again.

14 Q. Yes. Let's say that someone in a
15 scientific inquiry were to attempt to answer a
16 question like is there, are there Indiana Bats in
17 the Hoosier National Forest, and so you
18 eventually decided yes, there were.

19 That would be the content of your
20 decision, but you might have reviewed some
21 netting studies, some anecdotal reports from
22 hikers, things like that -- a number of

1 documents.

2 A. Um-hm.

3 Q. These are your grounds or evidence
4 you've reviewed.

5 Over here is the content of your
6 decision -- yes, the bats are there.

7 Do you understand the conceptual
8 distinction between these two things?

9 A. I think so, yeah.

10 Q. Now you're telling me and I understand
11 that you were given certain testimony in these
12 depositions -- Ms. Weatherly, Ms. Mainella, Mr.
13 Murphy, Mr. Sheaffer, and so forth -- and you
14 considered that testimony, and you also told me
15 you considered Ms. Chambers' reply. Okay. And
16 you had a couple affidavits and so forth.

17 These are the grounds or the evidence
18 you considered, some of which is conflicting, as
19 you have identified.

20 With me so far?

21 A. Um-hm.

22 Q. Okay.

1 A. Yes.

2 Q. Yes. And then I asked you on the
3 particular point we're discussing regarding Ms.
4 Weatherly, you wanted to know the answer to a
5 couple of questions.

6 Did the conversation between Ms.
7 Chambers cause Ms. Weatherly to lose confidence
8 in at least some aspects of the National Park
9 Service and their intent to do certain things,
10 and you wanted to know whether Ms. Weatherly was
11 upset or caused anxiety by the conversation, and
12 you had conflicting evidence on that. All right.

13 And you told me that you made a finding
14 as to how to resolve that conflicting evidence,
15 that you eventually determined yes, anxiety was
16 caused Ms. Weatherly, and yes, Ms. Weatherly had
17 lost confidence in certain aspects of the
18 National Park Service.

19 Now I understand if I go to the
20 transcript, I will see Ms. Weatherly's point of
21 view.

22 I also understand that if I go to Ms.

1 Chambers' reply, I see her point of view.

2 What I'm asking you is not what you
3 considered even though these are things you
4 decided you agree with, but where in the record
5 can I go to read what you actually decided of
6 what was the way to resolve this disputed
7 evidence, this conflicting evidence?

8 Is there any place where you said I'm
9 finding this fact, and here's why?

10 A. No.

11 Q. Okay. Did you ever consider writing
12 your findings down?

13 A. I considered it.

14 Q. Okay. Did you choose not to do so?

15 A. Yes.

16 Q. Okay. Did anyone advise you not to do
17 so?

18 A. In consultation with counsel, I decided
19 not to do so.

20 Q. Okay. Did you have any reason yourself
21 for not writing down your findings?

22 A. No.

1 Q. Which counsel did you consult with on
2 that?

3 A. Jackie Jackson.

4 Q. Okay. Given that you did not write down
5 your findings, would there be any way for anyone
6 other than yourself to know without a deposition
7 like this, exactly how you resolved conflicting
8 evidence on various questions?

9 A. Yes. I think you could read the
10 transcripts and read the reply.

11 Q. And decide for yourself?

12 A. Decide for yourself.

13 Q. Which might be a different resolution of
14 the conflicting evidence than you made perhaps,
15 depending on the reader?

16 A. It might be.

17 Q. Okay. Now during the depositions that
18 you did conduct, you had asked a number of
19 questions of the witnesses.

20 Did you decide on those questions
21 yourself, or did someone else decide what
22 questions were to be asked in those interviews?

1 A. I worked in consultation with counsel
2 and personnel specialists in developing those
3 questions.

4 Q. Okay. Which counsel did you work with?

5 A. Jackie Jackson.

6 Q. And which personnel staff person?

7 A. Steve Krutz.

8 Q. During the depositions I, know Mr.
9 Murphy is an example, you made certain inquiries
10 regarding whether a document existed, for
11 example, where Mr. Murphy may have given an order
12 to Ms. Chambers on a particular matter, and there
13 were occasions when Mr. Murphy was searching for
14 the document that he thought he had and couldn't
15 come up with it, and there was some discussion at
16 the end of the deposition that there might be a
17 subsequent submission by Mr. Murphy of making
18 additional statement and some documents if he
19 found them.

20 Did that happen?

21 A. The subsequent --

22 Q. Submission.

1 A. No, it did not.

2 Q. Okay. And do you know whether any of
3 the witnesses who were interviewed in the
4 depositions submitted anything later that was not
5 reflected in their transcripts of the
6 depositions?

7 A. No, other than their individual
8 corrections of the transcripts.

9 Q. They did review the transcript and make
10 corrections?

11 A. Yes.

12 Q. That would be the extent of it?

13 A. Yes.

14 Q. Now who is Randy Myers?

15 A. He is the solicitor for Fish and Parks
16 at Department of Interior.

17 Q. Okay. And he provided an affidavit?

18 A. I believe it was an affidavit.

19 Q. Or a declaration, a written statement?

20 A. Yes.

21 Q. Okay. And do you know why that was?

22 A. It was to confirm his attempts to

1 arrange a meeting with Teresa Chambers to address
2 the issue raised by the Organization of American
3 States regarding the Park Police use of that
4 building during the so-called tractorman
5 incident.

6 Q. Okay. What was their reason? Why you
7 did not interview Mr. Myers?

8 A. It was a very simple question that could
9 be easily handled by an affidavit -- did you
10 attempt to meet with Teresa Chambers, and did she
11 accommodate your attempts?

12 Q. Okay. Did you make any fact finding as
13 to whether -- and what was the organization at
14 issue there? The Organization of American
15 States?

16 A. Yes.

17 Q. Okay. Did you make any fact findings
18 yourself as to whether the Organization of
19 American States had in fact made a request that
20 they perceived had been not complied with?

21 A. I believe I reviewed the letter from the
22 Organization of American States.

1 Q. But what finding did you make in regard
2 to any request they had made that was not
3 fulfilled?

4 A. I did not because that was not germane
5 to the proposal to remove.

6 Q. Oh, it was not?

7 A. No.

8 Q. Okay. Was there anything in regard to
9 the Organization of American States that was
10 germane to the proposal to remove?

11 A. Not specifically. The issue was Don
12 Murphy told Teresa Chambers to meet with Randy
13 Myers to bring resolution to the issue brought up
14 by the Organization of American States, and she
15 did not carry out that order.

16 Q. Okay. So if the Organization of
17 American States had actually not requested a
18 meeting or had themselves cancelled the meeting
19 in question, would that have been germane to your
20 consideration?

21 A. No.

22 Q. No. Okay. So it didn't matter whether

1 the chief might have had a good reason for not
2 meeting with the lawyer on that issue because it
3 may have already been resolved?

4 That was irrelevant to you?

5 A. Right. She did not carry out the order
6 given to her by Don Murphy.

7 Q. Okay.

8 A. Nor did she communicate to Don Murphy
9 any reason why that order should not be carried
10 out.

11 Q. Those were your findings?

12 A. Yes.

13 Q. And there's no place I can go to see
14 those in writing?

15 A. No.

16 Q. Okay. And you relied on Mr. Murphy's
17 testimony for those findings?

18 A. And Mr. Myers' affidavit.

19 Q. And Mr. Myers' affidavit; did you notify
20 Ms. Chambers of Mr. Myers' affidavit?

21 A. No.

22 Q. Did Ms. Chambers get an opportunity to

1 reply to the content of Mr. Myers' affidavit?

2 A. No.

3 Q. Do you know sitting here today whether
4 Ms. Chambers would agree or disagree with Mr.
5 Myers' affidavit?

6 A. I don't know.

7 Q. Okay. Now what meeting was it exactly
8 that Ms. Chambers, in your view, was instructed
9 to have that did not occur?

10 A. She was instructed to meet with Randy
11 Myers.

12 Q. Okay. And regarding what?

13 A. The complaint by the Organization of
14 American States.

15 Q. The complaint; have you seen a complaint
16 by the Organization of American States?

17 A. I believe I have, yeah.

18 Q. Okay. And is that in your record of
19 your decision anywhere?

20 A. No.

21 Q. Okay. When did you see it?

22 A. During the course of my investigation.

1 Q. Okay. Who showed it to you?

2 A. I don't remember.

3 Q. What does it look like?

4 A. A letter.

5 Q. How long is it?

6 A. My recollection is it's page, page and a
7 half.

8 Q. Okay. Who signed it?

9 A. I don't remember.

10 Q. Who was it addressed to?

11 A. I don't remember.

12 Q. Do you recall what date it might have
13 been?

14 A. No.

15 Q. What did it say?

16 A. It talks about the relationship that the
17 Organization of American States is an
18 international organization and that, that their
19 property is much like an embassy. It's treated
20 as a, as a sovereign entity, and that it's not to
21 be encroached upon without consultation.

22 Q. Was it titled complaint or anything like

1 that?

2 A. No. I don't remember.

3 Q. Okay. Was it asking for a resolution of
4 some problem, some corrective action of some
5 kind?

6 A. I don't remember the exact verbiage of
7 the letter.

8 Q. Okay. Who would have received it?

9 A. I don't know.

10 Q. Okay. You don't remember who showed it
11 to you?

12 A. No.

13 Q. Did you ask to see it?

14 A. I don't believe I did.

15 Q. Someone volunteered it to you?

16 A. Yes.

17 Q. During the time you were the deciding
18 official in this matter?

19 A. Yes.

20 Q. Okay. Was it discussed in anyone's
21 deposition, that particular document?

22 A. No.

1 Q. Okay. And when was Ms. Chambers asked
2 to meet with Mr. Myers on this matter?

3 A. I don't recall.

4 Q. Okay. Was Ms. Chambers ever shown this
5 document that you're characterizing as the
6 complaint?

7 A. I don't know.

8 Q. The instruction that Ms. Chambers was
9 given to meet with Mr. Myers, was that in
10 writing?

11 A. I don't recall.

12 Q. Okay. Do you recall exactly what the
13 instruction said?

14 A. My recollection is that she was
15 instructed to meet with Randy Myers to discuss
16 the Organization of American States issue.

17 Q. Okay. What finding did you make in
18 regard to why that meeting did not take place?

19 A. What I found was, was that several
20 attempts were made on the part of Mr. Myers to
21 arrange that meeting, and that the meeting never
22 took place.

1 Q. Okay. Was that the extent of your
2 findings?

3 A. That was the extent that applied to what
4 I needed to know.

5 Q. Um-hm. Okay. And did you make specific
6 findings as to why the meeting did not take
7 place?

8 A. No.

9 Q. Now did you make any findings in regard
10 to what period of time passed in between the last
11 request of Mr. Myers to have such a meeting and
12 the first occasion when Mr. Murphy proposed some
13 discipline for the meeting not occurring, how
14 much time passed in between those two?

15 A. I don't recall how much time passed.

16 Q. Did you make any finding regarding that
17 as part of your job as the deciding official?

18 A. No.

19 Q. Okay. Do you know whether Mr. Murphy
20 issued some discipline regarding Ms. Chambers
21 regarding that failure to have that meeting
22 shortly after the meeting was to take place, the

1 same timeframe?

2 A. No.

3 Q. Do you know whether Mr. Murphy first
4 raised a concern about that meeting not taking
5 place several months after Mr. Myers' last
6 request for the meeting?

7 Is that a fair statement?

8 A. Could you state that one again?

9 Q. Yes. Mr. Murphy, in terms of his
10 initiating any disciplinary action against Ms.
11 Chambers regarding not having that meeting, did
12 that action by Mr. Murphy to initiate
13 disciplinary action first occur several months
14 after the last request by Mr. Myers for such a
15 meeting?

16 A. Yeah, I believe that's true.

17 Q. Okay. And is it your understanding that
18 Mr. Murphy did not initiate this disciplinary
19 action regarding that matter, the meeting with
20 Mr. Myers, until after the December 2nd
21 Washington Post article was published?

22 A. That's true.

1 Q. Okay. Were there any persons who gave
2 input into your decision other than those who
3 were interviewed on the record in these
4 depositions?

5 A. No.

6 Q. Of course, other than Chief Chambers?

7 A. Well, she's on the record in her reply.

8 Q. In her reply, okay. When you were asked
9 to be the deciding official for this matter, and
10 you accepted, before you began actually
11 performing that role, what was your understanding
12 of the nature of your task, that what was
13 expected of you in doing this?

14 A. I was expected to conduct a fair and
15 thorough investigation into the facts surrounding
16 the proposal to remove, and in consideration of
17 Teresa Chambers' reply, and that I was to make
18 that decision on my own without input from
19 others.

20 Q. Okay.

21 A. Other than counsel from personnel
22 specialists and solicitors.

1 Q. During the interviews, the depositions
2 that were conducted, there were some people in
3 the room that apparently were advising you, is
4 that correct?

5 A. Yes.

6 Q. Who were those?

7 A. Jackie Jackson and Steve Krutz.

8 Q. Okay. No one else?

9 A. No.

10 Q. Now let's say in Mr. Murphy's case, when
11 he testified to you, Ms. Jackson, Mr. Krutz,
12 yourself, Mr. Murphy, was anyone else in the
13 room?

14 A. The court reporter.

15 Q. The court reporter; anyone else?

16 A. You said me, so that's it.

17 Q. I think we've covered it. Okay. Was
18 anyone allowed to talk to the witness, the
19 deponent, in this case, Mr. Murphy in our
20 example, during either the deposition on the
21 record or during breaks when the reporter went
22 off the record?

1 Was anyone allowed to talk to the
2 witness?

3 A. No.

4 Q. Okay. Now I notice -- you may remember,
5 and I know Mr. Murphy is an example -- from time
6 to time, there would be a break in the questions
7 and answers, and you would go off the record for
8 a time.

9 Do you recall that happening?

10 A. Yes.

11 Q. Okay. And in some of those cases, it
12 seemed to be in response to a question in
13 preparation of an answer, not for like a rest
14 room break or a lunch break.

15 Do you recall that happening?

16 A. Yes.

17 Q. Okay. So during those times, did the
18 witness such as Mr. Murphy talk with anyone?

19 A. Not that I recall.

20 Q. Okay. And do you know whether the
21 witnesses, whether Mr. Murphy or otherwise, ever
22 got counsel from an attorney during those

1 testimonies, those depositions?

2 A. Not that I recall.

3 Q. Okay. And as far as you know, they
4 never received advice from a Human Resources
5 person during those interviews?

6 A. I would have no way of knowing that.

7 Q. Not that you observed?

8 A. Yeah, right.

9 Q. On -- well, did you make a finding of
10 fact that Mr. Murphy had given an instruction to
11 Chief Chambers to attend a meeting with Mr. Myers
12 that Chief Chambers did not comply with?

13 A. Yes.

14 Q. Okay. And on what basis in terms of
15 evidence in your record did you rely for making
16 that particular finding?

17 A. Mr. Murphy's statement during my
18 interview with him, and a memo from Randy Myers
19 to Teresa Chambers articulating his attempts to
20 arrange the meeting.

21 Q. Did the memo from Mr. Myers to Ms.
22 Chambers refer to an order or instruction from

1 Mr. Murphy?

2 A. I don't recall.

3 Q. Okay. Did you in any way decide to
4 sustain Ms. Chambers' removal because Ms.
5 Chambers did not comply with the request from Mr.
6 Myers?

7 A. Yeah. I believe she did not comply with
8 that request.

9 Q. Okay. I realize you're not a lawyer, so
10 listen very carefully to my question, and I want
11 to make another distinction.

12 There is a distinction between a finding
13 of fact on the one hand, did something happen,
14 and as compared to a reason that you adopt for
15 making a decision.

16 You may make a finding of fact, and you
17 may find it irrelevant to your decision, or you
18 may find that there are reasons to not rely on
19 it.

20 So my question to you wasn't so much did
21 you find a fact that Ms. Chambers didn't comply
22 with Mr. Myers' request, which you have stated

1 you did.

2 My question was did it matter to you?
3 Did you rely on that as a part of the basis for
4 sustaining the removal that Ms. Chambers had not
5 complied with Mr. Myers' request?

6 A. Yes.

7 Q. Thank you. How was Mr. Myers' statement
8 or affidavit prepared?

9 Was it in response to a list of
10 questions you provided?

11 Was it entirely deferred to Mr. Myers'
12 discretion as to what to say?

13 How was the statement's scope
14 determined?

15 A. I don't recall.

16 Q. Did you ever know?

17 A. I don't know that I, if I actually saw
18 the questions that were posed to Mr. Myers.

19 Q. Okay. I take it you did not develop a
20 list yourself?

21 A. Right.

22 Q. And you, do you know who communicated to

1 Mr. Myers regarding preparing his statement?

2 A. I don't recall.

3 (There was a pause in the proceedings.)

4 BY MR. HARRISON:

5 Q. I don't believe we have marked this
6 document. Let's do that.

7 This would be the next exhibit number.

8 This is a July 9 document authored by Mr.

9 Hoffman. We'll find that out in a moment.

10 (Hoffman Exhibit No. 3

11 was marked for

12 identification.)

13 BY MR. HARRISON:

14 Q. Let me know if you recognize that, sir.

15 A. I do.

16 Q. Okay. And what do you understand it to
17 be?

18 A. The decision document with respect to
19 the proposal to remove Teresa Chambers.

20 Q. Okay. And it's dated July 9th, 2004,
21 yes?

22 A. Yes.

1 Q. And I believe on page 8, you'll find
2 your signature?

3 A. Yes.

4 Q. All right. Did you actually physically
5 type in the letters and words on this document?

6 A. A substantial part of it.

7 Q. Okay. And someone else contributed to
8 the typing?

9 A. I prepared this document in consultation
10 with my counsel and personnel specialist.

11 Q. Okay. And let me be as precise as I can
12 be at the moment.

13 I appreciate your answer to a question I
14 was about to ask you, but at the moment, I'm not
15 asking you who inputted or gave input into the
16 substance.

17 I'm just asking whose fingers at the
18 keyboard.

19 Do you understand the distinction?
20 Someone can dictate the substance from afar, and
21 someone could serve as mechanical typist.

22 At the moment, I'm only asking you who

1 physically typed the document.

2 A. A combination of people.

3 Q. And name all those people who
4 contributed to the typing.

5 A. Myself, Jackie Jackson, I think perhaps
6 Steve Krutz.

7 Q. You're not sure?

8 A. I'm not sure.

9 Q. Okay. Who typed the initial -- I'm
10 taking it from your answer -- let's be precise
11 about it.

12 I'm assuming you weren't in the same
13 room at the same time and took turns on a
14 computer keyboard?

15 A. Right.

16 Q. There was an initial version someone
17 then added to and someone maybe added to that, is
18 that correct?

19 A. Yes.

20 Q. Okay. Who typed the initial version?

21 A. I did.

22 Q. Okay. And then who looked at it next,

1 to your knowledge, to possibly make corrections,
2 amendments, revisions, additional typing?

3 Who would have been the next person.

4 A. Steve Krutz and Jackie Jackson.

5 Q. Okay. You think maybe together?

6 A. Yes.

7 Q. Were you present?

8 A. Well, I -- were they together?

9 Q. In the same room at the same time.

10 A. No. The document was shared with them.

11 Q. Okay. Did you like e-mail it to them,
12 or fax it?

13 A. You can't e-mail this. I'm sorry. It
14 was shared on a disk.

15 Q. Okay. And did you personally share it
16 with those people?

17 A. I took steps to have it delivered to
18 them.

19 Q. Very good. And was there anyone you
20 delivered it to besides Mr. Krutz and Ms.

21 Jackson?

22 A. No.

1 Q. Okay. Do you know what Ms. Jackson did
2 with the document when she received it?

3 MR. L'HEUREUX: Objection to the extent
4 that answer calls for attorney-client privileged
5 communications, and I instruct the witness not to
6 render in his answer anything that might be of
7 that nature.

8 BY MR. HARRISON:

9 Q. And let me be clear. I'm not asking
10 what Ms. Jackson may have said to you or
11 communicated to you.

12 I'm just asking what she did with the
13 document.

14 A. I don't know what she did with the
15 document.

16 Q. Okay. Did you see the document after
17 she had finished doing whatever she did, if
18 anything?

19 A. Yes.

20 Q. Okay. Was it in any way different than
21 the version you gave to her?

22 A. Yes. She made some changes.

1 Q. Okay. So you know that much?

2 A. Yes.

3 Q. Okay. And do you know what changes she
4 made?

5 A. I don't recall all the changes, no.

6 Q. Do you still retain your original
7 version?

8 A. Yes.

9 Q. Okay. On your computer I take it?

10 A. Yes.

11 Q. Now did you see the, the result after
12 Ms. Jackson was finished prior to Mr. Krutz
13 seeing it, or do you think that the version you
14 saw might have had input from Mr. Krutz also?

15 A. I don't know.

16 Q. Not sure about that?

17 A. Right.

18 Q. So you've only seen, basically one
19 changed version from yours?

20 A. Yes.

21 Q. Okay. And this reflects the final
22 changed version I have in my hand and you have in

1 front of you?

2 Why don't you look at the one you have
3 the sticker on. That's the official one.

4 A. Yes.

5 Q. I'm assuming you're telling me this is
6 the version after Ms. Jackson made whatever
7 changes she made, and possibly Mr. Krutz?

8 A. That's my understanding of it.

9 Q. Okay. Do you recall whether Ms.
10 Jackson's changes were like typos or whether they
11 might have been more substantive?

12 MR. L'HEUREUX: Objection --
13 attorney-client privilege, attorney-client
14 communications.

15 Instruct the witness not to answer this
16 question.

17 MR. HARRISON: Now let's be clear on
18 what my question is.

19 Then restate your instruction if you
20 wish.

21 BY MR. HARRISON:

22 Q. I really don't want to know at the

1 moment what Ms. Jackson may have said to you or
2 what she may have even shown you in writing.

3 What I'm asking is on the document I
4 have in my hand, which is clearly not privileged
5 because it was given to my client, what changes
6 were made to it by Jackie Jackson?

7 Were they typos? Were they substantive?
8 And they're sitting here in front of you, so you
9 can tell me about that.

10 MR. L'HEUREUX: Same objection, counsel.
11 Those, those statements on the part of counsel to
12 him are in the nature of recommendations.

13 MR. HARRISON: I'm not asking, I'm not
14 asking --

15 MR. L'HEUREUX: You haven't asked which
16 ones were adopted or rejected or anything else.

17 MR. HARRISON: That's right. I'm
18 asking --

19 MR. L'HEUREUX: The focus of this
20 deposition in this hearing is his decision. You
21 can inquire into that.

22 You may not inquire into his

1 anything I wish.

2 MR. L'HEUREUX: You can ask him anything
3 you want.

4 I'm instructing him not to answer those
5 questions.

6 BY MR. HARRISON:

7 Q. Okay. If you would, Mr. Hoffman, go
8 through this document paragraph by paragraph and
9 identify any portion of it that you did not type.

10 A. I can't do that.

11 Q. Try to.

12 A. Hm?

13 Q. Try to. Take the first paragraph.

14 A. That -- I'm sorry. I don't have --

15 Q. Well, you need to make an effort to do
16 it, and after trying, if you say you can't, I
17 would accept that answer, but without reading at
18 least one paragraph, I'm not convinced you can
19 recognize --

20 A. It presumes I recall word-for-word what
21 was written in the first draft, and I don't have
22 that kind of recollection, much that I wish I

1 did.

2 Q. I appreciate that. I'm not, I wasn't
3 really asking word-for-word.

4 I'm just asking if you can identify
5 anything in here that you did not personally
6 type.

7 Are you sure you cannot without even
8 reviewing it?

9 A. Yeah. I don't think -- I could not
10 identify with certainty which sentences I typed
11 and which sentences may have been typed by
12 somebody else.

13 Q. Okay. Well, we'll keep Mr. Hoffman's
14 deposition open until we receive our discovery
15 information.

16 MR. L'HEUREUX: You may keep it open.

17 MR. HARRISON: We are keeping it open.

18 MR. L'HEUREUX: We may give you this
19 discovery information.

20 MR. HARRISON: We are keeping it open.

21 MR. L'HEUREUX: You are seeking
22 privileged information.

1 We may have to have this out before the
2 judge.

3 MR. HARRISON: That's fine; any time you
4 wish to do that.

5 MR. L'HEUREUX: We already have a motion
6 to that effect pending about other communications
7 you're seeking to intrude on.

8 MR. HARRISON: Yes. I mean I have no
9 problem with your asserting a privilege, but I do
10 have a problem when they're overbroad.

11 So what I'm telling you, and for the
12 record, for the court reporter, is this
13 deposition will not close today, and if you wish
14 to seek a protective order to try to close it,
15 you're welcome to do that.

16 MR. L'HEUREUX: You can call it whatever
17 you want, counsel.

18 We're not going to disclose
19 communications with counsel.

20 If you want to inquire as to what part
21 of this decision is his and not his, that's
22 entirely appropriate, but you will not intrude,

1 you may not ask him questions about his
2 communications with counsel.

3 MR. HARRISON: Well, the last question I
4 asked, which I don't think you objected to, was
5 which parts did he not type, and he's not
6 recalling that, so we'll keep the deposition open
7 until we receive the drafts that he did type, and
8 then that answer will be apparent.

9 BY MR. HARRISON:

10 Q. Were there any changes that Ms. Jackson
11 made that you did not accept?

12 A. Not that I recall.

13 Q. Okay. Were there any amendments,
14 revisions, or changes made to this document that
15 decision on the removal of Chief Chambers after
16 you received the version from Ms. Jackson?

17 A. Were there any other changes after?

18 Q. Any revisions or amendments after the
19 version you received from Ms. Jackson.

20 A. I don't recall how many exchanges or
21 changes may have been made.

22 Q. So there might have been?

1 A. Might have been.

2 Q. Okay. Did you yourself do any
3 additional typing on this document after you
4 received the version from Ms. Jackson?

5 A. Yes.

6 Q. Okay. Do you recall what you would have
7 done at that point?

8 A. Well, I would have changed some verbiage
9 to reflect more my style, and I believe we
10 changed it from a memo format to a letter format.

11 Q. Okay. I appreciate that. Were there
12 any changes other than those that you recall by
13 you?

14 A. No.

15 Q. Okay. And when did you make your last
16 changes to the document, as best you can
17 remember?

18 A. Probably July 9th.

19 Q. I'm not asking you to speculate or to
20 read the document to date.

21 I'm asking what, when did you remember
22 doing it?

1 A. July 9th.

2 Q. Okay. And do you know why this decision
3 was -- let me ask you when did you do the first
4 draft on this particular document?

5 A. I don't recall an exact date. It was,
6 it was well after I concluded my investigation
7 into the facts surrounding the matter.

8 Q. Okay. When did you conclude that
9 investigation?

10 A. It was some time in early March.

11 Q. Okay. And are you thinking that this
12 document was probably drafted in the first
13 instance in June or July?

14 A. I don't recall exact timeframe of when
15 drafts were created.

16 Q. Some months would have passed between
17 your concluding the investigation and the first
18 draft?

19 Is that your recollection?

20 A. Well, we were under a stay, a voluntary
21 stay from the Office of Special Counsel, so we
22 were not making any final determination.

1 Q. And that, I understand that, and in that
2 regard, that means what in response to my
3 question about when you would have first drafted?

4 A. Well, I might have -- I started putting,
5 formulating my thoughts after I concluded my
6 investigation, but nothing was finalized until we
7 were out from under a stay.

8 Q. And I understand all that, and my
9 question is what does that mean about when you
10 first drafted this document?

11 A. I would have started some time -- I
12 don't recall the exact date.

13 Q. Okay. Let's put the exact date aside.
14 Give me a month that you first drafted the
15 document.

16 A. March or April, late March, maybe early
17 April.

18 Q. Okay. And then at some point I take it
19 you were asked to not finalize it because of the
20 stay with the OSC?

21 A. Right.

22 Q. Okay. And then later, it was eventually

1 finalized into this form after the stay was
2 lifted I take it?

3 A. Yes.

4 Q. Okay. Do you know when the OSC stay or
5 agreement with OSC was terminated?

6 A. I believe that was July the 2nd.

7 Q. So basically the revisions to your
8 initial draft would have commenced no earlier
9 than July 2nd?

10 A. Yes.

11 Q. Can I assume that your initial draft had
12 enough text to it that it would have reflected
13 the decision to sustain the removal?

14 A. We had not made a decision. We were
15 asked to stay the decision, so no decision was
16 made yet.

17 Q. I understood that the first time you
18 told me, but my question is did the text of the
19 document, even though it may not have reflected
20 the decision because of the stay, did it as a
21 matter of grammar and the English language have
22 enough text to it to reflect that the document,

1 when it did become a decision, would have
2 sustained the removal versus rejecting the
3 removal?

4 A. I would say that it concluded, yes, it
5 would have sustained the removal.

6 Q. Do you know apart from reading the
7 chief's reply, was there any active step taken in
8 your inquiry before the first deposition you
9 conducted in February for your inquiries?

10 A. No.

11 Q. Okay. I noticed at the beginning of I
12 think Mr. Murphy's deposition, might have been
13 another, that you said on the record we're
14 beginning investigation into this matter,
15 something to that effect.

16 Was there a reason why that formal
17 beginning of the investigation waited until
18 February?

19 A. I have lots of other obligations in my
20 job.

21 Q. So you were busy?

22 A. Yes.

1 A. Yeah. I know what sentence you're
2 talking about.

3 Q. Okay.

4 (The witness reviewed the document.)

5 THE WITNESS: I don't recall if I wrote
6 that.

7 I wrote a sentence very similar to that,
8 if not that sentence.

9 BY MR. HARRISON:

10 Q. Okay. You're not sure about the exact
11 wording?

12 A. Right.

13 Q. Did you make any findings as to a
14 factual or legal basis for justifying Ms.
15 Chambers' removal under the category of promoting
16 the efficiency of the federal service, you
17 yourself, that would be in addition to and
18 different from the findings you made under each
19 of the enumerated charges?

20 Do you understand the question?

21 A. Run it by me one more time.

22 Q. I will. You see in the first paragraph,

1 there are six items enumerated one, two, three,
2 four, five, six?

3 A. Right. Right.

4 Q. And those reflect the charges in the
5 proposed removal?

6 A. Right.

7 Q. Okay. What I'm trying to figure out is
8 whether this language about what was proposed and
9 eventually what you did decide or what this
10 document says you decided about efficiency of the
11 federal service reflects some separate and
12 additional grounds for Ms. Chambers' removal
13 other than the six charges and their
14 subspecifications?

15 A. No.

16 Q. Okay.

17 A. The letter speaks for itself.

18 Q. Actually from my point of view, it
19 doesn't or I wouldn't have asked you the
20 question, but I understand your answer, and that
21 is that you weren't intending to state additional
22 grounds beyond the six, is that correct?

1 A. Correct.

2 Q. At the end of the first page there, in
3 the third paragraph, you state, "I have carefully
4 considered the charges in the Removal Proposal
5 and Your reply. After making determinations
6 about facts in this case, I have decided to
7 sustain all of the charges in the Removal
8 Proposal."

9 Do you see that?

10 A. Yes.

11 Q. Now the phrase in the second sentence,
12 after making determinations about facts in this
13 case, did you type that?

14 A. I believe that that, that sounds like
15 something I would have said, yes.

16 Q. Okay.

17 A. I don't have exact recall of what I
18 typed.

19 Q. I accept that, and I understand it. I'm
20 just trying to see what you do remember.

21 What did you mean by that after making
22 determinations about facts in this case?

1 A. After conducting an investigation into
2 the facts of the case.

3 Q. Okay. You didn't mean you had written
4 down a set of facts you had determined to be
5 true?

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

8 BY MR. HARRISON:

9 Q. You may answer.

10 A. Restate it for me.

11 Q. Yes. When you wrote that phrase after
12 making determinations about facts in this case,
13 did you mean to say that you had written down a
14 set of facts that you had determined to be true?

15 A. No.

16 Q. Okay. You meant that you had decided
17 certain things in your mind, or did you mean
18 something else?

19 A. It means what it says. I made
20 determinations about the facts in this case.

21 Q. Okay, but you never wrote them down?

22 A. I did not go into it in this letter.

1 Q. So the answer to my question is what?

2 My question is did you ever write them down?

3 (The witness reviewed the document.)

4 BY MR. HARRISON:

5 Q. Your fact determinations.

6 A. I don't recall.

7 Q. You're not sure?

8 A. Well, I'm not sure I really understand

9 the question.

10 Q. Let me see if I can help you. You
11 had -- on a number of occasions, Ms. Chambers
12 asserts one version of events, Mr. Murphy asserts
13 another, perhaps Ms. Mainella another, and so
14 forth.

15 Did you ever write down for those facts
16 on which there was a dispute which version you
17 ended up accepting?

18 A. There may have been elements of that in
19 an initial draft decision.

20 Q. Okay. And that would have been a draft
21 that you had typed, or at least that portion of
22 it?

1 A. Yes.

2 Q. And you're recalling -- well, I think we
3 can all see from this one that any statement of
4 facts you might have had are not present in this
5 version?

6 A. Yes.

7 Q. Okay. Was it your decision to remove
8 that portion of the draft?

9 A. Yes.

10 Q. Okay. Did you do that on your own
11 initiative, or on someone's advice?

12 And you don't need to tell me
13 attorney-client communications.

14 Was it your decision to remove it
15 solely?

16 A. It was not my, I did not make the
17 decision by myself.

18 Q. Okay. Do you know how lengthy the
19 fact-finding section might have been that was
20 removed?

21 A. No.

22 Q. Paragraph? A page? Ballpark?

1 A. Ballpark.

2 Q. Was it more than a page, do you
3 remember?

4 A. It would have been woven into the whole
5 decision.

6 Q. Oh, I see. It wouldn't have been in one
7 identified section here is the list of facts
8 found?

9 It was just integrated?

10 A. Right.

11 Q. I see. So it would be harder to judge?

12 A. Yes.

13 Q. Are you the one that physically by using
14 a word processor deleted that portion?

15 A. I don't, I don't believe so.

16 MR. HARRISON: Let's take a lunch break.
17 Come back at one o'clock.

18 (Whereupon, at 12:02 p.m., the
19 deposition was recessed, to reconvene at 1:00
20 p.m. the same day.)

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AFTERNOON SESSION

(1:00 p.m.)

MR. HARRISON: Let's go back on.

EXAMINATION BY COUNSEL FOR APPELLANT

(Resumed)

BY MR. HARRISON:

Q. Mr. Hoffman, you still have before you the July 9th document that you signed?

A. Yes.

Q. Okay. It goes through in some detail on pages 2 through 8 a step-by-step discussion of certain factors.

I believe we refer to them as the Douglas factors.

Was this particular step-by-step discussion in your original draft of the decision?

M. L'HEUREUX: Objection -- attorney-client privilege.

I'm instructing the client not to answer any more questions about who contributed what to drafts.

1 MR. HARRISON: He has to be able to
2 answer what he did.

3 MR. L'HEUREUX: He signed this decision.
4 That's what he did.

5 MR. HARRISON: Let's call the judge.

6 MR. L'HEUREUX: Call the judge.

7 (There was a pause in the proceedings
8 while Judge Bogle was contacted.)

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1 TELEPHONE CONVERSATION WITH JUDGE BOGLE

2 MR. HARRISON: Judge Bogle?

3 JUDGE BOGLE: Yes.

4 MR. HARRISON: Hi. Attorney Mick
5 Harrison calling.

6 We're here in a deposition in the
7 Chambers versus Department of Interior case, and
8 Mr. Bob L'Heureux, the opposing counsel, is here
9 as well.

10 We have an issue we were hoping you
11 could help us resolve.

12 JUDGE BOGLE: All right. Go ahead.

13 MR. HARRISON: I'm inquiring of Mr.
14 Hoffman, the deciding official in the matter,
15 regarding his decision to sustain the proposed
16 removal of Chief Chambers, and I'm asking Mr.
17 Hoffman about the history of his decision-making
18 process.

19 Included in that as it turns out were
20 some drafts of his decision, one of which was
21 made, it was drafted around March.

22 It was then revised in June or July or

1 thereabouts, and I have asked him a question
2 regarding whether the lengthy discussion of eight
3 pages in the decision we have been given, the
4 final decision regarding the Douglas factors,
5 whether that discussion was in his original draft
6 of the decision back in March.

7 His counsel has objected and asserted
8 attorney-client privilege on that question, and
9 instructed the witness not to answer.

10 And my question really wasn't intended
11 to ask what his counsel had told him or counsel
12 had done, but was asking what he had done at a
13 certain stage, and so that's where we're sort of
14 deadlocked.

15 JUDGE BOGLE: Mr. L'Heureux, is the
16 question just whether the information was in
17 there, or where the information came from?

18 MR. L'HEUREUX: The immediate question
19 is as you stated it, Your Honor, but this follows
20 a series of questions where counsel has been
21 attempting to parse what, what Mr. Hoffman wrote
22 in drafts and what his attorney wrote in drafts,

1 and it is our position that what the attorney
2 wrote to him is in the nature of a written
3 attorney-client communication making
4 recommendations, and that, and that the
5 appellants are not entitled to that.

6 MR. HARRISON: That's actually a
7 different question than we're addressing at the
8 moment.

9 That question, we postponed for possibly
10 a Motion to Compel because the witness was
11 instructed not to answer certain questions.

12 But for the record, Your Honor, in the
13 history of this dispute, what we were asking at
14 that time was about wording in the final decision
15 document that we now have in the record, and
16 counsel seems to be stating that the witness is
17 not allowed to tell us who wrote different
18 portions of the final decision that we now have
19 in the record, but I'm putting off that question
20 for the moment.

21 The only question I'm asking to be
22 resolved at the moment is may I ask this witness

1 think the problem is probably the way the
2 questions are being phrased, so you know, I
3 can't, I can't stay here this afternoon and help
4 you with that.

5 MR. HARRISON: Understood.

6 JUDGE BOGLE: The ruling is simply any
7 question about legal advice is the answer would
8 be privileged.

9 Any question about a factual matter,
10 what was in a document and what was not in a
11 document, is not privileged and should be
12 answered.

13 MR. HARRISON: Thank very much, Your
14 Honor.

15 MR. L'HEUREUX: Thank you, Your Honor.
16 All right.

17 (The telephone conversation with Judge
18 Bogle was concluded.)

19 MR. L'HEUREUX: May we have the question
20 again?

21 MR. HARRISON: Of course.

22 (There was a pause in the proceedings.)

1 MR. HARRISON: I'll wait for counsel to
2 return.

3 (There was a pause in the proceedings.)

4 BY MR. HARRISON:

5 Q. The question is, Mr. Hoffman, in the
6 exhibit -- I've forgotten the number. You have
7 it in front of you.

8 A. Three.

9 Q. Number 3, July 9th, 2004 memorandum that
10 you signed, there is a lengthy discussion
11 starting on page 2 going through page 8, which
12 goes through a point-by-point twelve Douglas
13 factors.

14 And my question to you was was this
15 discussion and analysis of the point-by-point
16 twelve Douglas factors in your draft of the
17 decision on this removal of Chief Chambers'
18 question that you have already testified to
19 existed around March?

20 A. Yes.

21 Q. Okay. Now was it eight pages in length
22 at that time?

1 A. I don't recall.

2 Q. You're not sure? You don't remember?

3 A. I don't recall how many pages the first
4 draft was.

5 Q. Okay. My question is how many pages of
6 the Douglas factor discussion was there in that
7 draft?

8 A. Well, it was, it was woven in, so it's
9 pretty hard for me to separate.

10 Q. Okay. Are you sure that, that Douglas
11 factors were specifically listed in that document
12 somewhere?

13 A. Yes.

14 Q. Okay. All twelve of them?

15 A. Yes.

16 Q. Okay. I take it it wasn't separated out
17 in the point-by-point discussion like we see here
18 in the final draft?

19 You said it was woven in. I'm just
20 trying to clarify what you meant.

21 A. I don't recall the, you know, the exact
22 outline of the letter and how that was laid out.

1 I know all twelve Douglas factors were
2 addressed, and they were addressed in some
3 detail.

4 Q. Okay. Now in that March draft, there
5 were some findings that you had made, findings of
6 fact that were again I believe you said woven
7 throughout the document.

8 Is that fair?

9 A. You're asking me to recall a document I
10 haven't looked at in four or five months.

11 Q. I'm actually at the moment only asking
12 you to recall the answer you gave me about an
13 hour ago.

14 A. Well, that's the way I, I think it was
15 is that -- it could have been that I addressed
16 the Douglas factors toward the end of the letter.

17 Q. Okay. Now the findings of fact, though,
18 you just, I would like to distinguish those from
19 the Douglas factors discussion.

20 Those findings of fact, that you earlier
21 testified had been, were in the initial draft,
22 but are not in this one.

1 They were also -- how shall I say --
2 interspersed throughout the document?

3 A. Well --

4 Q. If you remember; do you know what I mean
5 by findings of fact?

6 A. Yes, I know what you mean. Yes, I know
7 what you mean.

8 Q. Okay.

9 A. I finally got that part.

10 Q. Good.

11 A. It could be -- again, I haven't looked
12 at the letter in five months or so, but it could
13 be that the way it was outlined was as I went
14 through a finding of facts and then went through
15 the Douglas factors, perhaps maybe it was not
16 interspersed.

17 Q. I see. It may have been in a distinct
18 section?

19 A. Yeah, but I really, I can't recall with
20 any certainty.

21 Q. Okay.

22 A. Not having had the opportunity to review

1 the document.

2 Q. Okay. Do you recall the findings of
3 fact that you made at that time?

4 A. Yeah, I think so.

5 Q. Okay. And do you know approximately how
6 many there might have been?

7 Were they like numbered or something?

8 A. No. I -- what I would have done was I
9 would have listed each charge, and I would have
10 articulated where Teresa Chambers' reply
11 disagreed with that charge, and then I would have
12 articulated what I found based on my
13 investigation, and then I would have made a
14 determination as to what I thought the facts were
15 surrounding the case.

16 Q. I see. And as far as you recall, you
17 would have done that for each of the six charges,
18 right?

19 A. Right.

20 Q. Okay. Is it fair to say that your
21 decision to sustain the proposed removal was
22 based upon those particular fact findings that

1 you had made?

2 A. Yes. It is fair to say that I sustained
3 all the charges based on the fact finding.

4 Q. Yes.

5 A. Yes.

6 Q. Okay. Each of the six charges and
7 ultimately the decision that removal was the
8 proper penalty?

9 A. Yes.

10 Q. Okay.

11 (There was a pause in the proceedings.)

12 MR. HARRISON: Let's take a five-minute
13 break.

14 I need to consult for a moment.

15 (A recess was taken.)

16 MR. HARRISON: Let's go back on.

17 Because of the developments that there are one or
18 more drafts of the decision document that have
19 fact findings in them which reflect the competing
20 evidence and the facts now by Mr. Hoffman,
21 perhaps very appropriately so, that we don't have
22 before us, and because my remaining questions

1 would address matters related to his fact
2 findings and how they do or don't support his
3 ultimate conclusion, and how the testimony in the
4 depositions relate to his fact findings, I cannot
5 meaningfully conclude those questions at the
6 moment, and I'm going to continue the deposition
7 and ask for a convenient day for Mr. Hoffman to
8 come back after we receive the draft documents in
9 discovery, or if they're not produced and a
10 privilege is asserted, after the judge rules on
11 that question, and then we'll finish our
12 deposition.

13 So there won't be further questions
14 today, but I want to stay on the record for a
15 moment.

16 There are two issues that I wanted to
17 talk about on the record.

18 One is settlement follow-up, and the
19 other is property turnover.

20 Let's start with property first. I
21 believe that the chief has some property to give
22 to the agency that the agency expects her to turn

1 over, and I would like some guidance.

2 Do you have it with you today?

3 MS. CHAMBERS: I have four bags, five
4 bags.

5 MR. HARRISON: Four or five bags; should
6 she give that to someone in this room?

7 Could she give that to someone in this
8 room?

9 MS. JACKSON: No. I think it's properly
10 returned to someone at the Park Police
11 headquarters.

12 MR. HARRISON: Who do you think that
13 would be?

14 MS. JACKSON: I would have to locate
15 someone.

16 MR. HARRISON: Would you mind letting us
17 know who to deliver that to?

18 MS. JACKSON: Yes.

19 MR. HARRISON: That would be helpful.

20 MR. KUCH: Or alternatively, somebody
21 could come here and pick it up.

22 MS. CHAMBERS: That would be beneficial.

1 We were there the other night, and --

2 MR. HARRISON: Just let us know. We'll
3 follow your guide.

4 MS. JACKSON: Okay.

5 MR. HARRISON: The second issue would be
6 settlement.

7 If the agency has a response to our list
8 of expectations that we I think sent over some
9 time back, I would be interested in talking about
10 settlement.

11 After we receive that response, if the
12 agency is open to reinstatement of some kind, and
13 could let us know that, I would be open to
14 discussing settlement tomorrow regarding that.

15 If neither of those items is available
16 tomorrow in response to the expectations or
17 putting reinstatement on the table, I don't think
18 it would be productive to discuss settlement
19 until we receive a discovery response, which I
20 believe might be Monday.

21 MR. L'HEUREUX: The 16th I think is the
22 day --

1 MR. KUCH: That is Monday.

2 MR. HARRISON: Is that Monday?

3 MR. L'HEUREUX: I'm not sure. Is that
4 Monday?

5 MR. HARRISON: So after we get a chance,
6 a day or two, to review that, I think we might
7 object again to discussing settlement regardless
8 of whether we get the other two items.

9 So that's our position. I don't want to
10 waste our time tomorrow unless we sort of have
11 something substantive to talk about.

12 So at the moment, I will presume we will
13 be discussing settlement next week instead of
14 tomorrow unless you have something to fax over
15 tomorrow.

16 MR. L'HEUREUX: I will not have anything
17 to fax over tomorrow.

18 I can tell you now the agency's position
19 is that they will not settle on terms that
20 include reinstatement.

21 That's their position now.

22 MR. HARRINGTON: Okay. Thank you for

1 that.

2 MR. L'HEUREUX: It's unlikely to change.
3 Let me put it that way.

4 MR. HARRISON: If it does, let us know.

5 MR. L'HEUREUX: I will.

6 MR. HARRISON: Fine. So let's not
7 schedule a discussion tomorrow on settlement, and
8 at your convenience, if you want to let us know
9 what time after consulting with Mr. Hoffman when
10 we might finish, we'll try to schedule at his
11 convenience.

12 MR. L'HEUREUX: All right. We can do
13 that.

14 The calendar is not in my mind right
15 now, but it looks to me like we've got some
16 afternoons and things, and after Monday, we may
17 have others.

18 MR. HARRISON: Okay. Yes, that may well
19 be true.

20 MR. L'HEUREUX: I presume so.

21 MR. HARRISON: No problem.

22 MR. L'HEUREUX: How long do you

1 anticipate to go on?

2 Can you estimate it?

3 MR. HARRISON: Yes. No more than a
4 morning or an afternoon at the most, but I have
5 not read the draft.

6 MR. L'HEUREUX: Okay.

7 MR. HARRISON: That could alter my
8 opinion. It probably won't.

9 And we might -- I don't know. I think
10 we had planned to do Mr. Murphy in an afternoon
11 or morning.

12 Possibly we could do them both in the
13 same day, if that's convenient.

14 MR. L'HEUREUX: I don't know if that's
15 convenient.

16 I don't know.

17 MR. HARRISON: I leave that to you
18 folks' schedules.

19 Do you have anything further? Okay. So
20 I appreciate you all coming, and we'll see you
21 the next time.

22 (Whereupon, at approximately 1:35

1 o'clock p.m., the above deposition was
2 recessed sine die.)

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CERTIFICATE OF NOTARY PUBLIC

I, Catherine S. Boyd, the Notary Public
before whom the proceeding occurred, pages 1
though 202, 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