

UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD

----- X  
: TERESA C. CHAMBERS, :  
: :  
: Appellant, :  
: :  
: v. : Docket No.  
: DC-0752-04-0642-I-1  
DEPARTMENT OF THE INTERIOR : DC-1221-04-0616-W-1  
: :  
: Agency. :  
: :  
----- X

Hearing Room 1  
1600 Diagonal Rd., Suite 1205  
Alexandria, VA 22314

Wednesday, September 8, 2004

THE HEARING in the above-entitled matter commenced at  
9:01 a.m., pursuant to notice.

BEFORE:

ELIZABETH B. BOGLE, Administrative Judge

APPEARANCES:

On Behalf of the Appellant:

RICHARD E. CONDIT, ESQ.  
MICK HARRISON, ESQ.  
Public Employees for Environmental Responsibility  
2001 S Street, N.W., Suite 570  
Washington, D.C. 20009

On Behalf of the Agency:

ROBERT D. L'HEUREUX, ESQ.  
RENN FOWLER, ESQ.  
McNamara & L'Heureux  
1522 King Street  
Alexandria, VA 22314

## C O N T E N T S

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
Donald Murphy	16	98	218	XX
Deborah Weatherly	223	255	XX	XX
Frances Mainella	262	286	XX	XX

  

AGENCY EXHIBITS:	PAGE
3 - Proposed removal notice	109
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APPELLANT'S EXHIBITS:	PAGE
J - Mr. Murphy's pretrial deposition, volume 1	97
GG - Document with regard to training requirements	175
II - 6/23/03 e-mail	192
NN - Mr. Murphy's pretrial deposition, volume 2	98

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

2 JUDGE BOGLE: The Washington Regional Office of the  
3 U.S. Merit Systems Protection Board has before it an appeal -  
4 - actually, two appeals filed by Teresa C. Chambers, first  
5 from a removal action taken by the Department of Interior;  
6 the other appeal is for individual right of action appeal --  
7 an IRA appeal, we call them -- from the agency's decision to  
8 place her on administrative leave and to propose her removal.  
9 She alleges those actions were taken in reprisal for her  
10 whistle-blowing activity.

11 My name is Elizabeth Bogle. I am the assigned  
12 administrative judge.

13 Ms. Chambers is represented by Richard E. Condit  
14 and Mick Harrison, and the agency is represented by Robert D.  
15 L'Heureux and Renn Fowler.

16 I have just a few preliminary matters that I think  
17 should be placed on the record, and then I'll see if you have  
18 any that you want on the record.

19 First of all, I did order the agency to provide me  
20 a copy of a draft decision which I reviewed in camera.

21 Mr. L'Heureux, I'm returning it to you.

22 MR. L'HEUREUX: Thank you, Your Honor.

23 JUDGE BOGLE: Next, in my review of this record, I  
24 found a couple of omissions.

25 In the agency's response to the IRA appeal, tab 4-

1 J, there is no document, Mr. L'Heureux, and I'm trying to  
2 figure out --

3 MR. L'HEUREUX: Well, Your Honor, I sent a --  
4 following the -- the argument that we made in -- I sent a  
5 notice that the argument was intended to also serve as the  
6 agency response.

7 JUDGE BOGLE: But this is a document. It's an e-  
8 mail --

9 MR. L'HEUREUX: Oh.

10 JUDGE BOGLE: -- to someone.

11 MR. L'HEUREUX: Oh, I see.

12 JUDGE BOGLE: Let me -- let me find it. It's --  
13 (Pause.)

14 MR. HARRISON: We have it, Your Honor.

15 JUDGE BOGLE: It's your July 20, 2004, agency  
16 response to the order to show cause. 4-J is supposed to be a  
17 December 4, 2003, e-mail, Murphy to Chambers over Blyth  
18 detail.

19 Now, that may well be elsewhere in the record, but  
20 my tab 4-J does not have a copy of it. So, if you'd like to  
21 --

22 MR. L'HEUREUX: I have it here, Your Honor.

23 JUDGE BOGLE: Mr. Harrison, do you have this?

24 MR. HARRISON: I appear to. We have a December 4th  
25 e-mail from Murphy to Chambers. It's underneath a heading of

1 Murphy -- yes. So, I think -- we appear to have it.

2 JUDGE BOGLE: So, you have it. I just don't have  
3 it. All right. I will -- do you need me to copy this and  
4 return it to you?

5 MR. L'HEUREUX: I do, Your Honor.

6 JUDGE BOGLE: All right. Then I will place that  
7 aside for now.

8 Then, in the appellant's pre-hearing submission,  
9 Exhibit A is listed as appellant's first set of  
10 interrogatories.

11 In my record, it is, in fact, a duplicate request  
12 to produce documents.

13 MR. HARRISON: Okay.

14 JUDGE BOGLE: So, if you can provide me the first  
15 set of interrogatories, I will --

16 MR. HARRISON: I'm sure we can.

17 JUDGE BOGLE: -- exchange it.

18 All right. And do you need this copied and  
19 returned to you?

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

21 JUDGE BOGLE: Okay. All right. And then, finally,  
22 as part of the agency's pre-hearing exhibits, Mr. L'Heureux,  
23 you submitted a document that you requested to be placed  
24 under seal in the event that it was accepted. So, I need to  
25 explain for the record what that would mean.

1           If you offer this exhibit and it's accepted,  
2 placing a document under seal does not necessarily mean that  
3 there will never be access to the document.

4           What the board does is note for the record that  
5 that document is under seal.

6           If there should be a request for it, we will apply  
7 the factors that would apply to a Freedom of Information Act  
8 request.

9           So, if we determined -- and it wouldn't be my  
10 determination, but if the board were to determine that, under  
11 the Freedom of Information Act, that document could be  
12 released, it could very well be released.

13           So, at this point, it's only a proposed exhibit.  
14 Why don't you think about it?

15           There may be other ways of offering it. If there  
16 is, for example -- if the -- if the material that is -- that  
17 you think requires it to be under seal could be redacted, for  
18 example, you might want to do it that way, or -- or maybe  
19 you're -- you're fine with the FOIA factors applying to it,  
20 but I'm required to explain that to you and give you a chance  
21 to think about how you would like to have it offered,  
22 accepted, if you do offer it.

23           MR. L'HEUREUX: Thank you, Your Honor.

24           JUDGE BOGLE: Okay.

25           Then, I have spent some time with this file over

1 the last couple of days, and I have rethought one of my  
2 witness rulings, and I wanted to place the parties on notice  
3 of that.

4           Depending on how the testimony goes, the appellant  
5 requested Mr. Fear, who was with her during her interview  
6 with The Washington Post, and I did not initially approve  
7 him, but in reviewing the witness rulings, I think, depending  
8 how the testimony goes, we may need Mr. Fear's testimony,  
9 assuming she still wants it, and because I think he works for  
10 Public Relations for the agency, it's my concern that he  
11 might be here this morning or at some point in the hearing.  
12 If he is, he should be informed that he is a possible  
13 addition to the witness list and he should not be present in  
14 here.

15           MR. L'HEUREUX: I don't see him in the room, Your  
16 Honor.

17           I don't understand him to be present.

18           JUDGE BOGLE: Okay.

19           Then I just wanted to note for the record that Mr.  
20 Griles is unavailable to testify this week. We did have a  
21 conference call, which I haven't had an opportunity to  
22 summarize in writing for the record, so I'll do it this way.

23           The appellant did request that he be ordered to be present  
24 this morning for testimony. However, because it appears to  
25 me we have a few witnesses to get through and we may not have



1 reached Mr. Griles anyway, we agreed to schedule a session of  
2 this hearing next Tuesday, I believe it was, the 14th. Is  
3 that right?

4 MR. HARRISON: That is correct.

5 JUDGE BOGLE: At which time we'll take Mr. Griles'  
6 testimony, and we may delay final argument for that date, as  
7 well.

8 Then, this morning, I received some additional  
9 documentation in this case that I have not had an opportunity  
10 to review very carefully, so I'm not in a position to address  
11 it or make any rulings that might be required. However, I do  
12 note that the appellant requests that Mr. Hoffman be stricken  
13 as a witness, because they were unable to conclude his  
14 deposition.

15 I will not approve that request. Mr. Hoffman is an  
16 approved witness, and he will be permitted to testify. It  
17 may be that we need to expand what he is asked during his  
18 testimony, because of the inability to conclude his  
19 deposition. We can address it that way. But I do not  
20 believe it would be appropriate to strike him as a witness.

21 And then I received a document just moments ago,  
22 really, that is the appellant's exceptions to my conference  
23 summary.

24 The only thing that I recall seeing in there -- and  
25 I've only had a chance to skim it, but there was a question

1 about whether Ms. Chambers would be subject to recall when  
2 she testifies, and she will not.

3 As I told all of you at the -- one of our  
4 conferences, anyway, I do not want to recall these witnesses.

5 So, in essence, we're going to have -- the agency  
6 will present its case first and we will have direct witness -  
7 - direct examination of the agency witnesses. However,  
8 because the appellant has also filed an IRA appeal and has  
9 also called these people as part of her case, when we turn to  
10 what would be cross examination, she will be permitted to ask  
11 some questions that would be appropriate for her -- her case,  
12 and that applies to her, as well.

13 MR. HARRISON: Your Honor, could I clarify the  
14 ruling in that regard?

15 JUDGE BOGLE: Yes.

16 MR. HARRISON: The appellant is a primary witness  
17 in appellant's response case. The agency has the burden, of  
18 course, on the Chapter 75 removal appeal. Appellant would  
19 normally give response evidence after hearing the agency's  
20 case.

21 So, if we are to do her direct actually when she's  
22 called by agency in the form -- at the time of cross, I would  
23 simply ask that the agency at least call her last, so she  
24 will have heard the testimony, so she can respond to it.

25 JUDGE BOGLE: Mr. L'Heureux, any problem with that?

1                   MR. L'HEUREUX: No, none, Your Honor. I intended  
2 to call her last in any event.

3                   JUDGE BOGLE: Okay. Good. All right. That's all  
4 I had.

5                   MR. L'HEUREUX: I do have one other preliminary  
6 matter, Your Honor.

7                   JUDGE BOGLE: I was just about to ask the two of  
8 you if you had any.

9                   MR. L'HEUREUX: I do.

10                   It was brought to my attention yesterday evening  
11 that one of the representatives for the appellant is quoted  
12 on a web-site for the Public Employees for Environmental  
13 Responsibility -- may I approach?

14                   JUDGE BOGLE: Just tell me what --

15                   MR. L'HEUREUX: I have a document here that's a  
16 copy of what's on the web-site. I intend to make a motion  
17 concerning this -- this document.

18                   MR. HARRISON: Could we hear first --

19                   JUDGE BOGLE: Yeah. Go ahead and make your motion,  
20 because --

21                   MR. L'HEUREUX: Very well.

22                   Our motion is for a number of protective orders.  
23 The -- your protective order of August 16, 2003, provided  
24 that the -- that the only persons present at depositions  
25 would be the parties and their legal and technical

1 representatives. One of the representatives who was present  
2 at many of those depositions was the executive director of  
3 the Public Employees for Environmental Responsibility, Mr.  
4 Ruch.

5 He also identified himself as one of the attorneys  
6 in this matter and on the PEER web-site is identified as --  
7 as a member of a bar.

8 Federal Rule of Civil Procedures 26(c) provides for  
9 protective orders in appropriate cases, and they talk about -  
10 - and that -- that talks about cases where individuals are --  
11 witnesses are being subjected to harassment, embarrassment,  
12 oppression, things like that. We're going to be asking for a  
13 protective order concerning the testimony of Mr. Griles.

14 I don't know when this was placed on their web-  
15 site, but on their web-site was placed this -- the  
16 information -- a number of -- a number of comments about Mr.  
17 Griles, intended to be embarrassing to him but also a link to  
18 his deposition transcript, and when one presses the link, up  
19 pops the deposition transcript.

20 I believe that this -- this exposition of his  
21 deposition transcript to the public violates certainly what  
22 was implicit in your order, that only the parties and  
23 parties' representatives were permitted to be present at  
24 depositions, and here the entire deposition has been put --  
25 put forth worldwide on the internet, in addition to which

1 there are some misrepresentations contained in this thing by  
2 Mr. Ruch.

3 One of the misrepresentations is that, in the  
4 notice of unavailability, Mr. Griles was seeking to avoid the  
5 -- the hearing, attempted to miss a critical legal hearing by  
6 claiming the need to be on official travel. That's an utter  
7 misrepresentation of our notice when he was simply  
8 unavailable during those dates.

9 JUDGE BOGLE: You know, I don't want to take  
10 hearing time for arguments of this nature. So, what is your  
11 proposal here?

12 Are you making a motion for sanctions? What is  
13 this?

14 MR. L'HEUREUX: I'm asking for an order that the --  
15 that the deposition be taken down from this web-site and that  
16 the -- that no further depositions be made available to the  
17 public, if they aren't part of -- a part of this hearing.  
18 I'm asking that -- because it's obvious that -- from this  
19 utterance -- that the -- the intent of the appellant in  
20 calling Mr. Griles is to subject him to additional  
21 embarrassment and harassment and that Your Honor approved Mr.  
22 Griles for a very limited purpose. That limited purpose was  
23 that he -- that he comment on the seriousness of the chain of  
24 command, count six.

25 JUDGE BOGLE: Okay.

1           Well, first of all, I probably do not have the  
2 authority to order somebody to take something down off their  
3 web-site.

4           If you think I do, let me know where you think that  
5 authority comes from.

6           Number two, you're correct, Mr. Griles is a very,  
7 very limited witness, and his testimony will be restricted to  
8 the matters that -- that he was approved for.

9           So, if you are moving for sanctions or for a  
10 further protective order for how the deposition transcripts  
11 can be used, I'll take that up at a separate time, but I  
12 don't think that's appropriate for now, and I assume we have  
13 a witness standing by, and I'd like to get on the record with  
14 the testimony just as soon as we can.

15           MR. L'HEUREUX: Thank you, Your Honor.

16           JUDGE BOGLE: Okay.

17           Anything else that the agency wants to raise?

18           MR. L'HEUREUX: No, Your Honor.

19           JUDGE BOGLE: Mr. Harrison, anything for the  
20 appellant?

21           MR. HARRISON: Nothing, Your Honor.

22           JUDGE BOGLE: Okay.

23           Let's call our first witness, then.

24           MR. L'HEUREUX: The agency calls Donald Murphy.

25           JUDGE BOGLE: Do you have any objection to taking

1 an oath?

2 MR. MURPHY: No, I do not.

3 JUDGE BOGLE: Would you stand, please, and raise  
4 your right hand?

5 Whereupon,

6 DONALD MURPHY

7 was called as a witness and, having been first duly sworn,  
8 was examined and testified as follows:

9 JUDGE BOGLE: Please be seated, and state your full  
10 name and your title.

11 THE WITNESS: My name is Donald Murphy, deputy  
12 director for external affairs, National Park Service.

13 JUDGE BOGLE: Before we begin, let me ask you.  
14 There was some discussion between us about using -- all of  
15 these people have been deposed at length. There was some  
16 discussion about the possibility of entering their  
17 depositions in lieu of complete testimony. Where did that  
18 effort lead?

19 MR. HARRISON: It hasn't led to resolution, Your  
20 Honor, but it's still a concept that the appellant is --  
21 considering what I believe to be a fairly brief trial  
22 schedule, I believe it has value, still has value. So, we  
23 might well propose deposition transcripts as exhibits and  
24 shorten our examination as a consequence.

25 JUDGE BOGLE: Okay. Let's keep that under

1     advisement, because I think that might work. All right.

2                     Mr. L'Heureux?

3                     MR. L'HEUREUX: Yes.

4                                     DIRECT EXAMINATION

5                     BY MR. L'HEUREUX:

6             Q     Good morning, Mr. Murphy.

7             A     Good morning.

8             Q     Would you describe your present duties, please?

9             A     I'm the deputy director for external affairs for  
10    the National Park Service, and I have responsibility for  
11    jointly managing the National Park Service's 388 parks, 84  
12    million acres.

13                     Directly reporting to me are the law enforcement  
14    divisions of the National Park Service. That is the U.S.  
15    Park Police; our visitor and resource protection associate  
16    director, which oversees our protection rangers, also sworn  
17    peace officers.

18                     Information Technology reports to me, as does  
19    partnerships, volunteers, interpretation, that part of the  
20    National Park Service. Facility maintenance reports to me,  
21    as well, and I also supervise the international affairs  
22    division.

23             Q     And how long have you performed these duties?

24             A     About three years in a month.

25             Q     Are you a political appointee?



1           A     Yes, I am.

2           Q     Were you the -- were you the supervisor of Teresa  
3 Chambers?

4           A     Yes.

5           Q     And during what period of time were you the  
6 supervisor of Teresa Chambers?

7           A     Let's see. I came in in 2001, in October. So,  
8 that would be from approximately February 2002 until the time  
9 that she was placed on administrative leave by me.

10          Q     Would you briefly describe your -- your background,  
11 your work experience with -- specifically?

12          A     Of course. For the last three years, I've been  
13 deputy director of the National Park Service. Prior to that,  
14 I was director of the city parks in the City of Sacramento.  
15 I spent most of my career, however, with the State of  
16 California, six of which as its director. At that time, I  
17 was a sworn peace officer; 680 other sworn peace officers  
18 reported directly through the chain to me. That department  
19 that 5,000 employee, a budget of \$250 million, a capital  
20 budget of 250 million.

21                 Prior to that, I served in various locations  
22 throughout the State of California, as superintendent and  
23 ranger, all as a post-certified sworn peace officer during  
24 that -- that period of time. I worked in various locations  
25 throughout the State of California as a ranger.

1           Prior to that, I was in a graduate degree program  
2 for my Ph.D.

3           I completed three years of advanced candidacy for  
4 my Ph.D. in biochemistry and had a career crisis at 25 and  
5 became a ranger.

6           Q     How much of your career would you describe as -- as  
7 law enforcement experience?

8           A     About 18 years.

9           Q     Were you the proposing official for the removal of  
10 Teresa Chambers?

11          A     Yes, I was.

12          Q     Let's talk about that a little bit. We're going to  
13 go, in a few minutes, into the proposal itself and -- and  
14 talk about the various parts of it, but was there an overall  
15 -- an overall problem that those charges represent to you?

16          A     Well, they represented, overall, a pattern of not  
17 listening and not following my instructions.

18          Q     All right.

19                 Was this a problem from the time Teresa Chambers  
20 first came under your supervision?

21          A     Yes, in the sense that, in the very beginning,  
22 there was a problem with misuse of -- of government property,  
23 an IG investigation that -- that took place as a -- as a  
24 result -- as a result.

25                 That was the first instance when I noticed that --

1 that there could -- that there could be a problem.

2 Q All right. Did that problem result in official  
3 action?

4 A Yes.

5 Q And what was that action?

6 A That resulted in a letter of reprimand.

7 Q All right.

8 Do you recall when that letter of reprimand was  
9 actually issued to Ms. Chambers?

10 A That would have been early in 2003, March, perhaps.

11 Q All right. And what, specifically, was she  
12 reprimanded for doing?

13 A It was both personal misuse of government property  
14 and then authorizing the misuse of government property by  
15 another employee.

16 Q Now, did Ms. Chambers have some explanation to you  
17 for what -- for what she had done?

18 A Yes.

19 Q What was that explanation?

20 A That in her experience as a law enforcement officer  
21 that had worked at a high level in municipalities, that the  
22 use of -- of government vehicles 24/7 was -- was normal and  
23 that it made complete sense because you had to have a vehicle  
24 available to you at all times to respond in the case of  
25 emergencies.

1 Q Did that persuade you concerning a decision to  
2 reprimand her or not?

3 A No.

4 JUDGE BOGLE: Mr. L'Heureux, we're not going to re-  
5 litigation the reprimand.

6 MR. L'HEUREUX: I understand that, Your Honor.

7 JUDGE BOGLE: I'm sure you're going to object to  
8 any question Mr. Harrison asks about it, so I -- I don't  
9 think that I should permit you to continue with it.

10 MR. L'HEUREUX: All right.

11 BY MR. L'HEUREUX:

12 Q Thinking now about 2003 and -- and not thinking  
13 about the reprimand but thinking about anything else, were  
14 there -- were there any other concerns that you developed  
15 about Ms. Chambers' performance or conduct during 2003?

16 MR. HARRISON: Objection, Your Honor. I believe  
17 the question, even though it's ambiguous, seems to be getting  
18 at concerns that may not have been expressed as a basis for  
19 the action. Maybe that's not what the question is seeking.  
20 I just want to make sure we limit the evidence to the grounds  
21 stated in the proposal.

22 JUDGE BOGLE: Well, you know, I think that -- as I  
23 understand the question, you're trying to lay some context  
24 for what came later.

25 There's a danger in doing that, and that is that

1 she's going to have the right to cross examine on all of  
2 that, and it isn't truly relevant, as Mr. Harrison suggests.

3 So, I'll give you some leeway, but I think we need to get to  
4 the charges.

5 MR. L'HEUREUX: Well, may I respond, Your Honor?

6 JUDGE BOGLE: Yes.

7 MR. L'HEUREUX: There is always in a reprisal -- in  
8 a case where there's an accusation of reprisal from protected  
9 conduct, a question of timing arising, and that -- that  
10 certain concerns and conduct were coming to Mr. Murphy's  
11 attention before there was any -- there was any claim of  
12 protected speech is entirely relevant to -- to the timing of  
13 his decisions to take or consider disciplinary or other  
14 action.

15 JUDGE BOGLE: Well, I understand what you're  
16 saying, but he didn't take action for those things. So, I  
17 don't know how that helps.

18 I will permit you to proceed with the caution that  
19 I would like to get to the charges in the case.

20 MR. L'HEUREUX: All right. Well, let's just do  
21 that, Your Honor.

22 BY MR. L'HEUREUX:

23 Q Let's -- let's move to charge one. What I'd like  
24 you to do -- if we can have the --

25 MR. L'HEUREUX: May I approach the witness, Your

1 Honor?

2 JUDGE BOGLE: Yes.

3 BY MR. L'HEUREUX:

4 Q I'm going to ask you to turn to tab 4-C in what is  
5 volume one of the response file concerning the removal.

6 MR. L'HEUREUX: That is the 0752 response file,  
7 Counsel.

8 BY MR. L'HEUREUX:

9 Q Exhibit 4-C -- could you look at Exhibit 4-C for  
10 me, please? Let me know when you've looked at that, Mr.  
11 Murphy.

12 A (Examining.)

13 Q Do you recognize Exhibit 4-C?

14 A Yes.

15 Q All right.

16 What is that?

17 A This is the proposed removal.

18 Q All right.

19 Are you the author of this proposed removal?

20 A Yes.

21 Q All right.

22 Is this -- was this your decision to issue this  
23 proposed removal?

24 A Yes.

25 Q All right.

1           Let's turn to charge one, which is described on  
2 page one there.

3           Do you see that?

4           A     Yes.

5           Q     And it says "improper budget communications."

6           A     Yes.

7           Q     There is a specification which describes chapter  
8 seven of the department manual, and further down, it says  
9 this language, on page two. I'm sorry. We're still on page  
10 one.

11           The last full sentence there begins, "Subsequent to  
12 my November 3, 2003, instruction to you, you telephoned a  
13 senior staff member of the interior appropriations  
14 subcommittee and told her that you believed that the review  
15 was not necessary."

16           Now, what -- what evidence did you have that this  
17 occurred?

18           What caused you to write this?

19           A     Well, this particular one, in fact, came to my  
20 knowledge as a result of the director of the department --  
21 National Park Service informing me that she had received a --  
22 a telephone call from the senior staffer from the  
23 appropriations committee, Ms. Debbie Weatherly.

24           Q     Who -- who was the director of the National Park  
25 Service?

1           A     Fran Mainella.

2           Q     All right.  And what did Ms. Mainella tell you had  
3     -- had occurred in this telephone call from Ms. Weatherly?

4           MR. HARRISON:  Objection, hearsay.

5           JUDGE BOGLE:  I'll permit it.

6           THE WITNESS:  Ms. Weatherly was very concerned  
7     about a call she had received from Chief Chambers complaining  
8     about the need for the National -- or for the U.S. Park  
9     Police to pay for the re-review of the NAPA report.

10          BY MR. L'HEUREUX:

11          Q     Why was this an issue?

12          A     It was an issue simply because Ms. Weatherly felt  
13     it was improper for her to be --

14          MR. HARRISON:  Objection, calls for speculation  
15     about what Ms. Weatherly thought.

16          JUDGE BOGLE:  I'll permit it.

17          THE WITNESS:  Because Ms. Weatherly felt that it  
18     was improper for her to be receiving a telephone call from  
19     the United States Park Police on this particular issue since  
20     the appropriations language was already contained in the  
21     appropriations bill instructing the U.S. Park Police to do  
22     so, and she felt it was improper for her to be getting a  
23     phone call lobbying her to -- to do this, to -- for the U.S.  
24     Park Police not to have to -- to pay for this report.

25          BY MR. L'HEUREUX:



1 Q Did you discuss this with Ms. Weatherly yourself?

2 A Subsequently, yes.

3 Q How did that come about?

4 A I telephoned Ms. Weatherly to find out exactly what  
5 her concerns were.

6 Q And -- and what -- what did she say to you during  
7 that telephone call?

8 A She said that she had received a call from Chief  
9 Chambers and that Chief Chambers was at that time complaining  
10 to her about having to do the NAPA re-review, the U.S. Park  
11 Police having to -- to pay for it. She further stated that  
12 she didn't understand why the -- she was receiving such a  
13 call.

14 She went on to say, you know, aren't you  
15 supervising your people over there, didn't she see the -- the  
16 budget language, things of that nature.

17 Q Did you know Ms. -- Ms. Chambers was going to call  
18 Ms. Weatherly?

19 A No, I did not.

20 Q Did you discuss this with Ms. Chambers?

21 A Yes.

22 Q What did she say to you?

23 A She said that -- I had a conversation with her  
24 about this in my office, and I confronted her with the fact  
25 that she knew she was required, as the chief of police, to

1 have the U.S. Park Police pay for this NAPA report and that,  
2 in fact, a few days prior, she had pointed out to me the  
3 budget language in the appropriations bill instructing U.S.  
4 Park Police to do so.

5           So, I said why would you -- you do that? You knew  
6 this was what you're supposed to do. Why did you make that -  
7 - that phone call? And she said, well, I just needed  
8 clarification. And I said but you're the one that pointed  
9 out to me that this language was in the budget appropriations  
10 bill and was -- was necessary. So, I don't understand why  
11 you wouldn't have just done as instructed, and she said that,  
12 well, I guess I just didn't internalize it, was -- was her  
13 final response.

14           Q     All right.

15                     Let me -- let me ask you this, then. Was there a  
16 problem about -- about the phone call that Ms. Weatherly gave  
17 you?

18                     Did that cause you any concern of any particular  
19 kind, what Ms. Weatherly was saying to you about this  
20 telephone call with Ms. Chambers?

21           A     Yes.

22           Q     What was that concern?

23           A     Well, that, at the time, Ms. Chambers knew what the  
24 instructions were with respect to the appropriations bill.  
25 She had had a conversation with me after a budget meeting

1 that -- that we had with the Department of Interior. So, she  
2 had knowledge of it.

3 So, again, it was not listening and not -- not  
4 following instructions that gave me pause or -- or gave me a  
5 reason to be concerned.

6 Q Were you concerned at all about -- about the  
7 relationships between -- between the department and Ms.  
8 Weatherly as a result of what you were hearing?

9 A Yes, very -- very much so.

10 Q And what was that concern?

11 A Well, that this is the senior staffer for the  
12 appropriations committee for the Department of Interior that  
13 oversees our -- our budget, and when that staff person has a  
14 lack of trust and doesn't believe that the department is  
15 willing to follow its instructions or we don't have the  
16 ability to supervise our -- our personnel to comply with  
17 congressional directives, that's often reflected negatively  
18 in the budgeting process for the National Park Service.

19 Q Now, besides talking to Ms. Weatherly about this,  
20 did you -- did you make any decision to do anything further  
21 about this -- about this episode?

22 A Yes.

23 Q What was that?

24 A Well, I -- I decided that some sort of disciplinary  
25 action was -- was appropriate here.

1 Q Had you decided what disciplinary action?

2 A Not completely at the time. I just took it under  
3 advisement and was considering disciplinary action.

4 Q Now, this -- this occurred, according to -- I'm  
5 sorry.

6 Do you know when this -- do you recall when this --  
7 when this occurred, when you got the phone call from Ms.  
8 Weatherly?

9 A This was early November.

10 Q Of 2003?

11 A Of 2003. Or late October, early November.

12 Q Did you have any reason to doubt what Ms. Weatherly  
13 was telling you?

14 A No.

15 Q All right.

16 Let's move to charge two.

17 Charge two is found on page two, and charge two is  
18 making public remarks regarding security on the Federal Mall  
19 and in parks and on the parkways in the Washington, D.C.,  
20 metropolitan area.

21 Now, I don't want -- I don't want to read the  
22 charge into the record. Would you look at it right now and  
23 refresh -- and refresh yourself about that charge?

24 A Yes.

25 (Witness examining document.)

1 BY MR. L'HEUREUX:

2 Q Have you looked at it?

3 A Yes. Yes.

4 Q Let me back up and ask you a question about --  
5 about the communications between Ms. Chambers and Ms.  
6 Weatherly.

7 Did you have any understanding at the -- at the  
8 time you completed inquiring into this as to whether Ms.  
9 Chambers was speaking on duty and officially when she was  
10 speaking to Ms. Chambers?

11 A Yes.

12 Q And what was that understanding?

13 A That she was on duty and speaking officially.

14 Q And what caused you to conclude that?

15 A At that time, she was employed by the National Park  
16 Service, United States Park Police, and she represented  
17 herself to Ms. Weatherly as the chief of the U.S. Park  
18 Police, speaking on behalf of the U.S. Park Police.

19 Q All right. And had Ms. -- Ms. Chambers been  
20 authorized to speak on behalf of the Park Police or the Park  
21 Service concerning the -- whether or not this study would be  
22 paid for by the Park Police?

23 A No.

24 Q All right.

25 Let's move again to charge two, if you have looked

1 at it.

2           Concerning charge two -- and that is the charge  
3 where Ms. Chambers is alleged to have said certain things  
4 that were reported in the -- in The Washington Post on -- on  
5 or about December 2nd in an article that they published. The  
6 first of those things is that -- this extract from the  
7 Washington Post article.

8           "Chambers said that traffic accidents have  
9 increased on the Baltimore-Washington Parkway which now often  
10 has two officers on patrol instead of the recommended four."

11           In this charge, you have alleged that Ms. -- Ms.  
12 Chambers was making improper remarks concerning security --  
13 that is, remarks she shouldn't have made about security. Was  
14 this one of those remarks that you meant -- meant to  
15 criticize her for?

16           A     Yes.

17           Q     All right.

18           What was it about this remark that she should not  
19 have said?

20           A     It was simply making public and communicating  
21 publicly the profile of officers that are on the Baltimore-  
22 Washington Parkway and making statements about the -- the  
23 nature of those -- that law enforcement presence on the  
24 Baltimore-Washington Parkway which could communicate to  
25 either criminal elements or those that are not prone to obey

1 the law and that are prone to speed or break other traffic  
2 laws, that the profile of the officers was such that if they,  
3 you know, saw one or two officers in a particular location,  
4 they could reasonably conclude that there were no more  
5 officers available and they could continue to -- to behave in  
6 -- in such a way as to break the law, and I -- and I thought  
7 that was an improper statement to be making publicly by the  
8 chief of police.

9 Q Did you regard this particular information as being  
10 sensitive at all?

11 A Not this particular information. I -- I thought it  
12 was -- was not responsible and -- and not the kind of  
13 information that -- that should be made public.

14 Q All right.

15 Let's -- let's turn to the next -- the next excerpt  
16 in there.

17 It begins -- actually, it states, "It's fair to  
18 say, where it's green, it belongs to us in Washington, D.C.  
19 Chambers said of her department, 'Well, there's not enough of  
20 us to go around to protect those green spaces.'" Was this  
21 something you intended to criticize Ms. Chambers for saying  
22 regarding security?

23 A Yes. Yes.

24 Q Why?

25 A Well, I was concerned that we were communicating

1 publicly that we weren't -- that we didn't have enough  
2 staffing and that we weren't protecting the -- the areas in  
3 our parks, communicating to the criminal elements,  
4 particularly, in Washington that have a tendency to frequent  
5 these green spaces referenced, our parks, and giving them  
6 some indication that it was, you know, free territory to --  
7 to exploit, and I didn't think and still don't believe that  
8 public statements such as that are appropriate coming from  
9 the chief of police.

10 Q All right.

11 Let's turn to the next -- the next excerpt here,  
12 and it reads, "'The Park Police's new force of 20 unarmed  
13 security guards will begin serving around the monuments in  
14 the next few weeks,' Chambers said. She said she eventually  
15 hopes to have a combination of two guards and two officers at  
16 the monuments." And my questions are similar here.

17 Did you have some -- were you intended with this  
18 charge to criticize Ms. Chambers for having said this to The  
19 Washington Post?

20 A Yes.

21 Q And why -- why did you think that not to be  
22 appropriate?

23 A Well, in this case, this information was  
24 specifically contained in a document that she prepared  
25 labeled "law enforcement sensitive."



1           It specifically called out the -- the numbers and  
2 profile of officers that would be staffing security at those  
3 locations.

4           Q     What does the designation "law enforcement  
5 sensitive" mean?

6           A     It simply means that -- it's an informal way of  
7 designating that something is -- is sensitive and shouldn't  
8 be communicated for public consumption, that there is a -- a  
9 sensitivity to it that could cause jeopardy or -- or harm or  
10 the compromise of the security of the law enforcement that's  
11 being provided.

12          Q     All right.

13                 Did you -- did you consider that this -- that  
14 what's written here and that we just -- that we're talking  
15 about right now was in some way a compromise of security?

16          A     Yes.

17          Q     And why was it a compromise of security?

18          A     Well, as I stated, it -- it called out the exact  
19 numbers of -- and profile of -- of staffing that was in one  
20 of our documents that Ms. Chambers had labeled as "law  
21 enforcement sensitive," and it communicated to the public as  
22 well as to potential criminal elements exactly what the  
23 staffing levels were, and -- and I felt, because Ms. Chambers  
24 herself had labeled that as law enforcement sensitive, that  
25 it did communicate, in my judgement, sensitive law

1 enforcement information, it -- it shouldn't be in the -- in  
2 the public domain because of the jeopardy it placed other  
3 officers in, as well as the compromising of the security of  
4 the icons.

5 Q Is this -- is this same information a matter of  
6 simple observation by the public, in your view?

7 A Well, it could be --

8 MR. HARRISON: Objection. It's unclear what  
9 information we're speaking of.

10 JUDGE BOGLE: Does the witness understand?

11 THE WITNESS: Yes.

12 JUDGE BOGLE: Okay. You may proceed.

13 THE WITNESS: These staffing profiles may be  
14 observed by -- by others, someone casing potential targets.  
15 However, the staffing and the officers are -- are well  
16 trained to -- to look for individuals doing that, so it's not  
17 as readily discernible as it -- as it might be. I mean you  
18 can make certain conclusions, but they -- they're not as  
19 clear and firm as they are coming directly from the chief of  
20 the U.S. Park Police defining clearly what those -- those  
21 staffing profiles are.

22 There would be some room for error or -- or  
23 guessing on the part of -- of someone that would be a more  
24 casual observer. This is -- what's written here is very  
25 explicit.

1 BY MR. L'HEUREUX:

2 Q Would it make any difference to you if you learned  
3 that Chief Chambers merely confirmed this information to The  
4 Washington Post rather than being the person who initially  
5 disclosed it to them?

6 A No.

7 Q Why not?

8 A Well, again, the -- the chief of the United States  
9 Park Police is the official spokesperson, commands the  
10 highest position in the United States Park Police, and the  
11 confirmation of that information is, in my mind, no different  
12 than giving it explicitly.

13 Q Have you yourself ever disclosed this information?

14 A No.

15 Q I mean disclosed this information to the public or  
16 the press.

17 A No.

18 Q All right.

19 Let's turn to charge three. Charge three is found  
20 at the bottom of page two of this particular document and  
21 goes on to page three.

22 Charge three is the alleged improper disclosure of  
23 budget deliberations.

24 The specification recites a -- an Office of  
25 Management and Budget circular, and the heart of the

1 specification is found on the -- in the first full -- full  
2 paragraph on page three.

3 Would you briefly review that?

4 A (Examining.)

5 MR. HARRISON: Your Honor, I guess, at this point,  
6 I object to the procedure of having the witness read his own  
7 document before we determined that his memory has lapsed.  
8 There may not be a need to refresh his memory. He should be  
9 testifying to his knowledge, not just reading from a  
10 document. We already know it was prepared by at least two  
11 other people.

12 JUDGE BOGLE: Mr. L'Heureux, it's up to you.

13 The record will show if he's reading the document,  
14 Mr. Harrison.

15 So, that will --

16 MR. HARRISON: Understood.

17 JUDGE BOGLE: -- address your concerns, but Mr.  
18 L'Heureux, whichever way you'd like to proceed.

19 MR. L'HEUREUX: Thank you, Your Honor.

20 BY MR. L'HEUREUX:

21 Q Let me turn your attention to the last sentence in  
22 that first full paragraph.

23 It begins with a quote that says, "She said she had  
24 to cover a \$12 million shortfall for this year and has asked  
25 for \$8 million for next year."

1           Is -- is this the language that -- for which you  
2 brought this charge against Ms. Chambers?

3           MR. HARRISON:  Objection, leading.

4           JUDGE BOGLE:  I'll permit it.

5           THE WITNESS:  Yes.

6           MR. L'HEUREUX:  All right.

7           BY MR. L'HEUREUX:

8           Q     What was there about this language that Ms.  
9 Chambers should not have said?

10          A     Asking for -- the quote, "asked for \$8 million for  
11 next year," refers to \$8 million that was -- an amount  
12 specifically in the budget developed by the National Park  
13 Service, along with the Department of Interior, for the  
14 United States Park Police.

15                 This is the amount that we were in the process of  
16 negotiating with -- with OMB for the President's budget for  
17 fiscal year '05.

18          Q     All right.

19                 Let me come back to that in a moment.

20                 Did you understand, when Ms. Chambers said this,  
21 that she was speaking officially and representing the Park  
22 Police and the Park Service when she said these things?

23          A     Yes.

24          Q     Did you understand that -- that she was speaking  
25 officially and -- and representing the -- the department and

1 the Park Police when she spoke about security matters to The  
2 Washington Post?

3 A Yes.

4 Q All right.

5 Now, you have just said that the \$8 million was a -  
6 - was a budget amount.

7 Would you explain what you -- what you mean about  
8 that budget amount?

9 Where was it in the process at this time?

10 A At this time, we were in the process of developing  
11 the -- the budget for the National Park Service and the U.S.  
12 Park Police.

13 This is in December, and we would have -- this  
14 would have been the amount that we included in our submission  
15 to the Office of Management and Budget for the U.S. Park  
16 Police.

17 Q Would Ms. Chambers have known, say by November 20th  
18 of 2003, that this was the number that -- that the department  
19 was going to be asking -- would be sending to OMB as its  
20 request for the -- for the U.S. Park Police?

21 A Yes.

22 Q What did this \$8 million actually represent?

23 A It represented -- excuse me. It represented an  
24 increase in the United States Park Police budget from its  
25 current amount prior to '05 to -- to the \$8 million

1 represented here.

2 Q I see.

3 So, the -- the entire request for the U.S. Park  
4 Police would have been much larger than \$8 million.

5 A It would have been in the neighborhood of 76-plus  
6 million dollars.

7 Q All right.

8 Were you -- did you yourself ever caution Ms.  
9 Chambers not to disclose this kind of information?

10 A I did, as well as the director of the National Park  
11 Service.

12 Q What do you recall about -- about any cautions that  
13 Ms. Chambers might have received about disclosing this kind  
14 of information?

15 A During our -- our National Leadership Council  
16 meetings, which includes the United States Park Police chief  
17 and all of our senior management, during the budget  
18 preparation season, if I can call it that, during the time  
19 that we're preparing the budget, the director calls us  
20 together, we talk about our -- our respective needs, we're  
21 given instructions about developing the budget.

22 The instructions from the Department of Interior  
23 are passed out. That is, the budget instructions that we're  
24 to use in developing our individual budgets. However, when  
25 the director starts off all of those meetings, before she

1 says anything else, she explicitly communicates to each  
2 senior manager that they are not to disclose any of the  
3 dollar amounts, numbers, or details of the budget  
4 negotiations prior to the issuance of the -- the President's  
5 budget.

6 Q When does that occur?

7 A Generally occurs the -- in January of the fiscal  
8 year -- in this case, it would have -- would have occurred in  
9 January of '05.

10 Q Now, is it your testimony that you were present  
11 when -- when the director -- when you say "director," are you  
12 speaking of Ms. Mainella?

13 A I'm speaking of Director Mainella.

14 Q Is it your testimony that you were present when Ms.  
15 Mainella gave these -- these warnings?

16 A Yes.

17 Q And do you have a recollection that Ms. Chambers  
18 was also present during those meetings?

19 A Yes.

20 Q Did Ms. Chambers ever talk to you about those  
21 warnings?

22 A Not that I recall.

23 JUDGE BOGLE: Let me just interrupt you. You said  
24 that the President's budget that was addressed here would  
25 have been made public in January of '05? Do you mean January



1 of '04?

2 THE WITNESS: I'm sorry. That's right.

3 JUDGE BOGLE: Okay.

4 THE WITNESS: I'm sorry. I just misspoke.

5 MR. HARRISON: Excuse me, Your Honor. I think  
6 we're talking about the fiscal year for '05. I'm not sure --

7 MR. L'HEUREUX: Let me ask him some questions. I  
8 can clarify it.

9 JUDGE BOGLE: That's why I asked him, because  
10 January of '05 doesn't make sense. The budget would begin  
11 October 1 of '04.

12 MR. HARRISON: Understood.

13 JUDGE BOGLE: Okay.

14 MR. L'HEUREUX: That's right.

15 BY MR. L'HEUREUX:

16 Q When is the President's budget made public  
17 annually?

18 A In January.

19 Q In January. And what exactly -- which budget is it  
20 that's being made public?

21 A For the fiscal year that's coming next, so for the  
22 fiscal year that would be beginning in -- in October of that  
23 year.

24 Q The following October.

25 A That's correct.

1                   MR. L'HEUREUX: Is that sufficient, Your Honor, do  
2 you think?

3                   JUDGE BOGLE: Yes.

4                   MR. L'HEUREUX: All right.

5                   BY MR. L'HEUREUX:

6           Q       What's the problem with releasing this information?  
7                   Apart from the warning, what -- what problem might  
8 that make?

9           A       Well, the problem that it makes is when that  
10 information is -- is available prior to the issuance of -- of  
11 the budget -- I can give an example.

12                   If there is a difference between the amount that  
13 any agency submits and the amount that's passed back and  
14 ultimately accepted in the President's budget and that's  
15 public knowledge and members of different political parties  
16 have that -- that knowledge, they can often use that to  
17 frustrate the development of the -- of the President's budget  
18 and -- and -- and publicly embarrass the President or -- or  
19 an administration with respect to the difference in the -- in  
20 the -- in the two budgets, and that -- that can have a very  
21 chilling effect on the development of the -- the budget  
22 process make it very difficult on -- on an agency.

23           Q       All right.

24                   Again, I have a similar question to the -- to  
25 charge -- to that concerning charge two.

1           Would it -- would it have affected your judgement  
2 about whether to charge Ms. Chambers under -- under charge  
3 three if you believed that she had merely confirmed this  
4 information to The Washington Post rather than having  
5 initially disclosed it?

6           A     No.

7           Q     Why not?

8           A     Again, confirmation of -- of these kinds of budget  
9 figures by someone speaking officially in -- in a senior  
10 management position in -- in my judgement is -- is the same  
11 as disclosing the -- the information. It's a confirmation  
12 that that information is correct and corroborates the  
13 information, and our -- our warnings and admonitions are  
14 pretty clear and explicit about that, that we give to all our  
15 senior managers.

16          Q     All right.

17                   Let me turn, then, to charge four --

18           JUDGE BOGLE: Let me ask a follow-up question.

19           MR. L'HEUREUX: Yes, Your Honor.

20           JUDGE BOGLE: In a similar vein, would it make any  
21 difference if the appellant said to The Washington Post that  
22 she needed 8 million to get by? Not that she had asked for  
23 it but that she needed it to get by?

24           THE WITNESS: No, not in my judgement, and --

25           JUDGE BOGLE: And why is that?

1           THE WITNESS: The reason is the \$8 million that's -  
2 - was a very explicit number that we were using in our -- our  
3 budget negotiations, and the difference, in my judgement, as  
4 a long-time manager, between needing and asking for is not  
5 sufficient to justify communicating specific budget numbers  
6 that are -- that are being negotiated between the Office of  
7 Management and Budget and -- and an agency.

8           JUDGE BOGLE: Okay. Thank you.

9           Mr. L'Heureux?

10          MR. L'HEUREUX: All right.

11          BY MR. L'HEUREUX:

12          Q     Let's turn our attention, then, if we will, to  
13 charge four.

14                 Charge four is, again, found on page three, about  
15 in the middle.

16                 Here there are also some quotes, and I'm going to  
17 try to speed things up by -- by saying that charge four is  
18 labeled as improper lobbying.

19                 It cites a -- a regulation. Are you familiar with  
20 the regulation that's cited there?

21          A     Yes.

22          Q     Is that regulation to be found in the Agency  
23 Standards of Conduct? Is that one of those regulations?

24          A     Yes.

25          Q     All right.

1           It says here that -- again, referring to comments  
2 which were reported in The Washington Post on December 2,  
3 2003, that Ms. Chambers said this.

4           "'In the long run,' Chambers said, 'her 620-member  
5 department needs a major expansion, perhaps to about 1,400  
6 officers.'"

7           What about that comment, that -- that alleged  
8 comment by Ms. Chambers, caused you to believe it was  
9 improper lobbying with respect to the regulation?

10          A     First of all, she was speaking in her official  
11 capacity as the chief of the United States Park Police, and  
12 she was authorized to speak officially. However, this  
13 statement, again, was made during the time that legislation  
14 was being developed and -- and drafted for the budget of the  
15 Department of Interior, National Park Service, U.S. Park  
16 Police, and these numbers did not reflect the position at  
17 that time of the Department of Interior and the National Park  
18 Service, and so, it was of great concern that we had someone  
19 speaking in an official capacity, representing the agency,  
20 communicating numbers that were not the position of the  
21 agency that they represented.

22          Q     You say the budget season is going, referring to  
23 appropriation legislation?

24          A     I'm referring to appropriations legislation, yes.

25          Q     And it was your belief that this -- this remark by

1 Ms. Chambers was -- had the intention to influence that --  
2 that appropriation in some way?

3 A That's correct.

4 Q All right.

5 Let's turn to the next remark, then. She said a  
6 more pressing need is an infusion of Federal money to hire  
7 recruits and pay for officers' overtime. What was there  
8 about this alleged remark by Ms. Chambers that you thought  
9 would be improper lobbying?

10 A Well, it's consistent with my earlier statement  
11 that she was speaking in her official capacity, representing  
12 the National Park Service, Department of Interior, and  
13 communicating a position that was not consistent with the  
14 department's budget development at that -- at that particular  
15 time and asking for -- for Federal monies and -- and to hire  
16 recruits, pay for overtime, that was not consistent with our  
17 -- with the agency's budget development position.

18 Q Do you know if Ms. Chambers received any ethics  
19 training from the agency?

20 A Yes.

21 Q Do you know if that training included any training  
22 in -- in the subject of lobbying?

23 A It would have, yes.

24 Q How is it that you know that she received some  
25 ethics training?

1           A     Well, I know that because I -- I was contacted by  
2     the ethics office and informed that -- that a considerable  
3     amount of time had passed and Ms. Chambers had not yet taken  
4     her -- her ethics class.

5                     I telephoned Ms. Chambers and asked her to  
6     immediately schedule the -- the ethics class, which she did,  
7     and she sent me an e-mail communicating to me that she had  
8     completed the -- the ethics training.

9           Q     All right.

10                    Do you know -- if I asked you this question before,  
11     I apologize.

12                    Do you know if she -- if lobbying -- if the subject  
13     of lobbying is covered in ethics training?

14           A     Yes.

15           Q     All right.

16                    Let's move on, then, to charge five, and charge  
17     five is found on page four of the document that you're  
18     looking at, which is the proposed removal, and charge five is  
19     a failure to carry out a supervisor's instruction. Charge  
20     five has three --

21                    JUDGE BOGLE:   What about proposed Agency Exhibit 6?

22     Do you want to offer this?  You remember, I didn't receive  
23     any of these exhibits, so if you want them in, you have to  
24     offer them.

25                    MR. L'HEUREUX:  I understand.  I intend to offer

1 that later, Your Honor.

2 JUDGE BOGLE: Later?

3 MR. L'HEUREUX: Yes.

4 JUDGE BOGLE: Okay.

5 MR. L'HEUREUX: If it will simplify things, I'll be  
6 glad to offer it now.

7 JUDGE BOGLE: That's okay. I just didn't -- I mean  
8 I -- sometimes I conduct these hearings and the parties  
9 forget that we reserved ruling on them, and I just wanted to  
10 remind you.

11 MR. L'HEUREUX: Let me do that --

12 JUDGE BOGLE: That is an ethics certification, and  
13 it would be the appropriate time.

14 MR. L'HEUREUX: All right.

15 May I approach?

16 JUDGE BOGLE: Yes.

17 MR. L'HEUREUX: Counsel, I'm giving him Agency  
18 Exhibit 6.

19 MR. HARRISON: Okay. If we could just have a  
20 moment to locate it.

21 BY MR. L'HEUREUX:

22 Q Would you please examine that, Mr. Murphy, and let  
23 me know when you've examined Agency Exhibit 6, Agency Hearing  
24 Exhibit 6.

25 A (Examining) Okay.



1 Q What is Agency Hearing Exhibit 6?

2 A This is a certification of ethics training credit  
3 for Ms. Teresa Chambers.

4 Q All right.

5 Do you see a signature on -- on pages one and two  
6 of Hearing Exhibit 6?

7 A Yes.

8 Q Do you recognize that signature?

9 A Yes.

10 Q And whose signature is that?

11 A I recognize it to be that of Teresa Chambers.

12 Q All right.

13 Have you ever seen one of these -- these documents  
14 before?

15 A Yes.

16 Q Where would you have seen one?

17 A I signed one. Other members of my staff that are  
18 direct reports signed them, also.

19 Q All right.

20 Let me ask you to look at the last page of this,  
21 which, at the top, says "Political activities." Would you  
22 please examine that?

23 A (Examining) Yes.

24 Q Is this the same as the document that you,  
25 yourself, have pertaining to the ethics training?

1 A Yes.

2 Q And what's the subject of this, on the last page  
3 here, concerning political activities?

4 A It just describes --

5 Q Describes the Hatch Act, doesn't it?

6 A Yes.

7 Q I'm sorry.

8 Looking at the next-to-last page -- I turned you --  
9 I directed you to the wrong page. It says 37 at the bottom.  
10 At the top, it says "Outside activities." There is a  
11 caption that says "Lobbying Congress."

12 A Yes.

13 Q Do you see that?

14 A Yes.

15 Q All right.

16 What does -- let me ask you to look at that, if you  
17 haven't already.

18 A (Examining) Yes.

19 Q All right.

20 What it says is -- provides some guidelines. Are  
21 these the guidelines that you believe that Ms. Chambers may  
22 have violated --

23 A Yes.

24 Q -- by saying these things that she did to The  
25 Washington Post?



1 Q Do you -- do you recall giving an instruction to  
2 Mr. Chambers that she was to detail Ms. Blyth?

3 A Yes.

4 Q How did that come about?

5 A It came about as a result of a meeting that we had  
6 in my office.

7 Ms. Chambers came to my office, and we had a  
8 conversation about Ms. Blyth's -- her general knowledge of  
9 the Federal Government and her administrative knowledge, and  
10 I explained that I thought that Ms. Blyth would benefit from  
11 a detail with our Office of Strategic Planning, because she  
12 would get a broad understanding of the goals and objectives  
13 of both the Department of Interior and the National Park  
14 Service as a result, and that would be very helpful, because  
15 Ms. Blyth had limited Federal experience and was acting in a  
16 fairly high capacity in the -- with the U.S. Park Police.

17 Q All right. What was Ms. Chambers' reaction when  
18 you said this?

19 A Well, her first response was she didn't think it  
20 was a good idea.

21 She was somewhat agitated about having to lose a --  
22 a key member of her staff, a high-level key member of her  
23 staff, and she also stated that she felt that this may be  
24 motivated -- she questioned whether or not this might not be  
25 motivated by the snipers in the agency that she felt was in

1 the U.S. Park Police that were --

2 Q What did she mean by "snipers"?

3 A Well, I believe she meant those that were -- were  
4 criticizing her and didn't like the -- the changes she was  
5 making in the U.S. Park Police, individuals who were -- were  
6 opposed to -- to what she was -- her -- her administrative  
7 programs and the changes she was making.

8 Q What did this have to do with Ms. Blyth and Ms.  
9 Blyth's detail, in your understanding?

10 A I don't know.

11 Q All right.

12 Did Ms. Chambers explain to you what she meant by  
13 that?

14 A Only that she felt that that -- that the snipers  
15 may somehow have been my motivation for -- for wanting to do  
16 this.

17 Q Was that your motivation?

18 A No, it was not.

19 Q What was your motivation?

20 A My motivation was to get Ms. Blyth better training  
21 in Federal rules and regulations and administrative  
22 procedures, a broader understanding of how the Federal  
23 Government worked, so she could be of better service to the  
24 United States Park Police.

25 Q You've described what you said to Ms. Chambers and

1 what Ms. Chambers said to you. Did there come a time when  
2 you -- when you gave an explicit instruction concerning this  
3 detail?

4 A Yes.

5 Q And what was that instruction?

6 A Well, after conversation that lasted approximately  
7 a half-hour or so, I finally said, look, this is not open for  
8 discussion any longer, you -- you have to do this, and I was  
9 very clear that -- that this detail was going to -- to take  
10 place and she was to effect this -- this detail.

11 Q Now, about when did this conversation take place?

12 A In early August, probably the first or second week  
13 in August.

14 Q All right.

15 Did Ms. Chambers say anything when you gave this  
16 instruction?

17 A She said she understood and -- reluctantly.

18 Q Did -- did she give you some indication that she  
19 would comply with your instruction?

20 A Reluctant -- yes, reluctantly, yes.

21 Q All right. Did -- did she comply with your  
22 instruction?

23 A No.

24 Q And when did you -- when did you discover that she  
25 did not comply with your instruction?

1           A     I received a -- a phone call from the deputy  
2     secretary for the Department of Interior communicating to me  
3     that this detail should be put on hold, that he had received  
4     a call from the chief of -- of police and that we should put  
5     this detail on hold.

6           Q     I see. All right. We'll get to that episode. I  
7     want to talk about -- about that whole thing when we're  
8     talking about charge six, but it applies more -- did you  
9     receive any indication before that phone call from the deputy  
10    secretary that Ms. Chambers was -- was not going to comply  
11    with your instruction?

12          A     Yes.

13          Q     And what was that?

14          A     Subsequent to that first -- that first  
15    conversation, I had another -- I had a conversation directly  
16    with Ms. Blyth about the detail.

17                    It was the day after my conversation with Ms.  
18    Chambers, explaining to her the -- the importance of the  
19    detail and the positive aspects of it, and she was somewhat  
20    enthusiastic about it and -- and embraced it enthusiastically and  
21    was actually looking forward to it.

22                    Subsequent to that, she went back, had the  
23    conversation with Ms. Chambers, and after that conversation,  
24    Ms. Blyth communicated to me that there were some concerns  
25    about doing the -- the detail having to do with her need to -

1 - to be available and the importance of the job that she was  
2 doing, and I had already assured Ms. Chambers and Ms. Blyth  
3 that we would be very flexible in the detail.

4 Normally, details run for 120 days or even longer.

5 They could run for up to a year, and they run throughout,  
6 without a break, and I communicated that I was very willing  
7 to be flexible and we would break up the detail, if  
8 necessary, and if there were critical things that needed to  
9 be done, we could pull Ms. Blyth off and make sure that she  
10 worked on those things, and --

11 Q When you say "worked on those things" and pull her  
12 off the detail, what did you mean exactly?

13 A Worked on those things that -- that the chief  
14 thought might be of a critical nature that only Ms. Blyth  
15 could -- could deal with at any point in time.

16 Q All right. And so, your testimony is that you had  
17 assured -- was it both Ms. Blyth and Ms. Chambers or -- or  
18 only one of them that Ms. Blyth would be available to Ms.  
19 Chambers?

20 A I -- I assured both of them.

21 Q All right.

22 Did -- did they have any reaction to that  
23 assurance?

24 A Well, they reacted positively to it, and they  
25 thought that that -- that was good, and they felt that that



1 was a -- a decent way to -- to approach it.

2 Q After you had given them that assurance, what in  
3 the nature of any instruction was given to Ms. Chambers?

4 A Well, just the same instruction that I had given  
5 earlier, that Ms. Blyth was to be detailed to strategic  
6 planning, and that office is supervised by Mr. Mike Brown,  
7 and that was the instruction I had given her.

8 Q Is Mr. Brown a person under your supervision?

9 A Yes.

10 Q All right.

11 A Direct supervision.

12 Q Was Ms. -- Ms. Chambers -- as a result of your  
13 instruction, was Ms. Chambers supposed to actually do  
14 something, I mean actually accomplish some -- something --

15 A Yes, generally --

16 Q -- in the nature of the detail?

17 A What happens with these details, once you know the  
18 office -- and Ms. Chambers has done this before, working with  
19 the Office of Law Enforcement and Security -- she has  
20 detailed officers there.

21 You go directly to that -- to the head of office,  
22 division, or whatever agency, and you work out the details,  
23 reporting times, dates, length of time, those sorts of  
24 things, and -- and that's what I was saying earlier. It  
25 never, in effect, happened.

1 Q And did you ask her why she had not done those  
2 things?

3 A I don't recall asking her directly.

4 Q All right.

5 During the time that Ms. Chambers was -- was  
6 discussing with you why this detail might or might not be a  
7 good idea, did she ever tell you that she was protecting Ms.  
8 Blyth from some illegal action?

9 A No.

10 Q Did she ever say anything to you to suggest that  
11 that was -- was what she was concerned about?

12 A No.

13 Q Were you aware of any -- of any whistle blowing or  
14 any other activity by Ms. Blyth that -- that might be  
15 protected?

16 A No, I was not.

17 Q Have you ever become aware of any activity by her  
18 that might be protected?

19 A No.

20 Q Let's turn, then, to specification two, and we're  
21 going to come back to this --

22 JUDGE BOGLE: Before we move on, I would like to  
23 know what -- what -- it says here you talked to Ms. Chambers  
24 on August 18th. What did you tell her to do, if anything, to  
25 accomplish this detail? What were your expectations for the

1 actions she would take?

2 THE WITNESS: The actions that -- that she would  
3 take would be to communicate to -- to Ms. Blyth that I had  
4 instructed her to -- to go on a detail with the Office of  
5 Strategic Planning.

6 She would have then subsequently contacted the  
7 Office of Strategic Planning, Mr. Mike Brown, and begun to  
8 negotiate reporting dates, times, and to, you know, write up  
9 whatever agreement they -- they thought necessary between  
10 them to -- to effect the detail. This was standard  
11 procedure.

12 The chief of police had -- had done this sort of  
13 thing with her officers before. For example, with the Office  
14 of Law Enforcement and Security in the Department of  
15 Interior, there were at least one or two people that were on  
16 details there, and so, it was a fairly well-established  
17 procedure, and I simply expected her to follow the -- the  
18 established procedures.

19 JUDGE BOGLE: Now, you may be aware that she claims  
20 that you were going to implement the detail and that you  
21 didn't instruct her to do anything to put the detail into  
22 place. So, I guess, you know, in my experience, we're  
23 talking about cutting the paperwork here.

24 THE WITNESS: Uh-huh.

25 JUDGE BOGLE: Did you expect to do that, did you

1 expect her to do that, or did you expect Mr. Brown to do  
2 that?

3 THE WITNESS: I --

4 JUDGE BOGLE: How did you expect that to be  
5 accomplished?

6 THE WITNESS: I expected her to do that, and this  
7 is based on the standard procedures of -- of details and also  
8 past practice that had occurred when, on previous occasions,  
9 I had spoken to the chief about the need for detailing  
10 individuals from the U.S. Park -- Park Police to -- to other  
11 offices or divisions.

12 JUDGE BOGLE: Okay.

13 Now, maybe you've already answered my question, but  
14 what did you actually say to her that communicated to her  
15 that she was supposed to accomplish this detail as she had in  
16 the past?

17 THE WITNESS: Well, I said specifically to her that  
18 this detail with Mrs. Blyth, Ms. Blyth, is going to -- to  
19 take place and I expect you to communicate to Ms. Blyth that  
20 -- that this detail is going to be effected with the Office  
21 of -- of Strategic Planning.

22 JUDGE BOGLE: Okay. Thank you.

23 THE WITNESS: You're welcome.

24 JUDGE BOGLE: Mr. L'Heureux?

25 MR. L'HEUREUX: Yes.

1 BY MR. L'HEUREUX:

2 Q Let's turn our attention now to the second  
3 specification here, and I'm not going to read the details  
4 again. It's in the record of this case, and it's part of the  
5 res of the case, if I can call it that. But this concerns a  
6 -- an instruction that you accused -- a different instruction  
7 -- a set of instructions that you accused Ms. Chambers of not  
8 following, and those instructions specifically regarded  
9 ordering two of her subordinates to take certain tests that  
10 needed to be taken.

11 Now, let's see if we can't hasten to the -- to the  
12 nub of this thing here.

13 Exactly what was your instruction to Ms. Chambers  
14 with regard to her subordinates, Mr. Bean and Mr. Pettiford?

15 What was the instruction that you recall giving her?

16 A I instructed her to have Deputy Chief Pettiford  
17 take his psychological test and his physical examination,  
18 which were required as part of the personnel practice, and  
19 Mr. Beam take his psychological examination.

20 Q All right.

21 Why -- why did you give this instruction?

22 A The solicitors had -- had come to meet with me and  
23 communicated to me that the Office of Special Counsel had an  
24 open investigation into the hiring of the two deputy chiefs  
25 and that the Office of Special Counsel had specifically

1     communicated to them that there was a problem with the fact  
2     that there were -- their psychological and/or physical  
3     examinations had not been taken, and they recommended that we  
4     go back and look at those specifications, and they clearly  
5     said that these exams are supposed to be taken, that -- that  
6     we have these -- the two deputy chiefs take these  
7     examinations.

8           Q     All right. Did you explain this to Chief -- to  
9     Chief Chambers?

10          A     Yes, I did.

11          Q     And what was her reaction to that?

12          A     Her reaction was that she had thought that this was  
13     taken care of, that this was -- I don't know if she used the  
14     term "waived," but -- but she may have, that this was already  
15     effected, they were on duty, they had years of peace officer  
16     experience and training, that they had gone through this kind  
17     of thing as young recruits, they were at the deputy chief  
18     level now, and she didn't see why this had to happen. That's  
19     what she communicated.

20          Q     And did you respond to what she said?

21          A     Yes.

22          Q     How did you respond?

23          A     I said I understood that argument and -- but I went  
24     on to explain that the Office of Special Counsel was -- was  
25     now involved, that we had an opportunity to -- to comply with

1 our own personnel requirements that were in the bulletin for  
2 the job and that the best course of action to take in order  
3 to protect the integrity of the hiring process and these  
4 officers was to -- to go ahead and have them take these --  
5 their examinations as -- as requested.

6 Q All right. Did Ms. Chambers comply with your  
7 instruction?

8 A Not immediately.

9 Q What makes you say not -- did she ever comply with  
10 your instruction?

11 A No.

12 Q How did you come to find out that she had not  
13 complied with your instruction?

14 A Well, about a month passed, and the Office of  
15 Special Counsel came back to me and asked for another --

16 Q Did you say the Office of Special Counsel?

17 A I'm sorry. The -- our solicitors came to me and  
18 communicated to me that the Office of Special Counsel had  
19 asked for an update, and I communicated to our solicitors  
20 that I would find out, and subsequently I called Chief  
21 Chambers to find out what the status was, and I found out  
22 that they had not taken these -- these tests and that no  
23 arrangements had been made for the test to be taken.

24 Q When you say you found out, is that something Chief  
25 Chambers told you?

1 A Yes.

2 Q And do you recall precisely what she said to you?

3 A Not precisely.

4 Q Well, what do you recall that she said to you?

5 A It was reiteration of the -- the fact that these  
6 officers had not -- or had already taken these exams as -- as  
7 young recruits.

8 She once again mentioned the -- the snipers, the  
9 people inside her agency that are -- would have been  
10 motivated to -- to bring these kinds of complaints to the  
11 Office of Special Counsel and, once again, the snipers trying  
12 to -- to break up her -- her team, and -- and she thought  
13 this would be sending a bad message.

14 Q And -- and what did you say to her in reaction to  
15 this?

16 A Again, I said I could understand her concerns in  
17 that regard, that this was something that I had ordered her  
18 to do, that it had to be done, that the Office of Special  
19 Counsel expected it to be done.

20 I went so far as to explain that this was really in  
21 the best interest of -- of the officers and the hiring  
22 process.

23 I further explained that the Office of Special  
24 Counsel had the -- the power and the authority to suspend  
25 that personnel action and to, in effect -- which would, in



1 effect, remove these officers from their -- their position,  
2 that the Office of Special Counsel had that power and we  
3 didn't want to get to that point and that's why it was  
4 important to -- to proceed with this.

5 Q And what did Chief Chambers say in response to what  
6 -- to what you had told her?

7 A Well, I believe she said that, you know, in order  
8 to get them to do this, what's going to have to happen is  
9 you're going to have to -- speaking to me -- you're going to  
10 have to write a -- a memo to Officer -- to Deputy Chief Beam  
11 and to Deputy Chief Pettiford and order them to -- to do  
12 this, and I felt that it was so important to get this done, I  
13 felt whatever it takes, because the Office of Special Counsel  
14 was looking at the National Park Service, the U.S. Park  
15 Police, and I thought it important to effect this, and I -- I  
16 wrote a memo to both of them.

17 Q Were you construing what she said to mean that she  
18 -- she would not do it herself?

19 A Yes.

20 Q Did she say that explicitly?

21 A I don't recall her saying that explicitly.

22 Q All right.

23 Did you, in fact, write such a memo?

24 A Yes.

25 Q And did these officers take those tests?

1 A Not immediately.

2 Q Did they ever take the tests?

3 A Yes.

4 Q When you say "not immediately," do you have any  
5 reason to believe that Chief Chambers delayed that in some  
6 way?

7 A No.

8 Q I mean it just took some time to get done.

9 A Yes.

10 Q All right. Is there any doubt in your mind that  
11 you, at least on one occasion, gave -- gave Teresa Chambers  
12 an explicit instruction to order these two officers to take  
13 those tests?

14 A Yes.

15 Q I'm not sure you understood my question.

16 My question is, is there any doubt in your mind  
17 that you --

18 A No, there's no doubt in my mind.

19 Q -- gave an explicit instruction to that effect?

20 A No, there is no doubt in my mind.

21 Q Let's turn, then, to specification three.

22 Specification three concerns an alleged instruction  
23 from you to cooperate with attorneys from the solicitor's  
24 office.

25 With regard to specification three, did you give

1 Teresa Chambers at any time an express instruction that she  
2 was to cooperate with someone from the solicitor's office?

3 A Yes.

4 Q What was that instruction?

5 A That she -- I don't remember explicitly what I said  
6 but that she was to -- to cooperate with the solicitor's  
7 office with regard to the -- a complaint from the Office of -  
8 - or from the Organization of -- of American States. One of  
9 the solicitors, Randy Myers, had come to me and was  
10 complaining that he had been attempting to get meetings  
11 scheduled on a number of occasions with Ms. Chambers and  
12 would I please help and intervene and give, you know,  
13 instructions to meet with him?

14 Q Do you remember about when this occurred?

15 A The tractor man incident was sometime in -- in  
16 March.

17 Some time went by. It could have been July-August  
18 period.

19 Q All right. And after Mr. -- after Mr. Myers spoke  
20 to you, what did you do to -- to cause Ms. Chambers to  
21 cooperate with him? What did you actually do?

22 A I communicated to her verbally. I said that I had  
23 received this call from the solicitor's office about the  
24 tractor man incident, would she please, you know, telephone  
25 the office and -- and cooperate fully with them. That's all

1 I said.

2 Q All right. Do you know whether she did cooperate  
3 with them?

4 A She did not, to my knowledge.

5 Q And what makes you say that she did not? How did  
6 you find out that she did not?

7 A Well, Mr. Myers communicated to me on a -- on a  
8 subsequent occasion that -- that he had never gotten an  
9 appointment with -- with Ms. Chambers, and -- and on a later  
10 date, he finally did get a meeting with -- with the deputy  
11 chief, Deputy Chief Pettiford.

12 Q On that later date, was that -- was that while Ms.  
13 Chambers was still acting as the chief of police?

14 A No, it was subsequent to that, after she was placed  
15 on administrative leave.

16 Q All right.

17 At what point did Mr. Myers come back to you again  
18 and tell you that he had -- he had been unsuccessful in  
19 getting an appointment with Ms. Chambers? Can you recall  
20 about the date?

21 A It would have been later in the fall, November,  
22 somewhere around in there, that he would have come back.

23 Q This is November of 2003.

24 A November of 2003.

25 Q All right.

1           Let's turn, then, to charge six, which is found on  
2 page five of the -- of the proposal to remove that's before  
3 you.

4           Charge six is an allegation that Teresa Chambers  
5 failed to follow the chain of command, and we're going to go  
6 back over some of the -- the Blyth detail incidents, because  
7 that's -- that's what's going on here, to kind of get you and  
8 the judge on the page.

9           Let me first ask you, why -- why is this charge of  
10 -- of failing to follow the chain of command -- why did you  
11 consider this to be appropriate for discipline, that her  
12 going outside of the chain of command was -- was an  
13 appropriate subject to include in a disciplinary decision?

14          A     Well, because it follows this pattern of -- of --  
15 of not listening and not following my instructions, and the  
16 chief of the United States Park Police is a -- is in a high-  
17 level position, represents the Department of Interior and the  
18 -- and the National Park Service, and it's important to --  
19 for me as her supervisor to have an ability to trust the  
20 chief of the U.S. Park Police to -- to follow instructions  
21 and to follow through and to -- to listen to what's being  
22 communicated, and circumventing the -- the -- the chain of  
23 command does a couple of things.

24           It -- it places the individual that you're using to  
25 circumvent the chain of command in a position of making

1 decisions without the full knowledge of the situation that --  
2 that may be put before them, and so, it, in effect,  
3 precipitates a chain of poor -- poor decision-making that may  
4 lead to -- to -- to very negative consequences for a  
5 particular agency.

6           It -- it causes distrust between superior and  
7 subordinate, making it difficult to -- to manage on a -- on a  
8 day-to-day -- a day-to-day basis, and then knowledge of the  
9 circumvention of the -- of the chain of command often causes  
10 a -- a breakdown in the disciplinary function of -- of  
11 supervisor-subordinate relations when other people find out  
12 you can conduct yourself in this manner and get away with it.

13       It sends the message that -- that this may be either  
14 condoned behavior or standard operating procedure within an  
15 agency, and that can have -- also have a deleterious long-  
16 term effect on -- on management, as well.

17       Q     All right.

18           Would you -- would you briefly describe -- I say  
19 very briefly describe what actually happened here, that you  
20 had -- you had -- I mean we talked about this before in  
21 regard to specification five, that you had directed that Ms.  
22 Blyth be detailed.

23           What -- what did Ms. Chambers do, in your  
24 recollection, to outside of the proper chain of command  
25 concerning this detail?

1           What did she actually do?

2           A     She notified the deputy secretary for the  
3 Department of Interior, Steven Griles, that this particular  
4 detailing of Ms. Blyth would, in effect, prevent her from --  
5 and this is the information I got from Mr. Griles --

6           MR. HARRISON:  Objection, hearsay.  Mr. Griles is  
7 going to testify.

8           JUDGE BOGLE:  I'll permit it.

9           BY MR. L'HEUREUX:

10          Q     Let me ask you some questions about it.  Did you  
11 consider this to be an obstruction of your -- of your  
12 direction that Ms. Blyth be detailed --

13          MR. HARRISON:  Objection, leading.

14          BY MR. L'HEUREUX:

15          Q     -- from what she was doing here?

16          JUDGE BOGLE:  I'll permit it.

17          THE WITNESS:  Yes.

18          BY MR. L'HEUREUX:

19          Q     And is that the essence of what you've been trying  
20 to say here?

21          A     Yes.

22          Q     All right.  Let's -- let's talk about timing a  
23 little bit on this.

24                   I think you testified before that, in early August,  
25 you had given your instruction to Ms. Chambers that she was

1 to effect the detail of Ms. Blyth and that -- and you had  
2 testified that, subsequently, you discovered that hadn't  
3 happened yet.

4 I'll refer you to a document --

5 MR. L'HEUREUX: And Counsel and Your Honor, what  
6 I'm referring to is in the agency removal file. That is the  
7 752 removal file, volume two, tab 4-M, page 120. I'm  
8 directing -- directing the witness' attention to that now.

9 BY MR. L'HEUREUX:

10 Q You don't have it before you yet --

11 MR. L'HEUREUX: May I approach, Your Honor?

12 BY MR. L'HEUREUX:

13 Q Let me ask you first if you recognize that --

14 MR. HARRISON: Excuse me, Your Honor. Could I have  
15 just a moment to look --

16 MR. L'HEUREUX: Oh, I'm sorry.

17 JUDGE BOGLE: What was the page again?

18 MR. L'HEUREUX: It is page 120 of tab 4-M.

19 JUDGE BOGLE: 120?

20 MR. L'HEUREUX: 120.

21 This is in the second volume of the agency removal  
22 -- the agency file concerning removal.

23 JUDGE BOGLE: This is her response, right?

24 MR. L'HEUREUX: Yes.

25 JUDGE BOGLE: Okay. Got it. Oh, okay. That



1 document also appears elsewhere in the record.

2 MR. L'HEUREUX: Do you have it, Counsel?

3 MR. HARRISON: I believe so. Thank you.

4 MR. L'HEUREUX: All right.

5 BY MR. L'HEUREUX:

6 Q What is that, Mr. Murphy? What is it that you're  
7 looking at?

8 A I'm looking at an e-mail from Teresa Chambers to me  
9 dated August 21, 2003.

10 Q All right.

11 Do you recall this e-mail?

12 A Yes.

13 Q This e-mail has a -- a number of numbered  
14 paragraphs below, and what -- what do you understand those  
15 numbered paragraphs to represent?

16 A They represent tasks, work tasks that were the  
17 responsibility of Pamela Blyth.

18 Q All right.

19 Did you review this e-mail when you got it on -- on  
20 August 21st?

21 A Yes, I did.

22 Q All right. Did you have any particular reaction to  
23 it?

24 A Well, just that I knew that this was a summary of  
25 the things she was responsible for, that Ms. Chambers and Ms.

1 Blyth had communicated to me that she had certain  
2 responsibilities that were ongoing, which is why I said we  
3 would be very flexible in the execution of the details.

4 So, I looked at these and said, well, this is a  
5 good summary of things that -- that are necessary. That's  
6 the way I took it.

7 Q Was there anything on this list that made you  
8 reconsider whether Ms. Blyth should be detailed?

9 A No. And in fact, when I -- I looked at it, I -- I  
10 thought that this is really good that she's going on the  
11 detail, because a lot of these things -- she would get a  
12 broader knowledge and understanding about, given her limited  
13 Federal experience.

14 Q Now, again, let's note at the top of this that it  
15 says that it occurred on August 21, 2003.

16 When was -- by August 21, 2003, had you directed  
17 the detail to take place by a certain time?

18 A Yes, Monday.

19 Q That Monday would have been what date?

20 A I believe that this is the 23rd to 25th of August.

21 Q The 25th of August sound --

22 A Sounds --

23 Q -- like a Monday to you?

24 A I think so.

25 Q All right. And again, my question is, on August

1 21st, had you told Ms. Chambers that -- that this detail was  
2 going to occur on August 25th?

3 A Yes.

4 Q Had you told Ms. Blyth that this detail was going  
5 to occur on August 25th?

6 A Yes.

7 Q Is there any doubt in your mind that, as -- as of -  
8 - I'm sorry -- August 21st, you had informed both of them  
9 that the detail was to occur on -- on Monday, August 25th?

10 A Yes.

11 Q Again, my question is, is there any doubt in your  
12 mind --

13 MR. HARRISON: Objection, asked and answered.

14 THE WITNESS: No, there's no doubt in my mind.

15 MR. L'HEUREUX: All right. All right. Let's move  
16 ahead.

17 BY MR. L'HEUREUX:

18 Q August 21st -- did you have any subsequent -- after  
19 this -- after Ms. Teresa Chambers sent you this e-mail on  
20 August 21st, did you have any conversations with her or Ms.  
21 Blyth concerning the detail that was supposed to start on  
22 August 25th?

23 A Yes.

24 Q And with whom did you converse?

25 A Ms. Blyth.

1 Q Ms. Blyth. And do you recall when you conversed  
2 with her?

3 A It was probably on the -- the weekend before the  
4 Monday.

5 Q All right.

6 Now, do you recall what occurred in that  
7 conversation?

8 A I simply communicated to -- to Ms. Blyth and  
9 reiterated that she would be on the detail with Mr. Brown on  
10 -- on Monday, that I would continue to be flexible about --  
11 about her needs, if there were things that she needed to do  
12 back at the United States Park Police, but I expected her to  
13 report to -- to Mr. Brown on Monday.

14 Q Did you say anything to Ms. Blyth to suggest that  
15 you were not sincere when you said that she'd be available to  
16 -- to go back and help the Park Police while she was on this  
17 detail, on this -- in this conversation on Saturday morning?

18 A No, I didn't say anything like that.

19 Q Did you say anything to Ms. Chambers between the --  
20 between August 21st and -- and that Saturday morning to lead  
21 her to believe that you -- you did not mean what you said  
22 about the flexibility with respect to this detail?

23 A No.

24 Q All right.

25 Let's -- let's talk about that weekend. Did the

1 detail actually happen --

2 A No.

3 Q -- on August 25th?

4 A No.

5 Q Why not?

6 A I received a call from the deputy secretary stating  
7 that the detail was going to be put on hold.

8 Q All right. The deputy secretary. What's his name?

9 A J. Steven Griles.

10 Q All right. And about when did you get a telephone  
11 call from him? Thinking weekend -- a Friday, Saturday,  
12 Sunday.

13 A Yeah. It was the -- it was that weekend. So, I'm  
14 just trying to -- it was probably that Sunday.

15 It was before -- it was before the detail was to be  
16 effected on that Monday.

17 Q All right.

18 Mr. Griles spoke to you directly?

19 A Yes.

20 Q All right.

21 What did he say to you?

22 A He said we're going to place this -- put this  
23 detail on -- on hold just for the -- for the time being,  
24 there are some budget issues that Ms. Blyth has to get done  
25 on -- by that Monday, and we're going to put this on hold

1 temporarily.

2 Q All right. Did you say anything to Mr. Griles at  
3 that time?

4 A No.

5 Q All right.

6 Were you available on -- on that weekend for  
7 someone to telephone you?

8 After you spoke to Ms. Blyth, were you available to  
9 be communicated with?

10 A By cell phone.

11 Q By cell phone?

12 Did you tell anyone, Ms. Chambers or Ms. Blyth or  
13 anyone else, that you would not be available by telephone  
14 that weekend?

15 A No.

16 Q Do you know if you were, in fact, not available,  
17 say out of cell phone range, that weekend?

18 A No.

19 Q Do you know if -- well, who is your immediate  
20 supervisor?

21 A Director Fran Mainella.

22 Q Is she Ms. Chambers' second-line supervisor?

23 A Up from me, yes.

24 Q Yes.

25 A Yes.

1 Q Okay.

2 Do you know if Ms. Mainella was available on that  
3 weekend, the Saturday and Sunday -- I think we're talking  
4 about 23rd and 24th of August 2003.

5 A She always has her cell phone with her. That's all  
6 I know.

7 MR. HARRISON: Objection. No foundation has been  
8 laid for his knowledge of that.

9 JUDGE BOGLE: I'll permit it.

10 MR. L'HEUREUX: All right.

11 BY MR. L'HEUREUX:

12 Q Your answer was?

13 A Yes. She always has her cell phone available.

14 Q All right.

15 Did you, yourself, try to communicate with her that  
16 weekend?

17 A No.

18 Q All right.

19 When Mr. Griles called you, what -- what did you do  
20 then?

21 A Well, he's the deputy secretary, and he said we're  
22 putting the -- this on hold, and -- but I was concerned that,  
23 again, he didn't have all of the right information. So, I  
24 wrote an e-mail, after I talked to Mr. Griles, to -- to Ms.  
25 Chambers expressing my concern with -- with what she had

1 done.

2 Q All right. Let me ask you to turn again to that e-  
3 mail, the August 21st e-mail, and the list of projects down  
4 there.

5 A Okay.

6 Q Now, you said Mr. Griles, when he spoke to you,  
7 said that there was some budget document that was due  
8 imminently that --

9 A Yes.

10 Q All right.

11 What was it that he said to you again?

12 A He just said that there was a budget document that  
13 Ms. Blyth had been working on that was due on Monday and --  
14 and she had to -- to get that completed.

15 Q Do you recognize that document to be any one of  
16 these on this numbered list? Did you know what he was  
17 talking about?

18 A I didn't know specifically what he was talking  
19 about, no.

20 Q And when you look at this list, is there anything  
21 you can recognize here that might -- might have been what he  
22 was talking about?

23 A Not as I look down the list, no.

24 Q Let me ask you to look at item number three.

25 A Okay.



1           Q     And item number three is Judge Manson's budget  
2 request, completion of and review of budget presentation by  
3 geography or function, the draft of which must be presented  
4 to Judge Manson and Mr. Parkinson by close of business  
5 Monday, August 25th.

6                     Before Ms. Chambers sent this to you in this e-  
7 mail, were you aware that this was a -- a deadline of some  
8 kind that she had due?

9           A     Not before the e-mail, no.

10          Q     Did you -- did you think Mr. Griles might have been  
11 talking about this when he spoke to you?

12          A     No, I did not.

13          Q     Did you have any understanding what he was talking  
14 about, about some urgent budget document that had to be  
15 produced?

16          A     No.

17          Q     Was there some event that occurred later in that  
18 week concerning a budget document that you're aware of?

19          A     No.

20          Q     Did you understand at all what Mr. Griles was  
21 talking about?

22          A     No. He just made reference to a budget document.

23          Q     All right.

24                     Let me ask you to just close those volumes now, and  
25 I'm going to turn -- without reference to the documents -- to

1 your decision to propose Ms. Chambers' removal.

2 First of all, were there any reasons that you  
3 proposed her removal that -- that you didn't include in these  
4 charges?

5 A No.

6 JUDGE BOGLE: Can I ask one follow-up question on  
7 the --

8 MR. L'HEUREUX: Certainly, Your Honor.

9 JUDGE BOGLE: -- on the -- charge six. There is a  
10 document in the record -- and it's probably in the record  
11 several different places, but I'm looking at -- this is her  
12 response to charge four.

13 It appears to be an undated memorandum written by  
14 you, I believe. It says from deputy director to Pamela  
15 Blyth, and it appears to be ordering her detail. Let me show  
16 you the document.

17 Is there any confusion among the parties about what  
18 document I'm talking about?

19 MR. HARRISON: I wouldn't mind a little  
20 clarification, Your Honor.

21 MR. L'HEUREUX: Your Honor, also --

22 JUDGE BOGLE: I'll try to do better when I get it  
23 back.

24 MR. L'HEUREUX: I'm not sure which one we're  
25 talking about.

1 JUDGE BOGLE: Okay.

2 What I want to know is did you prepare that  
3 document? And there does not appear to be any date on it.  
4 Can you give me a date?

5 If you prepared it, can you tell me when you  
6 prepared it and what you did with it?

7 MR. HARRISON: Your Honor, could we have just a  
8 moment?

9 JUDGE BOGLE: Sure.

10 (Pause.)

11 JUDGE BOGLE: It's under her -- the document she  
12 gave to the agency in --

13 MR. HARRISON: I believe it is --

14 JUDGE BOGLE: -- response to charge four.

15 MR. HARRISON: -- tab 4-K in the IRA appeal  
16 response, Your Honor.

17 (Pause.)

18 JUDGE BOGLE: That's interesting. I don't have a -  
19 - I don't even have a 4-K.

20 I started off --

21 MR. L'HEUREUX: This is the -- this is the agency  
22 file on the IRA.

23 JUDGE BOGLE: Mine goes from -- remember I said  
24 when we opened up I didn't have a document behind 4-J? Well,  
25 I don't even have a 4-K. It goes from 4-J with no document

1 to 4-L.

2 So, I need a 4-K, as well.

3 MR. HARRISON: Your Honor, while we're there, could  
4 we take a moment, at your convenience, to make sure what you  
5 do have?

6 JUDGE BOGLE: To make sure what I have --

7 MR. HARRISON: Yes.

8 JUDGE BOGLE: -- or what he's looking at?

9 MR. HARRISON: No, I'm concerned Your Honor may not  
10 have a full record at the moment.

11 JUDGE BOGLE: I'm sure I have a full record. It's  
12 just those tabs that are missing. But you're welcome to take  
13 a look.

14 MR. HARRISON: Okay.

15 JUDGE BOGLE: Okay.

16 Back to the witness, though, can you -- can you  
17 answer? Did you prepare that document?

18 THE WITNESS: This document, as I recall, it looks  
19 like a document I had Mr. Mike Brown prepare for me to give  
20 some details about what the nature of the detail would be.

21 JUDGE BOGLE: Okay. So, would you know what that -  
22 - what the date on that document should have been and whether  
23 it was actually delivered to Ms. Blyth?

24 THE WITNESS: I can tell you, you know, a range.  
25 It was -- this would have been developed the week prior to

1 Ms. Blyth going on -- on detail.

2 So, that would have been the week before the 25th  
3 of -- of August.

4 JUDGE BOGLE: And do you know if it was delivered  
5 to her?

6 THE WITNESS: I do not know if it was delivered to  
7 her.

8 I'm recalling, however, that I asked Mr. Brown to  
9 develop this -- this information so that there would be some  
10 specificity to -- to the detail Ms. Blyth was -- was going  
11 on, and then it was to be delivered to her.

12 I just -- I just can't recall if it -- if it was  
13 delivered to her or not --

14 JUDGE BOGLE: Okay. All right. Thank you.

15 THE WITNESS: -- under the circumstances.

16 JUDGE BOGLE: Okay.

17 Does anybody want to see the document that he was  
18 talking about?

19 MR. HARRISON: I would, Your Honor.

20 (Pause.)

21 JUDGE BOGLE: Okay. And Mr. Harrison, while you're  
22 up here, do you want to see my -- this is my file. Tab 9 is  
23 the agency response to the IRA.

24 MR. HARRISON: All right.

25 JUDGE BOGLE: You can look at the tabs and see what

1 I'm referring to. I don't have a --

2 MR. HARRISON: I appreciate that, Your Honor.

3 (Pause.)

4 JUDGE BOGLE: Okay? Are we all set?

5 Mr. L'Heureux, are you square with --

6 MR. L'HEUREUX: I'm fine, Your Honor.

7 If there's any document you need, I'm sure we can  
8 dredge it up.

9 JUDGE BOGLE: Okay. Well, I at least need to know  
10 what 4-K should be, and you've already given me 4-J. But  
11 let's -- let's finish up with the witness. We can -- we can  
12 handle that later.

13 MR. L'HEUREUX: All right. I'll make a note of  
14 that. Okay.

15 BY MR. L'HEUREUX:

16 Q And again, returning -- turning to your actual  
17 decision, first of all --

18 JUDGE BOGLE: Oh, wait a minute. I'm sorry. I  
19 have one more question for the witness.

20 MR. L'HEUREUX: Yes.

21 JUDGE BOGLE: You said several times in your  
22 testimony that you intended to make this detail of Ms. Blyth  
23 very flexible.

24 I think I have seen references in this file to  
25 making the detail run in increments, and I've also seen a

1 reference to making it a part-time detail. What was your  
2 understanding of what you were willing to do in terms of  
3 making it flexible?

4 THE WITNESS: You know, I was willing to make it  
5 extremely flexible, and it could have been a combination of  
6 things.

7 I had -- I had stated that I was willing to -- if  
8 there were important items that came up, that we would make  
9 Ms. Blyth available for those important items when -- when  
10 they came up.

11 It was my hope that it could run -- that it could  
12 run in at least two-week increments.

13 That was my preference, and that's what I stated,  
14 but I was willing to be even more flexible under -- under the  
15 circumstances, and I think that's probably why you see those  
16 kinds of references there.

17 JUDGE BOGLE: Okay. Thank you.

18 THE WITNESS: You're welcome.

19 JUDGE BOGLE: Sorry, Mr. L'Heureux. Back to you.

20 MR. L'HEUREUX: All right.

21 BY MR. L'HEUREUX:

22 Q Well, let me -- let me kind of gallop ahead a  
23 little bit here.

24 Did there come a time when -- when you decided to  
25 place Teresa Chambers on administrative leave?

1           A     Yes.

2           Q     All right.  Why did -- why did you consider that  
3 putting her on administrative leave was -- was a proper thing  
4 for you to do?

5           A     Because there had been a pattern of not listening  
6 and following my instructions that I thought had gotten to  
7 the point where I couldn't trust that my instructions would -  
8 - would be carried out or that she would listen to my  
9 instructions, and I thought it was important because she had  
10 been speaking in an official capacity at times and not  
11 following my instructions to -- in representing the -- the  
12 views of the agency, Department of Interior, while speaking  
13 in her official capacity.

14                   I felt it was just important to -- to have an  
15 opportunity where I placed her on administrative leave so  
16 that -- so that that pattern would not continue, particularly  
17 -- as I mentioned before, we were in our budget negotiations,  
18 and some of the things that were being communicating and  
19 representing were actually having a negative impact on our  
20 ability to -- to effectively negotiate our budget and  
21 complete the budget process for the National Park Service.

22           Q     All right.

23                   At the time you placed her on administrative leave,  
24 did you make a decision about whether her credentials and  
25 weapons should be recovered?



1 A Yes.

2 Q What did you decide?

3 A I decided that they should be recovered.

4 Q Why did you decide that?

5 A Because these credentials are the credentials of  
6 her official capacity as a U.S. Park Police chief and U.S.  
7 Park Police officer, and I felt, because she had been acting  
8 in her official capacity and those credentials were  
9 representative of that, that it was important to make sure  
10 that -- that that could not -- that representation could not  
11 continue, and so, I made -- I elected to -- I made the  
12 decision that it was important to -- to recover those --  
13 those credentials, as well, while she was on administrative  
14 leave.

15 Q At the point where you -- you placed her on  
16 administrative leave, were you -- were you considering  
17 official discipline for Teresa Chambers?

18 A Yes.

19 Q Had you made a conclusion about what that  
20 discipline might be?

21 A No.

22 Q All right. Was the discipline in your -- in your  
23 mind going to be significant?

24 A Yes.

25 Q All right.

1           At what point in events did you conclude that you  
2 should propose Teresa Chambers' removal?

3           A     Well, after Ms. Chambers was on administrative  
4 leave and I had an opportunity to go over the -- the things  
5 that I thought were a consistent pattern of -- of her not  
6 listening and following my instructions and that were having  
7 negative consequences on the supervisor/subordinate  
8 relationship to the extent that the management of the U.S.  
9 Park Police was being negatively impacted, as well as those  
10 areas that were under the responsibility of -- of me as her --  
11 - her supervisor and -- and under the responsibility of Ms.  
12 Chambers directly, I -- I reluctantly, I have to say, came to  
13 the conclusion that -- that this was a situation that -- that  
14 warranted this disciplinary action that I took the proposal  
15 to remove because the supervisor/subordinate relationship had  
16 just been, in my judgement, damaged beyond repair, and this  
17 pattern of not listening and -- and not following  
18 instructions was -- had gotten to such an egregious point  
19 that -- that I felt that -- that this was the correct  
20 decision to make.

21           Q     Why do you "reluctantly"?

22           A     Well, I just think -- I just meant as a -- a human  
23 being, you never, I don't think, jump up and down when you  
24 have to do something like this.

25           Q     Did you -- let me ask some specific questions, then

1 I'll ask some more general ones.

2 Are you aware that Teresa Chambers wrote a letter  
3 to Director Mainella on or about December 5 specifically  
4 complaining about you?

5 MR. HARRISON: Objection, Your Honor. The date is  
6 incorrect.

7 MR. L'HEUREUX: I'm sorry. The date is correct.  
8 Thank you, Counsel. I'm sorry.

9 BY MR. L'HEUREUX:

10 Q On or about November 28th --

11 MR. HARRISON: That's incorrect.

12 MR. L'HEUREUX: That's incorrect. No, I'm going to  
13 stand by what I said.

14 BY MR. L'HEUREUX:

15 Q On or about December 5 that -- here's my question.

16 Let me strike the previous question.

17 On or about December 5, Teresa Chambers sent a  
18 letter or e-mail to Director Mainella making a specific  
19 complaint about you.

20 MR. HARRISON: Objection, misstates the record on  
21 the date.

22 JUDGE BOGLE: Is it the 3rd?

23 MR. HARRISON: The 2nd.

24 JUDGE BOGLE: The 2nd?

25 MR. HARRISON: Yes.

1 JUDGE BOGLE: Will you agree with the 2nd?

2 MR. L'HEUREUX: I'll agree that it's the 2nd, Your  
3 Honor.

4 JUDGE BOGLE: Okay.

5 BY MR. L'HEUREUX:

6 Q Are you aware of such a letter, regardless of date?

7 A I'm aware of it now, yes.

8 Q When did you first become aware of it?

9 A We were -- I was in the process of placing Ms.  
10 Chambers on administrative leave, and during that time, I  
11 heard her say that -- something to the effect that all of

12 this is happening right after I filed a complaint, and --

13 Q Did you understand what she meant when she said  
14 that?

15 A No, not explicitly.

16 Q All right.

17 Did you -- did you subsequently find out what she  
18 meant?

19 A I -- when she said it, I -- I asked -- I looked at  
20 the human resources person that was in the room and the  
21 solicitor and said what is she talking about, and -- and  
22 neither of them said anything.

23 Q Have you ever seen this complaint?

24 A No, I have not.

25 Q Did Director Mainella ever tell you that this

1 complaint existed?

2 A She told me subsequently that a complaint existed,  
3 yes.

4 Q You say "subsequently." About when did she tell  
5 you this?

6 A It would have been sometime late in December.

7 Q Would that have been after you had issued your  
8 proposal to remove, that date?

9 A Yes.

10 Q And your recollection is clear that -- that  
11 Director Mainella told you this after you had issued your  
12 proposal to remove.

13 A Yes.

14 JUDGE BOGLE: That would be December of 2003.

15 THE WITNESS: That's correct.

16 JUDGE BOGLE: All right.

17 MR. L'HEUREUX: All right.

18 BY MR. L'HEUREUX:

19 Q Have you ever actually seen this complaint? Have  
20 you actually read this complaint?

21 MR. HARRISON: Asked and answered.

22 BY MR. L'HEUREUX:

23 Q Have you ever actually read this complaint?

24 A No.

25 Q Have you ever actually had it read to you?

1 A No.

2 Q All right.

3 Did the fact of this complaint bear in any way on  
4 your decision to propose Teresa Chambers' removal?

5 A No.

6 Q Did the fact that -- that Ms. Chambers' statement  
7 as reported in The Washington Post on December 2nd, implied  
8 some criticism of the Department of Interior and the National  
9 Park Service -- did that play a part in your decision to  
10 propose her removal?

11 A No.

12 Q At any -- at any point in your conversations with  
13 Teresa Chambers, did she ever use language such as "crisis of  
14 law enforcement" or "loss of life" in her discussions about  
15 budget and staffing issues with you?

16 A Not that I recall, no.

17 Q Were you ever present when she used such language  
18 with others, say in meetings?

19 A No.

20 Q Would you have taken the same action to propose  
21 Teresa Chambers' removal if any other employee had done these  
22 things?

23 MR. HARRISON: Objection, vague.

24 JUDGE BOGLE: Can you rephrase that question?

25 MR. L'HEUREUX: Yes, Your Honor.

1 BY MR. L'HEUREUX:

2 Q Would you have proposed the removal of any employee  
3 who had -- who had -- had done what you accuse Ms. Chambers  
4 of having done?

5 A Yes.

6 Q Have any other employees ever -- ever done these  
7 kinds of things?

8 A No, not to my knowledge.

9 Q In other words, have any other employees that  
10 you're aware of disclosed sensitive security information?

11 A Not that I'm aware of, no.

12 Q Have any other employees under your supervision  
13 disclosed budget negotiations prematurely?

14 A Not that I'm aware of.

15 Q Have any of your other employees failed to follow  
16 your instructions?

17 A No.

18 Q Have any other of your employees gone around you  
19 and violated the chain of command with regard to instructions  
20 you gave them?

21 A No.

22 Q Have any of your -- the other persons under your  
23 supervision engaged in what you believe might be improper  
24 lobbying?

25 A No.

1           MR. L'HEUREUX: I have no further questions, Your  
2 Honor.

3           JUDGE BOGLE: Okay.

4           Let's take a five-minute break, and then we'll  
5 return for cross examination.

6           (A brief recess was taken.)

7           JUDGE BOGLE: Back on the record.

8           Mr. Harrison, are you going to do cross  
9 examination?

10          MR. HARRISON: I will, Your Honor. And Your Honor,  
11 I want to start by accepting Your Honor's invitation to  
12 attempt to shorten the examination by offering the deposition  
13 of Mr. Murphy.

14          We had submitted volume one of Mr. Murphy's trial  
15 deposition, pretrial deposition, as Appellant's Pretrial  
16 Exhibit J and would offer it for admission at this time.

17          MR. L'HEUREUX: No objection, Your Honor.

18          JUDGE BOGLE: All right. Let me find it and mark  
19 it.

20          (Pause.)

21          JUDGE BOGLE: Okay. I have it.

22          MR. HARRISON: Thank you, Your Honor. May it be  
23 admitted?

24          JUDGE BOGLE: Yes.

25          MR. HARRISON: Thank you.



1 (Appellant's Exhibit J was  
2 received in evidence.)

3 MR. HARRISON: Thank you.

4 Your Honor, I would also offer the second volume, a  
5 much shorter volume, done on August 30th, of Mr. Murphy's  
6 deposition.

7 I have only one copy for the court at the moment.  
8 I don't know if Counsel already has acquired it from the  
9 reporter.

10 We can provide a copy later if you need a copy.

11 MR. L'HEUREUX: I don't think we have it. I won't  
12 have any objection to this either, but I do not have -- yet  
13 have a transcript of it.

14 MR. HARRISON: All right. It was just recently  
15 provided, Your Honor.

16 JUDGE BOGLE: All right.

17 MR. HARRISON: We've marked this as Appellant's  
18 Hearing Exhibit NN, Nancy, Nancy.

19 JUDGE BOGLE: Okay. Is this my copy --

20 MR. HARRISON: It is.

21 JUDGE BOGLE: -- or do you need this back?

22 MR. HARRISON: No, that's the court's copy.

23 JUDGE BOGLE: All right. Thank you.

24 MR. HARRISON: Thank you. And Your Honor, I assume  
25 it's admitted, as well.

1 JUDGE BOGLE: Yes.

2 MR. HARRISON: Thank you.

3 (Appellant's Exhibit NN was  
4 received in evidence.)

5 CROSS EXAMINATION

6 BY MR. HARRISON:

7 Q Mr. Murphy, you had indicated in your direct  
8 examination that you were concerned about a pattern of Ms.  
9 Chambers not listening and not following instructions.

10 What time period would you describe this patter as  
11 evolving over?

12 A I would describe it as -- as evolving over  
13 approximately a year's period of time.

14 Q Okay.

15 Did you begin keeping a file regarding your  
16 concerns about Ms. Chambers, including her not following your  
17 instructions, in your perception, at some point in time?

18 A I began keeping notes, yes.

19 Q Okay. And when did you start keeping those notes?

20 A I believe it would have been September of '03,  
21 perhaps.

22 Q All right. Do you have the agency's hearing  
23 exhibits in front of you, by any chance? You may not. I  
24 don't believe you do.

25 MR. HARRISON: Your Honor, if I could approach and

1 show the witness Agency Hearing Exhibit number 3.

2 JUDGE BOGLE: Okay.

3 MR. L'HEUREUX: Counsel, I have another copy if  
4 you'd like to --

5 MR. HARRISON: Yes.

6 MR. L'HEUREUX: -- show it to the witness.

7 MR. HARRISON: That would be excellent.

8 MR. L'HEUREUX: Hearing Exhibit number 3.

9 (Pause.)

10 BY MR. HARRISON:

11 Q Take a moment, Mr. Murphy, and see if you recognize  
12 that.

13 A Yes.

14 Q Is this the record you started keeping about  
15 September of 2003 regarding your concerns about Ms. Chambers?

16 A Yes.

17 Q This record you began keeping -- do you think it  
18 was around the first week of September of 2003?

19 A Yes.

20 Q Okay. And there's a date there, September 3, 2003.  
21 Do you know what that date represents?

22 A It's the date that I -- I would have put on the --  
23 the document.

24 Q At the time you started it?

25 A Yes.

1 Q Okay.

2 Now, to place this in time, Ms. Chambers appealed  
3 to Deputy Secretary Griles, which resulted in countermanding  
4 your instruction to detail Ms. Blyth.

5 That occurred on Friday, the 22nd of August, the  
6 Friday before the Monday, August 25th, when the detail was to  
7 begin.

8 Is that correct?

9 A Yes.

10 Q All right. And so, this file was created, it looks  
11 like -- let's see. August has 31 days. Nine days after the  
12 detail was canceled.

13 Is that correct?

14 A Appears to be correct, yes.

15 Q All right.

16 Now, there are several items listed here that are  
17 not reflected in the proposed removal notice that is in the  
18 record dated December 17, 2003.

19 Would you agree with me?

20 A Yes, there are some things in here, yes.

21 Q Okay. Did you rely on any of these other matters  
22 listed in this exhibit, Hearing Exhibit 3 for the agency, in  
23 proposing the removal of Ms. Chambers?

24 A No, not necessarily, no.

25 Q Why do you qualify it by saying "not necessarily"?

1           A     These things were -- were a pattern that -- that I  
2     had -- had noticed, and as I was supervising Ms. Chambers, I  
3     simply took notes of things that were -- were of concern. I  
4     did not -- when I developed -- you're asking when I developed  
5     the proposal to remove -- if you could just restate that part  
6     of the question.

7           Q     It's important to be precise, I appreciate.

8           A     Right.

9           Q     So, let me be precise.

10                    What I want to know is whether any of the items  
11     you've listed in this record you started keeping September 3,  
12     2003, motivated your decision to propose to remove Ms.  
13     Chambers.

14           A     Those that are included in the proposal to remove,  
15     yes.

16           Q     Okay.

17                    So, the items you listed here, even though they  
18     were of concern to you, if they were not in the proposed  
19     removal given to Ms. Chambers, your testimony is they did not  
20     motivate you to propose her removal.

21           A     That's correct.

22           Q     Okay. And what was your purpose in keeping this  
23     record exactly?

24           A     So that I had -- after noticing this -- this  
25     pattern, so that I could refer back to this particular

1 document and get an understanding and be clear about what  
2 some of the contributing things to the pattern I had noticed  
3 were.

4 Q Uh-huh.

5 Did you mean to use this as a way of communicating  
6 with any other person other than keeping it for your own  
7 notes?

8 A No.

9 Q Okay.

10 If you would turn to the second page in this  
11 document --

12 A Uh-huh.

13 Q -- there is an item there, "It took months to  
14 produce critique of Constitution Gardens tractor incident.  
15 The report is still incomplete." And then there is a  
16 notation, "You are familiar with this issue."

17 A Uh-huh.

18 Q You're not talking to yourself there, are you?

19 A I -- I probably was. I keep notes like that often.

20 Q So, the "You are familiar with this issue" means  
21 you, Mr. Murphy.

22 A Yes.

23 Q It doesn't mean Mr. Manson, for example.

24 A I don't believe so. I keep notes like this to  
25 myself often. I'm a writer, and I often refer to -- to

1 myself like this.

2 Q Okay.

3 Now, if you go to the next item or the next entry,  
4 it says, "These are just a few of the highlights that I think  
5 are important for you to know before your conversation with  
6 the chief."

7 Are you still talking to yourself there?

8 A I still -- I still may have been.

9 Q You're not sure at this point?

10 A No.

11 Q No, you're not sure?

12 A No, I'm not sure.

13 Q Okay.

14 You go to say, "You might want to remind the chief  
15 that it was Director Mainella who elevated the position of  
16 chief of USPP to that equivalent to an associate director and  
17 made the position part of the NLC."

18 You're talking about one of the chief's superiors  
19 there, aren't you?

20 A I don't -- I really don't recall. I often refer to  
21 reminding myself in -- in personal notes like this.

22 Q I see.

23 You have your name and your title at the bottom,  
24 Don Murphy, Deputy Director. Was that not because you sent  
25 this as a memo to someone?

1           A     I don't recall sending it as a memo to someone.

2           Q     Okay.

3                     Did you ever talk with Assistant Secretary Craig  
4 Manson about the content of this memo?

5           A     Not that I recall.

6           Q     Did you ever communicate the content of this memo  
7 to any of the chief's superiors?

8           A     Yes.

9           Q     Okay. And who was that?

10          A     I spoke with Director Mainella about some of these  
11 items?

12          Q     Okay.

13                     Did she see this memo?

14          A     Not that I recall, no.

15          Q     On the first page there, there's a second bold item  
16 -- "refused to inform Pamela Blyth of detail and cooperate to  
17 set parameters."

18                     Do you see that?

19          A     Yes.

20          Q     And an entry underneath, "I believe that you are  
21 fully informed on this issue."

22          A     Uh-huh.

23          Q     Do you believe you're speaking to yourself there?

24          A     Probably. It's the way I keep my -- my notes.

25          Q     This information in this memo -- was it shared with



1 Mr. Paul Hoffman at some point in time?

2 A I don't recall ever sharing this with Paul Hoffman.

3 Q Okay.

4 Have you shared this memo as a document with any  
5 person beyond yourself?

6 A Yes.

7 Q Who was that?

8 A The Office of Special Counsel.

9 Q Okay. And why did you do that?

10 A I was asked to provide documentation and  
11 information from my -- all of my files to the Office of  
12 Special Counsel during their investigation.

13 Q Of course.

14 Were you asked to provide this as something you  
15 relied on for taking action against Ms. Chambers?

16 A No.

17 Q No. All right. Apart from OSC, did you give this  
18 document to any other person?

19 A No, not that I recall, no.

20 Q What about Mr. Steve Krutz, the human resources  
21 person advising you on the actions against Ms. Chambers?

22 A I don't recall giving it to him, and he wasn't --  
23 you mean advised me on -- on human resource issues or --

24 Q Well, Mr. Krutz advised you on your decisions to  
25 take actions against Ms. Chambers in the time period of

1 December 2003, did he not?

2 A He didn't advise me. He provided information on  
3 human resources rules and regulations, but he didn't advise  
4 me --

5 Q On the substance of what decisions to take.

6 A That's correct.

7 Q I see.

8 So, let me be clear. When you -- you saw the  
9 December 2nd Washington Post article at some point in time, I  
10 take it.

11 A Yes.

12 Q And you saw it on December 2nd, did you not?

13 A Yes, I believe so.

14 Q Okay. And you had read it by noon on December 2nd?

15 A Yes.

16 Q Okay. And reading that article prompted you to  
17 essentially initiate taking disciplinary action against Ms.  
18 Chambers, did it not?

19 A No.

20 Q Didn't you call Mr. Krutz to your office by noon on  
21 December 2nd and direct him to start drafting a disciplinary  
22 document regarding Ms. Chambers?

23 A I called Mr. Krutz to my office, yes.

24 Q Okay. On December 2nd.

25 A Yes.

1 Q Prior to noon or thereabouts.

2 A Thereabouts. Uh-huh.

3 Q Okay. You had the Washington Post article on your  
4 desk at the time, did you not?

5 A I don't recall having the Washington Post article  
6 on my desk at the time.

7 Q You made reference to it to Mr. Krutz, did you not?

8 A I don't recall having done that.

9 Q If Mr. Krutz said so in his deposition, would you  
10 dispute it?

11 A No, not if he recalls that explicitly. I don't  
12 recall it.

13 Q Okay.

14 Do you recall directing Mr. Krutz to draft up a  
15 disciplinary document on Ms. Chambers and it was so pressing  
16 for you that he stayed until 8:00 p.m. that very day to work  
17 on it?

18 A Yes.

19 Q Okay. And do you know that the document he drafted  
20 was not an administrative leave memo but was a proposal to  
21 remove Ms. Chambers on December 2nd?

22 A I don't recall that it was a proposal to remove  
23 document.

24 Q Did you see it?

25 A I -- I don't recall seeing a document on December

1 2nd that it was a proposal to remove document, no.

2 Q Okay. Did you ever see the document that Mr. Krutz  
3 drafted on December 2nd?

4 A I don't recall seeing a document on December 2nd  
5 that Mr. Krutz --

6 Q That's not my question.

7 A Okay.

8 Q Listen very carefully.

9 Did you ever see a document that Mr. Krutz drafted  
10 on December 2nd?

11 A I saw documents that Mr. Krutz drafted. I don't  
12 know which date he may have drafted them on.

13 Q Okay.

14 One of those was a proposed removal for Ms.  
15 Chambers?

16 A Eventually, yes.

17 Q Why do you say "eventually"? It was that when you  
18 saw it, was it not?

19 A Yes.

20 Q Okay. And you don't know exactly when it was  
21 drafted.

22 A That's correct.

23 Q And you do know that Mr. Krutz drafted something on  
24 the evening of December 2nd under your direction.

25 A Yes.

1 Q Okay.

2 Did you tell Mr. Krutz that you wanted him to draft  
3 only an administrative leave memo on December 2nd?

4 A Yes, I recall at some point asking for an  
5 administrative leave document to be drafted.

6 Q My question was on December 2nd.

7 A I don't recall if it was December 2nd or not.

8 Q Okay.

9 MR. HARRISON: Your Honor, before I forget, I'll  
10 move the admission of Agency Hearing Exhibit 3 for  
11 impeachment purposes.

12 JUDGE BOGLE: Mr. L'Heureux?

13 MR. L'HEUREUX: No objection, Your Honor.

14 JUDGE BOGLE: All right.

15 MR. HARRISON: Thank you.

16 (Agency Exhibit 3 was received  
17 in evidence.)

18 BY MR. HARRISON:

19 Q The issues you were concerned about with Ms.  
20 Chambers that developed over time, as you've described -- did  
21 you ever present to Ms. Chambers in the form of concerns in a  
22 performance appraisal of any kind?

23 A No, I did not.

24 Q Did you ever present them in a performance  
25 improvement plan of any kind to Ms. Chambers?

1           A     No.

2           Q     Did you ever tell Ms. Chambers that these concerns  
3 of yours had developed to the point that you were  
4 contemplating disciplinary action against her prior to  
5 December 5th?

6           A     Yes.

7           Q     When did you do that?

8           A     The incident where Ms. Chambers had telephone Ms.  
9 Weatherly and I called Ms. Chambers in to have a discussion  
10 with me about that.

11                   I indicated that I would be taking disciplinary  
12 action.

13          Q     That you would be?

14          A     Yes.

15          Q     Okay. And that was -- let's be clear. The  
16 communication you're referring to would be Ms. Chambers'  
17 November 3rd telephone call to Debbie Weatherly?

18          A     Yes.

19          Q     And how long did it take you to call Ms. Chambers  
20 in to tell her your concern about that?

21          A     The next day or so.

22          Q     Okay. And is it fair to say that you were prompt  
23 in calling Ms. Chambers in because Ms. Weatherly had already  
24 called you about that matter?

25          A     She hadn't called me. She had telephoned --

1 Q -- Director Mainella?

2 A -- Director Mainella.

3 Q I see.

4 So, had you talked with Ms. Weatherly yourself  
5 prior to telling Ms. Chambers your concern about Ms.  
6 Chambers' communications with Staffer Weatherly?

7 A I don't recall if I talked to her prior -- prior to  
8 -- to calling Ms. Chambers in.

9 Q Okay.

10 So, you were relying on Director Mainella's  
11 recollection of what Ms. Weatherly said to tell Ms. Chambers  
12 that her conduct was so improper that she would be  
13 disciplined.

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q Have you ever asked Ms. Weatherly directly the  
18 question of whether she felt it was improper for Ms. Chambers  
19 to communicate her concerns to Congress generally or to Ms.  
20 Weatherly specifically?

21 A Yes.

22 Q Okay. And did Ms. Weatherly tell you that, as a  
23 general matter, Ms. Chambers should not be speaking with her?

24 A As a general matter, no.

25 Q Okay.

1                   Did Ms. Weatherly tell you that it was improper for  
2 Chief Chambers to raise any concerns with her?

3           A     Yes.

4           Q     Okay. Let me rephrase.

5                   I assume you're thinking of something specific or a  
6 specific category of concerns.

7           A     Yes.

8           Q     Am I correct?

9           A     Yes.

10          Q     Okay.

11                   My question was meant to be more general.

12                   Did Ms. Weatherly say it was categorically wrong  
13 for Ms. Chambers to raise concerns of any kind and every kind  
14 with her?

15          A     No, she did not.

16          Q     Okay. So, Ms. Weatherly's concern was somewhat  
17 specific.

18          A     Yes.

19          Q     All right. Now, did Ms. Weatherly tell you that if  
20 Ms. Chambers felt that her Park Police organization needed  
21 additional funds or staff to protect the public or the  
22 monuments, that it was improper for her to say that to Ms.  
23 Weatherly?

24          A     I'm sorry.

25          Q     Yes.



1           A     Repeat the question.

2           Q     Did Ms. Weatherly tell you that if Ms. Chambers  
3 felt that additional funds were needed or additional staff  
4 were needed for the Park Police to protect the public or the  
5 monuments, that Ms. Chambers would be improper in raising  
6 that concern with Ms. Weatherly.

7           A     Yes, she -- she did.

8           Q     She did.

9                     Did she say so in writing?

10          A     I'm sorry.

11          Q     Did she say so in writing?

12          A     She said so in a conversation over the phone. No,  
13 not in writing.

14          Q     Thank you.

15                     Did you make any notes of that conversation?

16          A     No.

17          Q     So, you're relying on your memory for that?

18          A     No. She sent me an e-mail that outlined some of  
19 her concerns.

20          Q     Does that e-mail say what I just asked you?

21          A     Well, yes. Not in those exact words, but yes.

22          Q     Uh-huh. Okay. We'll look at that in just a  
23 moment.

24          A     Okay.

25          Q     So, is it fair to say that, based on Ms.

1 Weatherly's communication, as you perceived it, that Ms.  
2 Chambers should not be telling Congress she needs more money  
3 or staff to protect the public or monuments, that you  
4 concluded that Ms. Chambers did something wrong?

5 A No, not -- not explicitly, no.

6 Q No.

7 So, do you believe that it's wrong for Ms.  
8 Chambers, as chief of the U.S. Park Police, to tell Congress  
9 that she needs more money or staff to protect the public or  
10 the monuments?

11 A Not in general, no.

12 Q Okay.

13 So, that wasn't the reason you told Ms. Chambers  
14 she would be disciplined.

15 A No.

16 Q Okay.

17 Did Director Mainella tell you on November 3rd or  
18 4th, prior to your speaking with Ms. Chambers, that Ms.  
19 Weatherly's specific concern, in fact, was that what Ms.  
20 Chambers had communicated to her was the status of the Park  
21 Police implementation of the recommendations of the NAPA  
22 study team was substantively different than what had been  
23 told to Ms. Weatherly by yourself and Director Mainella and  
24 therefore there was a disparity of information she, Ms.  
25 Weatherly, was receiving? Did Director Mainella tell you

1 that?

2 A No.

3 Q Did Ms. Weatherly ever tell you that?

4 A No.

5 Q Do you know whether or not what Chief Chambers  
6 disclosed to Ms. Weatherly as to the status of implementation  
7 of the NAPA recommendations was substantively different than  
8 what you had told Ms. Weatherly about the same topic?

9 A Yes, that began to become clear, yes.

10 Q Okay.

11 So, you believe there was a disparity.

12 A Yes.

13 Q Okay.

14 Let me show you a document that is a December 4th  
15 e-mail from Ms. Weatherly.

16 I believe this is in the agency record. We'll give  
17 a reference in just a moment.

18 Take a moment and see if you recognize that, sir.

19 A (Examining.)

20 Q You seem to be reading the substance. Do you  
21 recognize it?

22 A Uh-huh.

23 Q What is it?

24 A This is a e-mail from Ms. Weatherly to me dated  
25 December 4, 2003.

1           Q     Thank you.  And for the record, this e-mail will be  
2 found as agency response to the IRA appeal, tab 4-D, as in  
3 David.

4                     Now, if you could go through this e-mail and tell  
5 me, sir, precisely what language in this e-mail tells you  
6 that Ms. Weatherly believed that it was improper for Ms.  
7 Chambers to tell her that the Park Police needed additional  
8 funds or staff to protect the public or the monuments.

9           A     (Examining)  If I understand your question  
10 correctly, there is nothing in here that would indicate that  
11 Ms. Weatherly thinks it's improper for Ms. Chambers to  
12 communicate that information to her.

13          Q     Okay.  And that was my question.

14                     I believe you had directed me to this memo, though,  
15 as what you relied on for believing -- or, pardon me, for  
16 reflecting Ms. Weatherly's review in that regard.  Am I  
17 mistaken?

18                     Isn't that why we're looking at it, because you  
19 said you thought that language was in here?

20          A     No.

21          Q     No.

22                     So, let's back up.

23                     Do you believe that Ms. Weatherly communicated to  
24 you that it was wrong, improper, for Chief Chambers to  
25 express to her, a staff member of Congress, that the U.S.

1 Park Police needed more money and staff to properly protect  
2 the public and the monuments?

3 A No.

4 Q You don't believe that she had that position.

5 A That it was wrong.

6 Q Right.

7 A That's correct.

8 Q Okay.

9 So, to make sure the record is clear -- sometimes  
10 short answers don't make it clear.

11 A Okay.

12 Q You're telling me now that you believe that Ms.  
13 Weatherly did not hold the position, to your knowledge, that  
14 it was wrong for Ms. Chambers to communicate to her that the  
15 Park Police needed more money or staff to protect the public  
16 and the monuments.

17 Am I correct?

18 A Yes, you're correct.

19 Q Thank you.

20 Now, that Hearing Exhibit 3 that we had before you,  
21 which was your ongoing record of concerns about Ms. Chambers  
22 -- some of those concerns date to August, some September,  
23 some at other times.

24 You did not take action to initiate a disciplinary  
25 proceeding against Ms. Chambers in August, did you?

1 A No.

2 Q Nor in September.

3 A No.

4 Q Nor in October.

5 A No, I did not.

6 Q Okay. Nor in November.

7 A No.

8 Q Okay. But you did initiate that process by noon on  
9 December 2nd, after the Washington Post article came out. Is  
10 that correct?

11 A Yes.

12 Q Now, are you aware that Ms. Chambers had written an  
13 e-mail to Ms. Debbie Weatherly in Congress on December the  
14 2nd, the same day that the Post article came out?

15 A I'm aware of it now, yes.

16 Q Okay. And do you know when you first became aware  
17 of that?

18 A Sometime shortly after December 2nd or December  
19 5th.

20 I can't remember when it was exactly.

21 Q Well, Ms. Weatherly herself brought it to your  
22 attention, did she not?

23 A Yes, she did.

24 Q Okay. And she faxed it to you?

25 A Yes, she did.

1 Q All right.

2 I want to show you that e-mail. See if you  
3 recognize that.

4 We will give you a record reference in just a  
5 moment.

6 A (Examining.)

7 MR. HARRISON: And I believe, for the record, this  
8 will be the agency's response to the IRA appeal at tab 4-I.

9 BY MR. HARRISON:

10 Q Do you recognize that e-mail, sir?

11 A Yes.

12 Q And is this the e-mail Ms. Weatherly provided to  
13 you on or about the December 2nd to December 5th time-frame,  
14 along with her other communications?

15 A Somewhere along in there, yes.

16 Q Okay. And did you read it when Ms. Weatherly sent  
17 it to you?

18 A Yes.

19 Q Okay. And you see on the second page there, Ms.  
20 Chambers make a statement -- actually, my format may be  
21 different from yours, but there is a paragraph that begins,  
22 "My professional judgement, based on 27 years of police  
23 service . . ." Do you see that?

24 A Yes, I do.

25 Q Ms. Chambers says -- she goes on to recount her

1 experience, but she says that "We are at a staffing and  
2 resource crisis in the United States Park Police, a crisis  
3 that, if allowed to continue, will almost surely result in  
4 the loss of life or the destruction of one of our nation's  
5 most valued symbols of freedom and democracy." Do you see  
6 that?

7 A Yes.

8 Q So, you were aware of Ms. Chambers raising that  
9 concern at least by the time you received this e-mail from  
10 Ms. Weatherly in the December 2nd to December 5th time-frame.

11 A Yes.

12 Q Now, Ms. Weatherly's e-mail to you that we were  
13 just looking at, if I can find it again -- it makes a  
14 reference to Ms. Chambers raising that type of concern about  
15 a dangerous crisis in, I think, a one-sentence paragraph  
16 there.

17 Do you see that? It's --

18 A Yes.

19 Q Okay.

20 It says, "I saw Ms. Chambers on the television the  
21 other night again indicating publicly that there is a  
22 dangerous crisis because of a lack of money and staff."

23 So, Ms. Weatherly brought Ms. Chambers' concern in  
24 that regard to your attention on or about December 4th, did  
25 she not?



1           A     She wrote it in this e-mail message, yes.

2           Q     Okay.  And you received it on December 4?

3           A     Yes.

4           Q     And you read it.

5           A     Yes.

6           Q     Okay.

7                     Did you have occasion to review any of Ms.  
8 Chambers' statements to the media in addition to the  
9 Washington Post article which you read in the December 2nd to  
10 December 5th time-frame?

11          A     Yes.

12          Q     And what other media did you review regarding Ms.  
13 Chambers in that time-frame?

14          A     Stand-up interviews before the -- before  
15 television.

16          Q     Okay.

17                     Do you recall what Ms. Chambers might have said in  
18 those interviews?

19          A     I don't recall exactly what she said.  She was --  
20 some of the same things that she had said in the Washington  
21 Post article.

22          Q     Okay.

23                     Did Ms. Chambers talk about her concern that lack  
24 of staffing and funding for the Park Police might be causing  
25 the Park Police to not provide protective services in public

1 parks or in highways that might be required, something to  
2 that effect?

3 A Something to that effect, yes.

4 Q Okay. Would you agree that if there's a charge of  
5 police staffing to patrol the highways, that that might have  
6 some impact on traffic safety, accidents, and even traffic  
7 deaths?

8 A Yes, it could.

9 Q It could?

10 (Pause.)

11 MR. HARRISON: Your Honor, just to be clear, I'm  
12 not moving the admission of those documents already in the  
13 agency filings.

14 JUDGE BOGLE: Correct.

15 MR. HARRISON: Thank you.

16 BY MR. HARRISON:

17 Q Was it one of your bases for proposing the removal  
18 of Ms. Chambers that Ms. Chambers had told Debbie Weatherly,  
19 congressional staff, that Ms. Chambers believed that the NAPA  
20 review that was planned was not necessary?

21 A It was that coupled with not following my  
22 instructions with regard to that, yes.

23 Q So, it was part of the basis, not the entire basis.

24 A Yes.

25 Q What were your instructions, specifically and

1 precisely, that you're referring to?

2 A Well, with respect to the NAPA review, if I  
3 understand your question correctly, it had to do with the  
4 NAPA review being paid for by the U.S. Park Police following  
5 the instructions in the budget language that was provided by  
6 the interior appropriations committee and -- and that's  
7 basically it, making sure that -- that that -- that that was  
8 carried out and that the NAPA re-review was done.

9 Q You're not saying, are you, that Ms. Chambers  
10 didn't following your instruction that the Park Police should  
11 provide payment for the NAPA study, are you?

12 A No.

13 Q You asked Ms. Chambers to provide an account code  
14 so that the Park Police would pay for that study, did you  
15 not?

16 A That's correct.

17 Q And she did provide you the account code.

18 A That's correct.

19 Q And she did so promptly.

20 A That's correct.

21 Q And the study was paid for by the U.S. Park Police.

22 A That's correct.

23 Q Okay.

24 So, was there an instruction that you're saying you  
25 gave to Ms. Chambers regarding the NAPA study or its funding

1 that you're saying Chief Chambers did not follow?

2 A What I'm specifically referring to, if I can be  
3 clear, was the fact that I had -- we had given her -- I had  
4 given her specific instructions with regard to that. She  
5 telephoned Ms. Weatherly in an attempt to not have that  
6 happen, and I followed up with a conversation with Ms.  
7 Chambers to make sure that it was effected, and after that,  
8 it was.

9 What I am communicating that was improper in not  
10 following my instructions was this call to Ms. Weatherly to  
11 attempt to not have the Park Police pay for the -- the NAPA  
12 study and to communicate to Ms. Weatherly that the study was  
13 not necessary.

14 Q So, if I understand your testimony -- it's  
15 important to be precise here -- first of all, you said -- you  
16 made a reference to your instructions regarding "that," and I  
17 don't know what the "that" is.

18 So, can you tell us what the "that" is you were  
19 referring to?

20 A I'm not sure what you're --

21 Q You probably don't remember your answer.

22 A I'm not sure what you're referring to.

23 Q Okay. Let me start again.

24 Did you give Ms. Chambers an instruction that  
25 you're saying now was not followed?

1           A     Yes.

2           Q     Okay.  And was it the instruction to pay for the  
3 NAPA study out of the Park Police budget?

4           A     It was -- the instruction was to effect the payment  
5 of the NAPA study and for the re-review to take place by --  
6 by NAPA.

7           Q     Okay.  And both of those things happened.

8           A     After.

9           Q     After what?

10          A     After I communicated to Ms. Chambers that her call  
11 to Ms. Weatherly to -- to not have that happen was -- was  
12 inappropriate and was not following my instructions.

13          Q     So, if I understand the sequence of events that  
14 you're testifying to, you communicated to Ms. Chambers that  
15 she was to arrange for the Park Police to pay for the new  
16 NAPA study; Ms. Chambers communicated with Ms. Weatherly, you  
17 believe in an attempt to prevent the Park Police having to  
18 pay for that study.

19          A     That's correct.

20          Q     You then followed up after that Chambers-Weatherly  
21 call with Ms. Chambers.

22          A     Correct.

23          Q     And at that point, you believe Ms. Chambers  
24 complied with your instruction that the Park Police would pay  
25 for the study.

1           A     That's correct.

2           Q     Okay.

3                     Let's look at the proposed removal document itself,  
4 which should be at tab 4-A in the agency response to the IRA  
5 appeal, which you may not have in front of you.

6           A     I have it.

7           Q     Do you have it?

8           A     Yes.

9           Q     It may be in the other volume.

10          A     It's in the other volume.

11          Q     That's fine. But if you need help, I can provide  
12 you a copy.

13          A     Sure. That would be fine.

14          Q     Counsel is assisting us.

15                     MR. L'HEUREUX: He doesn't have it before him,  
16 Counsel.

17                     MR. HARRISON: That's all right.

18                     BY MR. HARRISON:

19          Q     Take a moment and see if you recognize this, Mr.  
20 Murphy.

21          A     Uh-huh.

22                     (Witness examining document.)

23                     JUDGE BOGLE: Okay. We just looked at this  
24 document. What is the question?

25                     MR. HARRISON: I'm sorry, Your Honor.

1 BY MR. HARRISON:

2 Q And you recognize this, right?

3 A Yes.

4 Q If you look on page one, charge one, at the bottom,  
5 you recount the following.

6 "For fiscal year 2004, the appropriations  
7 subcommittee directed the National Park Service to contract  
8 with the National Academy of Public Administration, called  
9 NAPA."

10 You go on to say, "On November 3, 2003, I informed  
11 you that NAPA review was required and instructed you to  
12 provide me with a U.S. Park Police cost account number to  
13 obtain the NAPA contract."

14 You then say, "You provided me with the cost  
15 account number." Then you say, "Subsequent to my November  
16 3rd instruction to you, you telephoned a senior staff  
17 member."

18 Now, my point is, this is a sequence of events  
19 which is counter to what you just testified to. Do you see  
20 that?

21 A I see that.

22 Q Okay.

23 Help me out.

24 A Well, I just may have the -- the sequences wrong.  
25 It's just been a while.

1 Q Uh-huh.

2 A And when I put the -- the charges together, I had  
3 the sequences clear in my mind, and this is most likely how  
4 it happened. I just probably got the -- got it out of  
5 sequence.

6 Q Okay.

7 So, let's use the correct sequence.

8 A Okay.

9 Q The correct sequence is you told Ms. Chambers the  
10 Park Police should pay for the NAPA study and provide an  
11 accounting code to do that.

12 Ms. Chambers gave you that accounting code to pay  
13 for the study, and subsequent to that, she telephoned Ms.  
14 Weatherly.

15 Isn't that correct?

16 A Yes.

17 Q Okay. Now, do you not know that Ms. Chambers  
18 telephoned Ms. Weatherly in order to inquire whether the Park  
19 Police were the proper agency to fund for a study -- to fund  
20 a study that was not requested by the Park Police and that  
21 prior to Ms. Weatherly returning Ms. Chambers' call, Ms.  
22 Chambers had her question answered in the affirmative by one  
23 of her staff members. Do you know that?

24 A No, I don't know.

25 Q Don't know that. And you didn't know it at the



1 time that you proposed Ms. Chambers' removal.

2 A No.

3 Q Okay.

4 Do you also -- do you know that Ms. Weatherly did  
5 return Ms. Chambers' call, and upon Ms. Weatherly returning  
6 Ms. Chambers' call, Ms. Chambers told her thank you for  
7 calling, I have my question answered, and attempted to  
8 terminate the conversation at that point, but Ms. Weatherly  
9 continued the conversation.

10 Did you know that?

11 A No.

12 Q And you didn't know that when you proposed Ms.  
13 Chambers' removal.

14 A No.

15 Q Okay. Do you know whether or not the conversations  
16 that ensued about the NAPA implementation at the Park Police  
17 resulted from Ms. Weatherly's inquiries of Ms. Chambers as to  
18 what's going on over there, I thought you were going to fix  
19 things or put things in order, something to that effect? Do  
20 you know that?

21 A No.

22 Q And you didn't know that at the time you proposed  
23 Ms. Chambers' removal.

24 A No.

25 Q Do you believe that if a staff member or a

1 congressional committee makes an inquiry of a Federal  
2 official, that the Federal official should answer the  
3 questions honestly?

4 A Yes.

5 Q And that's actually a policy of the Department of  
6 Interior, is it not?

7 A Yes.

8 Q Okay.

9 (Pause.)

10 BY MR. HARRISON:

11 Q So, if Ms. Chambers had spoken with Ms. Weatherly  
12 only in response to Ms. Weatherly's inquiries of her, I take  
13 it you would have had no complaint about that communication.

14 A That's correct.

15 Q Is it your testimony that you spoke directly with  
16 Ms. Chambers and gave her some instruction about paying for  
17 the NAPA study, or did you do that through another party?

18 A No, I spoke with her directly.

19 Q Okay.

20 Do you not recall asking your secretary to call Ms.  
21 Chambers and ask for the account code?

22 A Yes, I did.

23 Q You did do that.

24 A Yes.

25 Q Okay.

1                   Did you ever direct Ms. Chambers to not communicate  
2 with Congress?

3           A     No.

4           Q     At some point, did you ever encourage Ms. Chambers  
5 to get to know Debbie Weatherly?

6           A     Yes.

7           Q     Have you ever had any training as to employees'  
8 rights to communicate with Congress?

9           A     No.

10          Q     You didn't do the ethics training you were asked  
11 about earlier in your testimony? You didn't get that  
12 yourself?

13          A     Yes.

14          Q     You did get that training.

15          A     Yes.

16          Q     Okay.

17                   Do you have the hearing exhibits in front of you  
18 still?

19          A     Yes.

20          Q     You'll need, actually, number 6.

21          A     Yes, I have it.

22          Q     The ethics guide.

23                   If you would turn to -- and my copy is a poor --  
24 partially cut-off copy, it looks like -- the lobbying  
25 Congress part that you were directed to by your counsel --

1           A     Yes.

2           Q     -- page 37 of the document -- it carries over to  
3 page 38.

4           A     Uh-huh.

5           Q     And it looks like, at the bottom of that section,  
6 on page 38, there is a paragraph that says -- referring to  
7 the employees's right -- "However, you always have the right  
8 to petition Congress either individually or collectively on  
9 any subject. Your right to petition Congress, a member of  
10 Congress . . ." -- and I don't know what else it says,  
11 because mine's cut off -- ". . . or to furnish information to  
12 either house of Congress shall not be interfered with or  
13 denied."

14                   Do you see that?

15          A     Yes.

16          Q     Did you get that training?

17          A     Yes, I received this.

18          Q     Okay. And you're not really taking the position,  
19 are you, that you have the authority to restrict officials  
20 under you from communicating in an official capacity with  
21 members of Congress.

22                   Are you taking that position?

23          A     Well, if I -- if you're referring to the sentence  
24 that says as long as you do it as a private citizen or on  
25 your own time and with your own supplies or equipment -- is

1 that the sentence you're referring to?

2 Q No, it's not.

3 I'm asking you what your position is about my  
4 question, and if you want to refer to that document to  
5 answer, you're welcome to do that.

6 A Sure.

7 Repeat the question, then.

8 Q My question is, are you taking the position that  
9 you have the authority to restrict or prohibit employees  
10 under your supervision, including at the level of the U.S.  
11 Park Police, from communicating with Congress in an official  
12 capacity?

13 A When they're communicating in a -- in an official  
14 capacity, I have the authority to communicate what the  
15 positions of the agency are and to request to require that,  
16 while speaking as an official of a particular agency, that  
17 they adhere to the -- to the agency's policies and positions.

18 Q And is it that understanding and belief that was a  
19 basis for your charge one against Chief Chambers in the  
20 proposed removal?

21 Is that part of your basis?

22 A Part of it.

23 Q Okay.

24 So, if an employee under your supervision believed,  
25 in an official capacity, that there was a danger to the

1 public and that the official position of the National Park  
2 Service did not protect the public adequately and a Congress-  
3 member wanted to know the belief of the official under your  
4 supervision, such as Ms. Chambers, is it your position that  
5 Ms. Chambers, or whoever, would be prohibited in  
6 communicating their own opinion to Congress on an inquiry  
7 from Congress?

8 A If Congress inquired, they could communicate what  
9 their opinion was, yes.

10 Q And that would not be improper.

11 A No.

12 Q Okay. And you would not have the authority to  
13 prohibit that.

14 A No.

15 Q Okay.

16 Now, if Congress did not make the inquiry but the  
17 employee thought that Congress would never found out unless  
18 they disclosed -- they, the employee, disclosed the danger to  
19 Congress, do you believe the employee would be acting  
20 improperly in communicating that concern to Congress?

21 A No, not necessarily, no.

22 Q No? Okay. And you say "not necessarily." Would  
23 there be some occasions when it would be improper and others  
24 when it would not be improper?

25 A In the case where the opinion -- where it's a --

1 where it's a matter of opinion, in the case of the National  
2 Park Service, for example, and the Department of Interior,  
3 where we have numerous levels of law enforcement officers who  
4 are members of the intelligence community and the security  
5 community and where we have come together and evaluated a  
6 variety of -- of information relating to -- to security and  
7 we have jointly formed an opinion as to what threats are and  
8 what the security profiles should be and we have all agreed  
9 that that is our position based on the information that --  
10 that we have, I do think it would be improper for an employee  
11 representing the -- the agency in their official capacity  
12 after that position has been formulated to -- to represent  
13 otherwise.

14           They can certainly represent otherwise to the -- to  
15 the group, but in this case, we have numerous law enforcement  
16 officials that make up the Department of Interior and the  
17 National Park Service.

18           Q     Okay.

19           So, let's be clear. If a position is formulated by  
20 a Department of Interior or the National Park Service -- and  
21 let's do a hypothetical to try to make it clear.

22           JUDGE BOGLE: No, I don't have any patience for  
23 hypotheticals, and I'm looking through his deposition. If  
24 I'm not mistaken, you took him through all of this at  
25 deposition.

1 MR. HARRISON: I understand.

2 JUDGE BOGLE: So, it's in the record.

3 MR. HARRISON: Very good.

4 BY MR. HARRISON:

5 Q So, Mr. Murphy, did you rely on your understanding  
6 at the time you proposed Ms. Chambers' removal that Ms.  
7 Chambers had communicated to Ms. Weatherly that the U.S. Park  
8 Police should not have to pay for the NAPA study?

9 A Yes.

10 (Pause.)

11 BY MR. HARRISON:

12 Q You had indicated during response to your counsel's  
13 question that you did not know that Ms. Chambers was going to  
14 call Ms. Weatherly.

15 Have you imposed a requirement on your employees to  
16 get prior approval to communicate with Congress?

17 A No.

18 Q You indicated to your counsel that you had decided  
19 -- I believe you said at the time -- that some discipline was  
20 required for Ms. Chambers because she called Ms. Weatherly on  
21 or about November 3, 2003. Did I hear you correctly?

22 A Yes.

23 Q But you did not initiate any discipline until  
24 December 2, 2003.

25 Is that correct?



1           A     That's correct.

2           Q     Now, regarding charge two in the proposed removal  
3 regarding Ms. Chambers to The Washington Post, let's -- if  
4 you can find that document, which is in the agency IRA  
5 response 4-A, tab 4-A, I believe.

6                     Did you find that, sir?

7           A     Yes.

8           Q     All right.

9                     Now, there are three items bulleted there -- not  
10 really bulleted but listed -- that are taken from The  
11 Washington Post.

12                     The first item does not appear to be in quotation  
13 marks.

14                     "Chambers said traffic accidents," blah, blah,  
15 blah.

16                     Do you see that?

17           A     Yes.

18           Q     And you agree there's no quotation marks around it.

19           A     Yes.

20           Q     And what does that mean?

21           A     There -- there are no quotations around it. It may  
22 not be a direct quote.

23           Q     Okay.

24                     The second item, there are quotations. Do you see  
25 that?

1 A Yes.

2 Q And the third item not.

3 Do you see that?

4 A That's correct.

5 Q Okay.

6 Did you make any inquiry at the time, before your  
7 proposed removal of Ms. Chambers, meaning prior to December  
8 5th, to determine exactly what Ms. Chambers may have said and  
9 may not have said to The Washington Post; in other words, to  
10 independently verify her statements?

11 A Yes, I did.

12 Q You did.

13 What did you do?

14 A I wrote a message to Ms. Chambers and asked what  
15 did you say to try to get an understanding of what explicitly  
16 she had said, and then I tried to contact the Washington Post  
17 writer of the article, and that particular reporter -- I  
18 can't remember his name.

19 Q Mr. Farenthol.

20 A Mr. Farenthol didn't -- didn't respond for -- for  
21 that initial inquiry that I made.

22 Q Okay. So, you did not speak to the reporter.

23 A No, sir, I did not.

24 Q Okay.

25 Did you have these particular items specifically

1 listed in your communication to Ms. Chambers? Did you ask  
2 her about these particular statements in the proposed  
3 removal?

4 A No.

5 Q Okay.

6 Did you know at the time of the proposed removal  
7 that the reporter, Farenthol -- I think it's David Farenthol  
8 -- that he had spoken with a Fraternal Order of Police  
9 president, Jeff Katz, about the same matters represented in  
10 the article of December 2nd prior to speaking with Ms.  
11 Chambers?

12 A No.

13 Q Did you subsequently find that out?

14 A Yes.

15 Q Okay.

16 So, would you have known on December 5th, when the  
17 administrative leave was put in place for Ms. Chambers,  
18 exactly what Mr. Katz said to the Post versus what Ms.  
19 Chambers had said to the Post?

20 A No.

21 Q Okay. Have you ever had occasion to be incorrectly  
22 quoted by a member of the press?

23 A Yes.

24 Q The first item listed there under charge two, the  
25 reference to traffic accidents have increased -- you're not

1 saying that a reference to an increase in traffic accidents  
2 is security-sensitive and prohibited from public release, are  
3 you?

4 A No.

5 Q Okay.

6 It goes on to say, ". . . which now often has two  
7 officers on patrol instead of the recommended four."

8 Are you saying that noting that two officers are on  
9 patrol publicly on a highway instead of a recommended four is  
10 in some manner a national security-classified piece of  
11 information?

12 A No.

13 Q So, it's not Top Secret, Secret, or Confidential  
14 under the national security system.

15 A No, it is not.

16 Q Okay. Has that particular bit of data been  
17 specifically classified -- and I'm not talking about some  
18 document that might contain it. We'll get to that in a  
19 moment. I'm talking about -- has there been an order by some  
20 official with authority to classify documents as law  
21 enforcement-sensitive to classify that particular bit of data  
22 as law enforcement-sensitive?

23 A No.

24 Q Okay.

25 Do you know -- is there a written policy in the

1 National Park Service or the Department of Interior that you  
2 know of that spells out or defines what is and is not law  
3 enforcement-sensitive information?

4 A No.

5 Q When you used the term in your testimony that you  
6 thought this was security-sensitive, if I understand you  
7 correctly --

8 A Yes.

9 Q -- did you mean law enforcement-sensitive?

10 A Yes.

11 Q Okay.

12 Was Ms. Chambers ever given training, to your  
13 knowledge, on what law enforcement-sensitive means in the  
14 National Park Service?

15 A No, not to my knowledge.

16 Q Have you ever been given such training?

17 A No.

18 Q Okay.

19 (Pause.)

20 BY MR. HARRISON:

21 Q Mr. Murphy, I want to show you a document that is  
22 Appellant's Pretrial Hearing Exhibit EE, Edward, Edward.

23 (Pause.)

24 BY MR. HARRISON:

25 Q Tell me if you recognize it.

1 A (Examining) Yes.

2 Q Do you recognize it?

3 A Yes.

4 Q And is it an e-mail you were copied on?

5 A Yes.

6 Q Okay. And do you see that it substantively makes  
7 reference to the fact that the Fraternal Order of Police had  
8 spoken with the Post reporter?

9 A Yes.

10 Q Okay. And what's the date on that?

11 A November 21st.

12 Q November 21st of 2003?

13 A 2003.

14 Q So, this would be even before the Post article came  
15 out.

16 A That's correct.

17 Q Okay. And it would be before you issued any  
18 disciplinary action regarding Ms. Chambers.

19 A That's correct.

20 Q Is it fair to say that you and other officials of  
21 the Park Service had an opportunity to be interviewed by The  
22 Washington Post, had you chosen to do so, regarding that same  
23 article before it came out?

24 A Yes.

25 Q Okay.

1           Is it fair to say, regarding that first item under  
2 charge two, that your only basis for -- pardon me -- your  
3 only documentary basis for considering the reference to two  
4 officers on patrol instead of four being in some way law  
5 enforcement-sensitive or security-sensitive was a document  
6 that was sent by Ms. Chambers to Larry Parkinson that had to  
7 do with -- okay -- regarding an Inspector General's  
8 inspection?

9           A     Yes, that's correct.

10          Q     Okay. And do you know the document I'm  
11 referencing?

12          A     Yes, I do.

13          Q     Okay.

14                MR. HARRISON: I believe it's been submitted, Your  
15 Honor, as a document under seal by the agency as a hearing  
16 exhibit, if I'm not mistaken, and I would like the witness to  
17 look at it and identify it.

18                JUDGE BOGLE: I have not looked at this document.

19                Mr. L'Heureux, do you have plans to redact it?  
20 Have you thought about what you want to do with it?

21                MR. L'HEUREUX: I think we'll just admit it, Your  
22 Honor.

23                JUDGE BOGLE: And put it under seal, and if it's  
24 released under FOIA, so be it. Okay.

25                BY MR. HARRISON:

1 Q I believe that's Hearing Exhibit number 4, and I  
2 don't know if you have that in front of you, sir.

3 A Number 4?

4 Q Yeah, if you can find that.

5 A No, I don't have it.

6 (Pause.)

7 BY MR. HARRISON:

8 Q Take a moment, sir, see if you recognize that.

9 A (Examining) Yes.

10 Q Okay.

11 Is this the document that I referenced from Ms.  
12 Chambers to Larry Parkinson?

13 A Yes.

14 Q And is there something about this document that you  
15 believe supports your position that that first item there in  
16 charge two is, in fact, law enforcement-sensitive?

17 You don't have to tell me what it is yet. My first  
18 question is, is there something in there that supports you in  
19 that regard.

20 A For the first charge?

21 Q Yes. Pardon me, charge two, the first item.

22 A The first item.

23 Q That would be the two officers on patrol instead of  
24 the recommended four.

25 A I don't recall that that specific item is in this



1 document --

2 Q Okay.

3 A -- regarding the number of officers on patrol on  
4 the Baltimore-Washington Parkway.

5 Q Understood. So, to my knowledge -- correct me if  
6 I'm wrong -- there is no document upon which you rely to  
7 establish that particular piece of information as law  
8 enforcement-sensitive.

9 A That's correct.

10 Q Thank you.

11 Now, let's go to the second item. It's fair --  
12 this is in quotations. "It's fair to say, where it's green,  
13 it belongs to us in Washington, D.C.," Chambers said of her  
14 department.

15 I assume you have no problem with that part of the  
16 statement.

17 A Correct.

18 Q Okay.

19 A Yes.

20 Q So, the remaining part is, "Well, there's not  
21 enough of us to go around to protect those green spaces  
22 anymore."

23 Is there something in the document that's before  
24 you, Hearing Exhibit number 4, that you believe supports that  
25 last phrase, "there's not enough of us to go around to

1 protect those green spaces anymore," as law enforcement-  
2 sensitive information?

3 A No.

4 Q And I'm assuming you're not asserting that that  
5 statement is national security-classified in any way,  
6 correct?

7 A That's correct.

8 Q Okay. And I assume there's no policy statement in  
9 writing you could point us to that says statements like that  
10 are law enforcement-sensitive.

11 A That's correct.

12 Q Okay.

13 So, what exactly is your basis for calling that  
14 statement law enforcement-sensitive?

15 A Well, as I testified earlier, both that statement,  
16 along with the other statement, unless you just want me to  
17 focus on that one specifically --

18 Q Just that one for the moment.

19 A This one, specifically, as I stated earlier,  
20 communicates information about the nature of our ability to  
21 protect certain areas, our parks, in particular, and  
22 specifically communicates publicly that those areas are not  
23 being protected adequately and sends information to the  
24 criminal element in -- in the community that these green  
25 spaces are -- are now fair game, and a high-ranking official

1 in the Department of Interior, in my judgement, should not be  
2 communicating those kinds of things out publicly, even if  
3 they do happen to believe they're -- they're the case,  
4 because of the strong possibility that -- that that gives a  
5 green light to the criminal element in the community.

6 Q So, did you perceive this statement to be  
7 communicating to the criminal element publicly that there was  
8 a specific and substantially vulnerability in the Park Police  
9 ability to protect the green spaces?

10 A I wouldn't interpret it that way. I would  
11 interpret it just as I said.

12 Q So, it wasn't disclosing a specific vulnerability.

13 A Not necessarily, no.

14 Q No?

15 A Generally.

16 Q Okay. Was it disclosing a substantial  
17 vulnerability?

18 A It's communicating, as I said, that in these green  
19 spaces, that there may not be enough officers to protect  
20 those areas and that they are open and perhaps fair game for  
21 them to conduct criminal activity in.

22 Q What's your answer to my question?

23 A And your question was? I'm sorry. I really don't  
24 mean to be difficult. I'm sorry.

25 Q No, I'm just asking to get an answer. Is it your

1 position that this statement by Chief Chambers in the press,  
2 if it were made by her, communicates a substantial  
3 vulnerability of the Park Police's ability to protect the  
4 green spaces?

5 A No.

6 Q No?

7 A No.

8 Q Okay. But you felt like this was enough of a  
9 violation of a disclosure of security-sensitive information  
10 to propose to remove Chief Chambers?

11 A Yes.

12 Q Okay.

13 Is it fair to say that this was your judgement as  
14 to what you felt was security-sensitive information?

15 A Yes.

16 Q The third item there, "The Park Police's new force  
17 of 20 unarmed security guards will begin serving around the  
18 monuments in the next few weeks" -- that statement is  
19 actually factually incorrect, is it not? The new force is  
20 not 20 unarmed security guards. It's actually a greater  
21 number than that?

22 A I don't recall.

23 Q Okay.

24 So, you don't know how many unarmed security guards  
25 were going to be serving at the monuments?

1           A     My knowledge at the time was that this was the  
2 number of security guards.

3           Q     And you got that knowledge from the newspaper?

4           A     No, from Ms. Chambers. We had discussed this. It  
5 had been part of other documents that we had -- had talked  
6 about. I --

7           Q     Let's be clear. Are you telling me that Ms.  
8 Chambers told you that the new force of unarmed security  
9 guards numbered 20?

10          A     These are -- that's a number that I recall having  
11 been -- been discussed.

12                   Whether that was the number deployed or not, I -- I  
13 don't know or have direct knowledge of.

14          Q     Okay. Are you saying under oath that Ms. Chambers  
15 told you that number 20 as the total force of unarmed  
16 security guards?

17          A     No, I'm not saying that.

18          Q     Okay. And you don't know whether the force is  
19 actually larger than 20?

20          A     No, I do not.

21          Q     And do you know where Reporter Farenthol came up  
22 with the number 20?

23          A     According to his report in the -- excuse me -- in  
24 this Post article, he came up with that number from Chief --  
25 from Ms. Chambers.

1 Q Okay.

2 It's not in quotations, is it?

3 A No.

4 Q Okay. So, do you know whether Mr. Farenthol might  
5 have had occasion to observe a certain number of security  
6 guards at a location publicly and deduce the number 20 for  
7 himself?

8 A I don't know.

9 Q You don't know. And you don't know what the FOP,  
10 Fraternal Order of Police, may have told him about that.

11 A No, I do not.

12 Q Okay.

13 Now, is there a document you could point me to that  
14 says that the number of unarmed security guards posted at the  
15 monuments is a national security-classified piece of  
16 information, meaning Top Secret, Secret, or Confidential?

17 A No.

18 Q Okay.

19 Is there a document you can point me to that  
20 designates that piece of data, the number of unarmed security  
21 guards at the monuments, as, quote/unquote, "law enforcement  
22 sensitive"?

23 A No.

24 Q Okay.

25 Is there a document that designates that particular

1 piece of data as any other concept of prohibited from  
2 release?

3 A No.

4 Q Okay.

5 You indicated, Mr. Murphy, that you had written an  
6 e-mail to Ms. Chambers, I believe, and asked her what she  
7 said to the reporter at the Post?

8 A That's correct.

9 Q And what was Ms. Chambers' response?

10 A I didn't -- I didn't receive a response.

11 Q Okay. And did you rely on the fact that you had  
12 sent her that e-mail and gotten no response as part of your  
13 decision to propose to remove Ms. Chambers?

14 A No.

15 Q Do you know whether that document can be produced  
16 today, that e-mail that you say you wrote?

17 A It may be able to be produced. I don't know for a  
18 fact, but it may be.

19 Q Do you know, whether it's in the agency filings in  
20 this case?

21 A I don't know.

22 Q Okay.

23 Were you involved in producing documents for the  
24 appellant's discovery request in this matter? Did anyone ask  
25 you to give your records up?

1           JUDGE BOGLE: We are not going to take hearing time  
2 to cover discovery problems.

3           If you believe --

4           MR. HARRISON: No, no, Your Honor.

5           JUDGE BOGLE: -- this is something that should have  
6 been produced in discovery, we'll take it up at the --

7           MR. HARRISON: That's not what I'm --

8           JUDGE BOGLE: -- conclusion of the hearing.

9           MR. HARRISON: That's not what I'm saying, Your  
10 Honor.

11           All I want the witness to establish is that he has  
12 not produced the document, and I just simply wanted to go to  
13 the fact that the document does not exist.

14           It's not a discovery dispute. It's a fact in his  
15 testimony.

16           JUDGE BOGLE: He just told you he thought it could  
17 be produced, so I don't think that's -- that's testimony that  
18 will establish that it doesn't exist.

19           MR. HARRISON: Well, if he was asked to produce it  
20 in discovery and didn't, that impeaches his testimony.

21           JUDGE BOGLE: Well, once again, we're going to take  
22 this up at the conclusion of the proceeding. Let's move on.

23           MR. HARRISON: Very well, Your Honor. I note my  
24 objection.

25           BY MR. HARRISON:



1 Q Now, is there anything in this third item, in  
2 charge two, any specific piece of data that you believe was  
3 specifically designated in some type of classification order  
4 as either classified or law enforcement-sensitive?

5 A The only thing I have a concern with in that regard  
6 is the sentence that says she eventually hopes to have a  
7 combination of two guards and two officers at the monument.

8 Q Okay. And my question was, is there an order that  
9 classifies that data as Confidential, Secret, law  
10 enforcement-sensitive, or the like?

11 A There's not an order.

12 Q No. And is the only document you rely upon for  
13 your concern Hearing Exhibit number 4?

14 A The document labeled "law enforcement sensitive"  
15 that Ms. Chambers wrote to Larry Parkinson.

16 Q And do you see under your finger there that's  
17 Hearing Exhibit number 4?

18 There's a label on the first page.

19 A Yes.

20 Q Thank you.

21 Now, do you know actually who put the designation  
22 "law enforcement sensitive" on this document?

23 A I don't know who -- who put the designation on it  
24 no.

25 It was -- it was from Ms. Chambers to Larry

1     Parkinson.

2           Q     Well, I didn't ask you who authored it or who sent  
3     it.

4                     I asked you who designated it, and you don't know.

5           A     No.

6           Q     Okay.

7                     Is there anyone in the Department of Interior that  
8     delegates authority to classify documents as law enforcement  
9     sensitive, to your knowledge?

10          A     Not that I know of.

11          Q     Okay.

12                     Is there any written policy that says who can do  
13     that and on what criteria?

14          A     Not that I know of, no.

15          Q     Okay. Now, this document we're looking at is in  
16     Exhibit -- Hearing Exhibit 4 -- is approximately -- I don't  
17     know -- 15 pages long or so, would you say?

18          A     Yeah.

19          Q     Is it your position that every word in this  
20     document is law enforcement sensitive?

21          A     Well, that document's labeled law enforcement  
22     sensitive, and I think, in my judgement, a document that's  
23     labeled law enforcement sensitive would mean the contents of  
24     it are law enforcement sensitive, yes.

25          Q     So, your answer is every word in here is law

1 enforcement sensitive.

2 A The document, yes, is law enforcement sensitive,  
3 and its contents, yes.

4 Q Okay.

5 So, I believe you're saying that the document could  
6 not be released, or any part of it.

7 Is that fair?

8 We would agree on your position being that the  
9 document itself should not be released.

10 A Yes, that's correct.

11 Q Now, are you also saying if someone wants to talk  
12 about a piece of information that happens to be in this  
13 document -- like I notice at the bottom of page three, it  
14 says Paul Hoffman, Deputy Assistant Secretary, Fish and  
15 Wildlife Service.

16 That's law enforcement sensitive, is it?

17 A No.

18 JUDGE BOGLE: This is not particularly helpful, Mr.  
19 Harrison.

20 MR. HARRISON: Well, Your Honor, I beg to differ.  
21 There are many documents classified, for a variety of  
22 reasons, that contain, in fact, confidential or sensitive  
23 information that also contain a host of public information,  
24 and that's why we have the process for redacting in response  
25 to FOIA --

1           JUDGE BOGLE:  You're arguing your case now, which  
2  you will be given an opportunity to later now, but now we  
3  need to finish questioning this witness, and arguing your  
4  case through the testimony of a witness is not appropriate.

5           MR. HARRISON:  Your Honor, what I'm doing is citing  
6  why it's relevant and material and why I should be allowed to  
7  examine this witness on this question.

8           JUDGE BOGLE:  Move on, please.

9           MR. HARRISON:  I note my objection.

10          BY MR. HARRISON:

11          Q     Have you ever seen a document, sir, that was  
12  stamped "law enforcement sensitive" or classified  
13  Confidential under national security categories that included  
14  information as to the number of Porta-Potties at a particular  
15  park facility?

16          A     No.

17          Q     Okay.  And if that information were contained in  
18  such a document, would that be -- would that data be law  
19  enforcement sensitive?

20          MR. L'HEUREUX:  Objection, Your Honor.  This is the  
21  same line of questioning that he was just ordered not to  
22  persist in.

23          MR. HARRISON:  That's not correct, Your Honor.

24          JUDGE BOGLE:  Well, I fail to understand the line,  
25  Mr. Harrison, because looking at the charge, the charge isn't

1 that she released law enforcement-sensitive information. I  
2 realize those words have been used, but that's not the  
3 charge.

4 So, when I look to see whether the agency has  
5 evidence to sustain this charge, whether, in fact, this stuff  
6 was law enforcement sensitive is not going to be part of the  
7 analysis.

8 MR. HARRISON: I appreciate that, Your Honor, and I  
9 was not aware of that being Your Honor's position. So, let  
10 me explore it with the witness.

11 BY MR. HARRISON:

12 Q Because I believe, Mr. Murphy, that you explained  
13 to me that when you expressed your concern that this  
14 information was, quote, "security sensitive," which was the  
15 phrase used in your testimony, that that equated to you to be  
16 law enforcement sensitive.

17 Did I misunderstand you?

18 A No.

19 MR. HARRISON: So, Your Honor, I'm confused.

20 JUDGE BOGLE: Well, long ago, he said that there  
21 was not a precise definition of law enforcement sensitive.  
22 These comments are not classified and are not law enforcement  
23 sensitive. So, I don't see any reason for the testimony that  
24 we're now taking from this witness.

25 MR. HARRISON: Well, if I could explain briefly

1 what that reason is, this witness has said that when he uses  
2 the phrase "security sensitive" in this proposed removal and  
3 in his testimony, he means law enforcement sensitive. He  
4 equates the two. And that's what he said in his deposition,  
5 and that's my understanding.

6 JUDGE BOGLE: But he didn't use that word in this  
7 proposed, did he?

8 Show me where those words appear.

9 MR. HARRISON: I agree with Your Honor. He did  
10 not. But he is also saying that what he means by what he  
11 said in this proposal was law enforcement sensitive.

12 JUDGE BOGLE: But then he told you there was no  
13 precise definition --

14 MR. HARRISON: I agree with that.

15 JUDGE BOGLE: All right.

16 So, let's move on.

17 MR. HARRISON: I'll just note, Your Honor, that I  
18 believe it is proper -- I will move on -- to explore that the  
19 procedure for classifying a document does not mean, under the  
20 agency practice, that every bit of data in the document is  
21 law enforcement sensitive.

22 I just note that for the record.

23 JUDGE BOGLE: Okay. Let's move on.

24 MR. HARRISON: Yes, ma'am.

25 BY MR. HARRISON:

1           Q     Now, did you ever have occasion to inform Ms.  
2 Chambers of your operating definition of what you call  
3 security sensitive information prior to December the 5th of  
4 2003?

5           A     No.

6           Q     Do you believe that the matter of security  
7 precaution for the national monuments is a matter of public  
8 importance?

9           A     Yes.

10          Q     Do you believe that the issue of adequate  
11 patrolling of the parkways is of public importance?

12          A     Yes.

13                JUDGE BOGLE: Mr. Harrison, what are you reading  
14 from there?

15                MR. HARRISON: I'm looking at the proposed removal.  
16 I'm just looking at the items that were listed there and I'm  
17 determining if he considers those to be matters of public  
18 importance.

19                BY MR. HARRISON:

20          Q     Is it fair to say that each of the three items  
21 listed in charge two was a part of the basis for your  
22 proposing to remove Ms. Chambers?

23          A     Yes.

24          Q     Is it fair to say that you believe generally that  
25 an employee has a right to express a concern about public

1 safety to the newspapers?

2 A As long as those concerns don't compromise  
3 security.

4 Q And is it your understanding that the only way that  
5 a judgement is made as to whether security is compromised in  
6 the National Park Service is your personal judgement of that  
7 question?

8 A No.

9 Q Is there a procedure for designating what would  
10 compromise security?

11 A There are processes that we go through internally  
12 as we discuss amongst ourselves -- all the law enforcement  
13 officers of the Department of Interior, National Park  
14 Service, U.S. Park Police, Joint Terrorism Task Force --  
15 where we make determinations about what is -- what are  
16 generally security risk concerns and security risks, yes.

17 Q Okay.

18 Have you directed any changes to be made -- and I'm  
19 not asking you to say what they were -- have you directed any  
20 changes to be made in regard to security at the national  
21 monuments in response to the Washington Post article on  
22 December 2nd?

23 MR. L'HEUREUX: Objection, Your Honor. It's  
24 utterly irrelevant and it touches on matters of current  
25 security.



1 MR. HARRISON: Well --

2 MR. L'HEUREUX: Whether or not there are any  
3 changes from past procedures is nothing that should be  
4 discussed in this forum.

5 MR. HARRISON: It is relevant, Your Honor, and I  
6 can explain the relevance, and I'm not asking for any  
7 details, so it would not compromise security. It's relevant  
8 because if there were no changes made, as we anticipate, it  
9 would show that there was not a real perceived compromise of  
10 that security, because nothing was taken to address the  
11 compromise.

12 JUDGE BOGLE: I'll sustain the objection.

13 MR. HARRISON: And Your Honor, clarification of  
14 procedure.

15 I will except to any objection sustained if I need  
16 to to preserve the record, but I'd rather have a continuing  
17 exception so I don't have to take up time to do that.

18 JUDGE BOGLE: Your continuing exception is noted.

19 MR. HARRISON: Thank you.

20 BY MR. HARRISON:

21 Q When you proposed to remove Ms. Chambers from her  
22 position, did you have the understanding at that time that  
23 Ms. Chambers herself had classified Exhibit -- Hearing  
24 Exhibit 4 for the agency as law enforcement sensitive?

25 A If I understand your question, you're asking me if,

1 at the time of her proposed removal, did I know that this had  
2 been classified as law enforcement sensitive?

3 Q No, sir, that's not my question.

4 A Okay. Sorry.

5 Q Was it your understanding at the time you proposed  
6 Ms. Chambers' removal that Ms. Chambers herself had  
7 classified Agency Hearing Exhibit 4 as law enforcement  
8 sensitive?

9 A All I knew is it had been classified as law  
10 enforcement sensitive by the U.S. Park Police. This is  
11 signed by Ms. Chambers. It's a communication to Larry  
12 Parkinson.

13 So --

14 Q So, did you assume Ms. Chambers herself had  
15 classified it, or did you make no judgement on that?

16 A I didn't make a strict judgement on it, but I  
17 assumed that -- that Ms. Chambers had -- had classified it  
18 and was responsible as head of the U.S. Park Police.

19 Q Okay. And did that figure into your decision to  
20 propose Ms. Chambers -- to propose to remove Ms. Chambers?

21 A Did the fact that she had classified this herself?

22 Q Yes, that you assumed that that was the case.

23 A Not directly.

24 Q Okay.

25 A No.

1 Q Did you rely on this document, Hearing Exhibit 4,  
2 in your proposal to remove Ms. Chambers?

3 A Yes.

4 Q Okay. Now, do you know what documents were  
5 provided to Ms. Chambers when she and her attorney inquired  
6 as to what the agency relied on at the time of the proposed  
7 removal?

8 A No, not all of them.

9 Q Were you not consulted to create that file?

10 A I was. All I'm saying is that I -- there are  
11 hundreds of -- of documents, and -- if not thousands, and so,  
12 I'm not sure I understand your question. Are you saying do I  
13 know every single document that --

14 Q Well, here's my question, sir.

15 Are you not aware that the amount of documentation  
16 given to Ms. Chambers on her request for what the agency  
17 relied on for your decision to propose to remove her was this  
18 thick?

19 Did you not know that? Is that a no?

20 A No.

21 Q Okay. And I take it you weren't aware that Agency  
22 Hearing Exhibit 4 was not in what Ms. Chambers was provided.

23 A No.

24 (Pause.)

25 BY MR. HARRISON:

1 Q Regarding charge two and the other charges related  
2 to speaking with the press, is there any policy, written  
3 policy, within the Department of Interior or the National  
4 Park Service regarding how an employee should respond to an  
5 inquiry from the press?

6 A You seem to be reading something, Mr. Murphy. What  
7 is that?

8 A No, I'm not reading anything. This is -- this is  
9 what you gave me. I'm looking at the charges --

10 Q Okay.

11 A -- you're referring to.

12 Q If that helps you.

13 A There -- there exists two or three director's  
14 orders that refer to messaging that some employees rely on  
15 when responding to the press.

16 Q Okay.

17 A Is there any policy in the Department of Interior  
18 that, when asked a question by the press, the best approach  
19 is to tell the truth?

20 A That's always the case.

21 Q Now, let's look at charge three, which would be in  
22 the document you were just glancing at, I believe, the  
23 proposed removal. That's in the agency response to the IRA  
24 complaint still at tab 4-A, starts on the bottom of page two  
25 and carries over.

1           Now, there's a reference in the first paragraph  
2 after the quote from the OMB circular, and it says --  
3 referring to the Washington Post article -- and it gives a  
4 quotation.

5           She has -- she said she has to cover a 12 million  
6 shortfall for this year and has asked for 8 million more for  
7 next year.

8           Do you see that?

9           A     Yes.

10          Q     Okay. And you recall that Washington Post article?

11          A     Yes.

12          Q     Okay. And you recall that Chief Chambers in that  
13 same statement to the Post went on to say "and she needs 7  
14 million more for a helicopter"?

15          Do you remember that?

16          A     Yes.

17          Q     Okay.

18          Now, do you understand that the reference to a 12  
19 million shortfall was for fiscal year '04?

20          A     Yes.

21          Q     Okay. And did you understand that no provision had  
22 been made, at least in Ms. Chambers' view, for preventing  
23 that same shortfall from occurring again in fiscal year '05,  
24 that that amount of money would still be needed to fill a gap  
25 for fiscal year '05?

1           A     Well, the only reason I'm -- I'm hesitating is  
2 because that's not a accurate representation of the budget  
3 situation.

4           Q     Well, I'm not asking your view or someone else's.  
5 I'm asking your understanding of Ms. Chambers' view, which is  
6 what we're talking about at the moment.

7           A     Okay.

8           Q     Did you understand that Ms. Chambers believed that  
9 \$12 million was needed to cover needs in fiscal year '04 and  
10 that when fiscal year '05 came around, you would need that 12  
11 million again plus a separate amount of money for other  
12 needs?

13                     Did you understand that to be her position?

14          A     I believe so, yes.

15          Q     Okay.

16          A     Yes.

17          Q     So, she would need that 12 million plus she would  
18 need 8 million more for something, which isn't specified in  
19 your quotation here, and she would need 7 million for a  
20 helicopter.

21                     Is that what she was saying?

22          A     Yes.

23          Q     Okay. And that would be a total of \$27 million,  
24 would it not?

25          A     Yes.

1           Q     Okay.  And do you have any way of knowing whether  
2     or not Ms. Chambers, in fact, said to The Washington Post in  
3     her conversation with them that what she needed was \$27  
4     million, 12 million for this, 8 million for that, and 7  
5     million for this over here?  Do you know whether she said  
6     that or not?

7           A     I don't know whether she that or --

8           Q     Okay.

9                     Now, the number that you're concerned about in your  
10    testimony as being what you believed to be a disclosure by  
11    Ms. Chambers of -- how did we phrase it here in your  
12    proposal?  -- "improper disclosure of 2005 Federal budget  
13    deliberations" is how you phrase it, and you referred to the  
14    OMB circular for that, and you quote the circular up there.  
15    Where is it in your quote from the circular that it talks  
16    about Federal budget deliberations?

17          A     It says "the nature and amounts of the President's  
18    decisions and the underlying materials are confidential," do  
19    not --

20          Q     That's not my question, sir.  I'm talking about the  
21    phrase "budget deliberations," "Federal budget  
22    deliberations."  Is that phrase used in the OMB circular?

23          A     No.

24          Q     Okay.

25                     Do you mean by it simply what the OMB circular is

1 quoted as saying up there?

2 A Yes.

3 Q Okay.

4 Now, I'm not going to repeat your deposition  
5 testimony, since it has been put into evidence.

6 So, I just want to ask you, do you recall being  
7 asked about what you understand the President's decisions and  
8 underlying materials to mean in your deposition, your most  
9 recent deposition?

10 A I recall being asked that.

11 Q Okay. And did you testify truthfully at that time?

12 A I believe so.

13 Q Okay. Now, have you seen a budget document --  
14 well, let me just ask you. This \$8 million figure you're  
15 concerned about -- what document is it, if any, that that  
16 figure occurs in that concerns you, what budget document?

17 A The documents that we prepare in our agency, the  
18 National Park Service, that we submit to the Department of  
19 Interior to then be submitted to -- to the Office of  
20 Management and Budget in the first submission.

21 Q Okay. That would be the National Park Service  
22 budget submittal to the Department of Interior.

23 A Yes.

24 Q Okay. And do you know whether that document is in  
25 the agency record in this case?



1           A     I do not know.

2           Q     Okay.

3                     Do you know whether Ms. Chambers was given that  
4 document as part of what the agency relied on at the time of  
5 her proposed removal, so she could respond to it?

6           A     I do not know.

7           Q     Okay.

8                     Can you name that document with specificity,  
9 sitting here today?

10          A     Not other than what I just named.  It's our budget  
11 submission, our '05 budget submission to the Department of  
12 Interior.

13          Q     Okay.

14                     Do you know that the number used there was 8  
15 million precisely, or might it have been 9 million or 10  
16 million?

17          A     It wasn't 9 or -- or 10 million.  I'm relatively  
18 sure it was -- it was \$8 million --

19          Q     Uh-huh.

20          A     -- or extremely close to it.

21          Q     Okay.  And that represented the total amount of the  
22 requested increase for fiscal year '05 for the Park Police.

23          A     That's correct.

24          Q     Okay.

25                     So, for your -- for you to have a concern that Ms.

1 Chambers was disclosing whatever the OMB circular is  
2 discussing here, the President's decisions and underlying  
3 materials -- strike that.

4 In order for there to be a violation of the OMB  
5 procedure, I take it, a number being discussed in the press  
6 would have to match both numerically and conceptually with a  
7 number in a -- in whatever the budget document is that's  
8 covered by the OMB circular. So, in other words, if Ms.  
9 Chambers says 8 million for the total increase for fiscal  
10 year '05 and your budget document says 8 million for the  
11 total increase for fiscal year '05, that's the type of thing  
12 that would concern you.

13 A That's correct.

14 Q Okay.

15 (Pause.)

16 BY MR. HARRISON:

17 Q Do you know if Ms. Chambers received any formal  
18 training as to the OMB circular or the restrictions on  
19 disclosure of budget information?

20 A No.

21 Q Do you know that when Ms. Chambers was hired, that  
22 she was hired from outside the U.S. Park Police?

23 A Yes.

24 Q And she was hired from outside the Federal  
25 Government.

1           A     That's correct, yes.

2           Q     And do you know at the time she was hired there was  
3 a direction by officials in the Department of Interior that  
4 Ms. Chambers was to receive certain training and information  
5 as to Federal regulations and Federal procedures because she  
6 may not be familiar with them coming from the outside?

7           A     No, I don't think I was aware of that.

8           Q     Not aware of that? And so, I take it you wouldn't  
9 know that Major Fogarty was assigned to provide some of that  
10 information to Chief Chambers?

11          A     I don't know that for a fact. He may have been.

12               MR. HARRISON: May I have just a moment, Your  
13 Honor?

14               JUDGE BOGLE: Well, we're taking a lot of moments  
15 here, and let me just give you a heads-up that this  
16 individual is not being called for tomorrow, and you have Ms.  
17 Weatherly penciled in for this afternoon. So, we need to  
18 make some progress here.

19               MR. HARRISON: Your Honor, I'll go as fast as I  
20 can, but I'm not waiving the right to make my case, and I  
21 think -- I know Your Honor is aware this is cross and direct  
22 at the same time.

23               JUDGE BOGLE: I'm aware of that.

24               BY MR. HARRISON:

25          Q     I want to show you a document marked as Appellant's

1 Hearing Exhibit GG.

2 Let me know if you've seen that before?

3 A (Examining.)

4 MR. HARRISON: Your Honor, while the witness is  
5 looking, could I inquire as to whether Your Honor plans a  
6 lunch break?

7 JUDGE BOGLE: Well, I think we'd all like to take  
8 one, but I'd like to finish with this witness if we possibly  
9 could, and then we can take a more leisurely break than we  
10 will get if we have to come back and finish him up before Ms.  
11 Weatherly.

12 MR. HARRISON: I understand the goal, Your Honor.  
13 I can't guarantee that it will be soon that I finish with  
14 this witness.

15 He is the proposing official and is very important  
16 to this case.

17 JUDGE BOGLE: Understood. But you know, there's  
18 too much down time here, too much breaks, and we should have  
19 this better prepared.

20 You've deposed him on two different occasions, so  
21 you certainly know what's left to ask him.

22 MR. HARRISON: Well, Your Honor, I don't perceive  
23 that I'm taking an undue time to pull out documents from a  
24 complex record.

25 BY MR. HARRISON:

1 Q Do you recognize that, Mr. Murphy?

2 A I don't recall ever seeing this.

3 Q Do you see a paragraph down there that says  
4 "training requirements"?

5 A Yes.

6 Q Okay. And do you see that it notes that there was,  
7 in fact, a plan to provide Ms. Chambers certain training and  
8 information on Federal regulations and the like, including  
9 from Mr. Fogarty?

10 MR. L'HEUREUX: Your Honor, I have to object. I  
11 don't know if he's asking this witness to qualify a document  
12 he never saw before.

13 JUDGE BOGLE: Yeah. I mean this is the kind of  
14 thing. You're arguing your case through this witness. Once  
15 he tells you he's never seen the document, that's it. You  
16 can tell me later on that I should -- what weight I should  
17 give this document, but it does no good to drag him through  
18 this testimony.

19 MR. HARRISON: Understood, Your Honor.

20 BY MR. HARRISON:

21 Q And you were unaware of this requirement, I take  
22 it, Mr. Murphy, when you made the proposal?

23 A That's correct.

24 MR. HARRISON: I would move the admission of GG.

25 JUDGE BOGLE: Mr. L'Heureux?

1           MR. L'HEUREUX:  Objection.  This document hasn't  
2  been qualified.

3           MR. HARRISON:  I beg your pardon.

4           MR. L'HEUREUX:  No foundation.

5           JUDGE BOGLE:  This is a Government document.  It is  
6  admissible as a public record, if we were using formal rules  
7  of evidence.

8           We've already admitted hearsay.  There's no reason  
9  to keep this document out.

10          This document --

11          JUDGE BOGLE:  No reason to keep it out is not a  
12  good reason to put it in.

13          MR. HARRISON:  Yes, Your Honor.

14          JUDGE BOGLE:  Let me find it.

15          MR. HARRISON:  Okay.

16          JUDGE BOGLE:  Okay.

17          MR. HARRISON:  Your Honor, I have three reasons, I  
18  guess, to put it in.

19          One is that he's copied on the document but doesn't  
20  remember it, so it impeaches his testimony.

21          The second is that it may have mitigated the  
22  penalty or possibly precluded the proposed removal in the  
23  first place had Mr. Murphy known that training wasn't  
24  provided that might have informed Chief Chambers on some of  
25  the rules Mr. Murphy alleges were violated.



1 Q Do you know whether Ms. Chambers was given training  
2 to that same effect?

3 A No.

4 Q Now, you understand your charge here about lobbying  
5 to have to do with Ms. Chambers' alleged statements to The  
6 Washington Post and not to a congress person. Is that  
7 correct?

8 A Yes.

9 Q Was there any pending legislation that you were  
10 concerned about Ms. Chambers lobbying on other than the  
11 annual appropriation bills that happen every year?

12 A No.

13 Q Do you know of anyone in the Department of Interior  
14 that's ever been disciplined for engaging in prohibited  
15 lobbying by talking to the press?

16 A I don't know of anyone.

17 Q Do you know that Ms. Chambers had a predecessor in  
18 the position of U.S. Park Police?

19 A Yes.

20 Q Do you know that was a Mr. Langston?

21 A I don't know that for a fact, no.

22 Q Okay. And did you know whether or not Mr. Langston  
23 made comments frequently to the press about budget needs for  
24 the Park Police?

25 A No.



1 Q You didn't know that?

2 A No, sir.

3 Q Okay.

4 Is Mr. Steven Griles your superior officer?

5 A He's not my direct superior officer.

6 Q Okay.

7 He's the deputy secretary?

8 A Yes.

9 Q So, he's two or three steps up from you?

10 A Yes.

11 Q Okay. And you're obligated to follow his policies  
12 and procedures, are you not?

13 A Yes.

14 Q Just like you would expect Ms. Chambers to follow  
15 yours.

16 A Yes.

17 Q Do you know what Mr. Griles' position is on whether  
18 talking to the press is prohibited lobbying?

19 A No.

20 Q Did you believe that Ms. Chambers, in talking to  
21 the press about the needs of the Park Police to protect the  
22 parks and the monuments and the public, was her expressing a  
23 -- a personal interest or a position on a matter of personal  
24 interest?

25 In other words, was she putting forward a personal

1 agenda of some kind?

2 A I don't know that.

3 Q Okay.

4 Would you say it's fair to say that you believe  
5 that Ms. Chambers was stating what she believed to be  
6 necessary in her capacity as chief to protect the public  
7 interest?

8 A Yes.

9 Q Let's go to charge five, which would be page four  
10 of the proposed removal.

11 Now, I believe you indicated to Judge Bogle that  
12 your instruction to Ms. Chambers was that Ms. Chambers was to  
13 initiate or cut the paperwork for detailing Ms. Blyth. Did I  
14 hear you correctly?

15 A Yes.

16 Q Okay. And yet, you're aware that a memorandum to  
17 Ms. Blyth from you was drafted on your instruction by Mr.  
18 Brown and you identified it for the record. Do you recall  
19 that?

20 A Yes.

21 Q And that memo essentially effectuates the detail,  
22 at least as far as informing Ms. Blyth. Is that fair? Or it  
23 would have had it been delivered.

24 A Yes.

25 Q Okay.

1           So, you didn't direct Ms. Chambers to cut that  
2 piece of paperwork, did you?

3           You had Mr. Brown do it.

4           A     That piece. But I directed Ms. Chambers to effect  
5 the detail, yes.

6           Q     Okay. You agree with my question. You did not  
7 direct Ms. Chambers to cut that piece of paperwork.

8           A     Not that piece.

9           Q     Okay.

10           Now, is there something in writing that you issued  
11 to Ms. Chambers that directed her to cut the paperwork for  
12 the detail of Ms. Blyth?

13           A     No.

14           Q     Okay.

15           Is there something in writing where you ordered Ms.  
16 Chambers to detail Ms. Blyth?

17           A     No.

18           Q     Okay.

19           Who was present when you verbally -- well, let me  
20 ask you. Is it your position that you verbally ordered Ms.  
21 Chambers to detail Ms. Blyth?

22           A     Yes.

23           Q     Do you recall having a conversation with Ms.  
24 Chambers where you said I could order you to detail Ms. Blyth  
25 and Ms. Chambers said but that's not the way we normally do

1 business with each other and you proceeded to discuss the  
2 matter further?

3 Do you recall that?

4 A No, I do not.

5 Q Are you saying it didn't happen?

6 A I certainly don't recall it happening that way. We  
7 had a long discussion about it, but I don't recall that at  
8 all.

9 Q Uh-huh. And was there someone present other than  
10 you and Ms. Chambers when you purportedly ordered her to  
11 detail Ms. Blyth?

12 A No.

13 Q Now, you were asked by your counsel and you  
14 explained that Ms. Chambers responded to you regarding this  
15 proposed detail to Ms. Blyth that Ms. Chambers was concerned  
16 that the -- what are called the internal snipers might be  
17 either motivated -- might be motivating the detail or might  
18 at least be encouraged by the detail of Ms. Blyth and Ms.  
19 Chambers didn't want to encourage those snipers. Is that  
20 fair?

21 A That's fair, yes.

22 Q Now, did you believe these internal snipers were a  
23 figment of Ms. Chambers's imagination?

24 A No.

25 Q Okay.

1                   There had been a series of very real harassment  
2 incidents affecting Ms. Chambers and her staff, had there  
3 not?

4           A       Reported. I didn't know that for a fact.

5           Q       Oh, you did not.

6           A       No.

7           Q       Do you know it for a fact today?

8           A       No.

9           Q       I see.

10                   So, you have not made an inquiry to confirm whether  
11 those incidents happened or not.

12          A       No.

13          Q       Okay.

14                   Had you heard that one of those incidents was  
15 someone releasing pepper spray onto the door of an officer of  
16 the U.S. Park Police?

17          A       Yes.

18          Q       In the Park Police office?

19          A       Yes.

20          Q       Did you understand that one of those incidents was  
21 putting nails under or around the police cars for the U.S.  
22 Park Police officers?

23          A       Yes.

24          Q       Did you understand that one of those incidents was  
25 a --

1           JUDGE BOGLE: Mr. Harrison, we don't need this.  
2 This is all documented for the record.

3           MR. HARRISON: Your Honor, I think, in order to  
4 make sure that is the case, I would move the admission of the  
5 deposition of Assistant Chief Holmes, who did testify to this  
6 at length.

7           JUDGE BOGLE: Is that in your pre-hearing  
8 submission?

9           MR. HARRISON: It was not available to us when we  
10 made that submission, but Your Honor was informed that those  
11 transcripts were coming, the deposition had been done, not  
12 yet available, and I believe Your Honor said that those  
13 transcripts could be offered when they became available.

14          JUDGE BOGLE: Okay. But I don't physically have  
15 it.

16          MR. HARRISON: Oh, no, we haven't -- we have it  
17 with us.

18          JUDGE BOGLE: All right.

19                 Well, let's move on with this witness, and then you  
20 can -- we'll talk about what's going to -- what else is going  
21 to be offered.

22          MR. HARRISON: Very well.

23

24                 BY MR. HARRISON:

25                 Q     Now, you explained your reasons for wanting to

1 detail Ms. Blyth to your counsel, but you never really  
2 detailed Ms. Blyth, did you?

3 A No.

4 Q Even to this day.

5 A That's correct.

6 Q So, she's never received this training and  
7 experience in rules and regulations and broadening her  
8 experience that you described as being desirable for her, has  
9 she?

10 A No, she has not.

11 Q Even after Ms. Chambers was put on administrative  
12 leave and couldn't voice her opposition, you did not detail  
13 her.

14 A That's correct.

15 Q Mr. Griles, you testified, informed you that the  
16 detail would be, I think you said, postponed for a short  
17 time?

18 A That's correct.

19 Q Did Mr. Griles not tell you that he found your  
20 detailing of Ms. Blyth at that time, given her duties, to be  
21 arbitrary?

22 A No, he did not.

23 (Pause.)

24 BY MR. HARRISON:

25 Q Now, when you met -- did you meet with Ms. Blyth

1 and Mr. Brown at some point to talk about that detail?

2 A Yes.

3 Q Okay. And isn't it true, in that meeting, that you  
4 and/or Mr. Brown told her that she would be full-time  
5 detailed to Mr. Brown and would not be available part-time  
6 for Ms. Chambers?

7 A No.

8 Q That's not true?

9 A No, it is not.

10 Q So, you're saying that never happened.

11 A No, it did not.

12 MR. HARRISON: Your Honor, I just note for the  
13 record Ms. Blyth's affidavit is in the record as part of the  
14 stay motion of Chief Chambers, and I believe it's considered  
15 already in evidence.

16 JUDGE BOGLE: It is.

17 BY MR. HARRISON:

18 Q Ms. Blyth was to be detailed to the -- you'll  
19 probably have to help me -- some sort of planning office?

20 A Office of Strategic Planning.

21 Q All right. Is that an office within the U.S. Park  
22 Police?

23 A No, it is not.

24 Q All right.

25 Does Ms. Chambers have control over the Office of



1 Strategic Planning?

2 A No, she does not.

3 Q Do you have control over that office?

4 A Yes, I do.

5 Q You indicated to your counsel that Ms. Chambers  
6 never stated or even suggested that Ms. Blyth might be  
7 detailed illegally or that Ms. Chambers was trying to protect  
8 Ms. Blyth from some illegal action. Do you recall saying  
9 that today?

10 A I don't understand -- she might be detailed  
11 illegally?

12 Q Yes.

13 I believe your counsel asked you, did Ms. Chambers  
14 suggest to you that she was trying to protect Ms. Blyth from  
15 some illegal action having to do with Ms. Blyth's whistle-  
16 blowing, for example.

17 A No.

18 Q And you testified to that today.

19 A Yes.

20 Q Now -- but Ms. Chambers did tell you that she was  
21 concerned about Ms. Blyth's detail in regard to the  
22 harassment from the snipers, did she not? That the snipers  
23 might be behind the detail?

24 A Yes.

25 Q Okay. And were you aware that Ms. Blyth had stated

1 in a meeting with superiors in the Department of Interior and  
2 National Park Service that the National Park Service practice  
3 of preparing budgets for the U.S. Park Police without  
4 including the U.S. Park Police in formulating that budget  
5 might be illegal?

6 MR. L'HEUREUX: Objection. The question assumes a  
7 fact not in evidence.

8 MR. HARRISON: I think it is in evidence in Ms.  
9 Blyth's affidavit, Your Honor, and also in Ms. Chambers'.

10 JUDGE BOGLE: I'll permit it.

11 Can you answer?

12 THE WITNESS: Could you repeat the question,  
13 please?

14 MR. HARRISON: Yes, sir.

15 BY MR. HARRISON:

16 Q Did you know that Ms. Blyth, in a meeting with  
17 superiors in the Department of Interior and National Park  
18 Service had made a statement to the effect that the Park  
19 Service practice of excluding the U.S. Park Police from  
20 formulating the budget for the U.S. Park Police might be  
21 illegal?

22 A I didn't know that, no.

23 (Pause.)

24 BY MR. HARRISON:

25 Q Moving to the specification two for charge five,

1 this had to do with the psych and physical exams for two  
2 deputy chiefs, and you were asked some questions about that.

3 A Yes.

4 Q Now, which office actually was handling the hiring  
5 of those deputy chiefs or had handled it?

6 Was it the National Park Service headquarters or  
7 the U.S. Park Police?

8 A It would have been a combination, U.S. Park Police  
9 and the human resources office of the National Park Service  
10 in Washington.

11 Q And let's see. Did you give some instruction in  
12 writing to Ms. Chambers to order those two deputy chiefs to  
13 take these exams?

14 A No.

15 Q Are you saying that you verbally ordered the chief  
16 to have these deputies take this exam, or did you simply  
17 inform her that you were directing the deputies to do so?

18 A No, I informed her that she was to direct them to  
19 do so.

20 Q I see. And how much time passed between that  
21 conversation you're remembering and when those deputies  
22 agreed to take their exams?

23 A A couple of months, you know, maybe two months.

24 Q So, when did you tell Ms. Chambers this to begin  
25 with?

1 A Probably in early May.

2 Q Okay.

3 Are you certain about that?

4 A Not absolutely. But it was around that time.

5 Q Okay. And when did the deputies agree to take  
6 those exams?

7 A I can't recall when the exact time was.

8 It was -- it was two months later than that, about  
9 two months later.

10 Q Okay.

11 Now, Ms. Chambers had her psychological exam test  
12 waived because of her experience when she was hired, did she  
13 not?

14 A I believe that's correct, yes.

15 Q Okay. And that was an option that you at least  
16 considered and explored for a time for these two deputies.

17 A That's correct, yes.

18 (Pause.)

19 BY MR. HARRISON:

20 Q Did Ms. Chambers discuss with you and suggest that  
21 you write a memo to the two deputies regarding this need to  
22 take these tests?

23 A Yes.

24 Q Do you not remember telling Ms. Chambers that you  
25 agreed to sit down and meet with the deputies yourself and

1 talk to them about it?

2 A Yes, I did.

3 Q You did do that.

4 A Yes.

5 Q Okay.

6 (Pause.)

7 BY MR. HARRISON:

8 Q Do you have the agency response to the IRA appeal  
9 still in front of you?

10 A I believe so.

11 Q Look for tab 4-C, as in Charlie.

12 A Yes.

13 Q And this is a memo you made for the record, I  
14 believe, is it not?

15 A Looks like it, yes.

16 Q Is your signature at the bottom?

17 A Uh-huh.

18 Q December 4, 2003?

19 A Yes.

20 Q Okay. Does this recount your understanding at the  
21 time as to what transpired regarding these psychological  
22 exams?

23 A (Examining) Generally, yes.

24 Q Okay.

25 Is the timing reflected here correct, to your

1 knowledge?

2 A I believe that's correct.

3 Q Okay.

4 It says at the top, "On or about June 1st, I was  
5 informed by Mr. Troy Bell, solicitor's office, about the need  
6 for this."

7 Do you see that?

8 A Yes.

9 Q Okay.

10 So, it wouldn't have been May, would it, that you  
11 talked with the chief about this?

12 A It could have been. I just -- you know, it was  
13 May-June time period.

14 I just don't remember the exact dates, but -- but  
15 this is what I wrote at the time, best of my recollection.  
16 It's probably correct.

17 Q Okay.

18 Let me show you a document that's been marked as  
19 Appellant's Hearing Exhibit II.

20 I think you'll see that is a short e-mail copied to  
21 you.

22 A (Examining) Uh-huh.

23 Q Okay. And does this indicate that there was  
24 compliance or agreement to comply by, what, about the third  
25 week in June?

1           A     Looks like it, yes.

2           Q     Okay.

3                     So, we're really not talking about two months, are  
4 we?

5                     We're talking about maybe three weeks?

6           A     Well, no, as I recall, it didn't -- it still didn't  
7 happen during that -- that time-frame. There was a -- a  
8 longer period of time that elapsed between the -- the time  
9 that the orders were given for this to happen and they  
10 actually took the psychological exams.

11          Q     Okay. But didn't you already testify today that  
12 that particular delay wasn't something you attributed to Ms.  
13 Chambers?

14          A     Which delay? I'm sorry.

15          Q     The one you just described, the delay after this  
16 memo.

17          A     After my memo to them.

18          Q     No, sir.

19                     I just showed you a memo dated June 23rd, I  
20 believe.

21          A     Okay.

22          Q     Yes? Which indicated there was an agreement to  
23 comply? Yes?

24          A     Yes.

25          Q     Okay. And you said there was more detail after

1 that memo.

2 Did I hear you correctly?

3 A That's correct.

4 Q And all I'm asking you is, didn't you tell your  
5 counsel earlier today that that additional delay was not  
6 something you blamed on Ms. Chambers?

7 A The additional delay after I -- I sent this memo to  
8 them, yes, that's correct.

9 Q Okay.

10 Which memo are you now referring to?

11 A The one referred to in this June 23rd --

12 Q Okay.

13 A -- e-mail.

14 Q All right.

15 MR. HARRISON: Your Honor, I move the admission of  
16 II.

17 JUDGE BOGLE: Mr. L'Heureux--

18 MR. L'HEUREUX: No objection.

19 JUDGE BOGLE: -- any objection? All right.

20 MR. HARRISON: Thank you.

21 (Appellant Exhibit II was  
22 received in evidence.)  
23

24 BY MR. HARRISON:

25 Q Now, moving to specification three, for the moment,



1 on charge five, is it your testimony that you ever gave an  
2 order to Ms. Chambers to meet with Mr. Myers from the  
3 solicitor's office regarding this alleged complaint from the  
4 Organization of American States?

5 A My testimony is that I gave her an -- an order to  
6 fully cooperate with Mr. Myers and to meet with him.

7 Q So, the answer to my question is no, you never gave  
8 the order I described.

9 Is that correct?

10 A I'm sorry. I must not have understood the order  
11 you described. Please --

12 Q It's very simple.

13 Did you order Ms. Chambers to meet with Mr. Myers  
14 regarding that matter?

15 A I ordered her to -- to cooperate and to -- and to -  
16 - you're using the word specifically "meet"?

17 Q Yes, I am.

18 Did you order her specifically to meet with Mr.  
19 Myers?

20 Did you ever do that?

21 A I don't recall using the word "meet" --

22 Q Okay.

23 A -- Mr. Myers.

24 Q Did you ever give a -- an order that, in substance,  
25 no matter what wording was used, meant meet with Mr. Myers?

1           A     I believe so, yes.

2           Q     What order was that?

3           A     When I telephoned her after Mr. Myers said that he  
4 was having trouble setting up an appointment, I just simply  
5 gave a very simple order to her to cooperate with Mr. Myers  
6 and to get together with the solicitor on this issue dealing  
7 with Constitution Gardens and tractor man.

8           Q     Is it your testimony you ordered the chief to get  
9 together with Mr. Myers?

10          A     Yeah, at some point, after Mr. Myers contacted me  
11 and communicated to me that he was having trouble.

12          Q     Okay.

13                 Do you remember being interviewed by Mr. Hoffman,  
14 Paul Hoffman, under oath, as part of Mr. Hoffman's inquiry as  
15 the deciding official in this matter?

16          A     Yes.

17          Q     And did Mr. Hoffman ask you, at that time, did you  
18 ever give the chief an order to meet with Mr. Myers? Do you  
19 recall being asked that?

20          A     No.

21          Q     You don't.

22                 I'm going to show you a document that's in evidence  
23 as part of the agency's submission in response to the Chapter  
24 75 removal appeal. It's the interview between you and Mr.  
25 Hoffman, February 6, 2004.

1           I'll direct your attention, to possibly refresh  
2 your memory, to pages 93 through 95, and we'll see if it does  
3 refresh your memory on this question.

4           Starting at the bottom of page 93 --

5           A     Okay.

6           Q     -- and just read enough to refresh your memory on  
7 the question, were you asked by Mr. Hoffman, did you order  
8 Ms. Chambers to meet with Mr. Myers?

9           A     (Examining) Right. Uh-huh.

10          Q     Okay.

11                 Does it refresh your memory?

12          A     It does.

13          Q     Okay. And you were asked that question, were you  
14 not?

15          A     Yes.

16          Q     Okay. And you answered that you just couldn't  
17 remember sitting there that day?

18          A     Yes, that's correct.

19          Q     Did you ever produce a document to Mr. Hoffman that  
20 would have reflected any order that you gave to Ms. Chambers  
21 --

22          A     No, sir. No.

23          Q     Okay.

24                 During your testimony to Mr. Hoffman there were  
25 occasions when Mr. Hoffman would go off the record, when you

1 were looking for a document in response to a question, and  
2 then would come back on and the document had not been  
3 identified or produced, and you were asked whether you could  
4 provide certain information or documents as a follow-up to  
5 that interview after it closed.

6 Do you remember that happening?

7 A Yes.

8 Q Okay. And did you provide any follow-up  
9 information or documents after that interview to Mr. Hoffman?

10 A This is still referring to the --

11 Q On any matter.

12 A On any matter.

13 I may have, but I can't recall any specific ones  
14 that I -- that I did, that I provided for him.

15 Q Okay.

16 So, you may not have provided anything. You're not  
17 sure.

18 A I'm just not sure.

19 If I had the documents, I would have provided them;  
20 I just don't recall specific ones.

21 Q Appreciate that.

22 Did you -- in making your proposed removal of Ms.  
23 Chambers regarding this charge five, specification three --  
24 believe at the time you issued the proposal that the  
25 Organization of American States had filed a complaint

1 regarding the U.S. Park Police having to do with the tractor  
2 man incident and that that was why Mr. Myers needed to talk  
3 with Chief Chambers?

4 A That was my understanding at the time, yes.

5 Q Have you ever seen a complaint filed by the  
6 Organization of American States on that matter?

7 A No.

8 Q And do you understand today that no such complaint  
9 exists?

10 A I understood that there was a verbal complaint from  
11 the Organization of American States to our solicitor's  
12 office.

13 Q That's still your understanding today?

14 A That's still my understanding today.

15 Q Who told you that?

16 A This was in a conversation with Mr. Myers, I  
17 believe, that he stated that he had received a call from the  
18 Organization of American States on this issue.

19 Q Okay.

20 That's not my question. He may well have received  
21 a call.

22 Did Mr. Myers tell you a complaint had been filed?

23 A A complaint had been filed. Well, something to  
24 that effect, yes. That's how I knew that a complaint had  
25 been -- been filed or lodged, yes.

1 Q Okay.

2 So, "something to that effect" means yes, a  
3 complaint had been filed.

4 You were told that.

5 A Yes.

6 Q By Mr. Myers.

7 A Yes.

8 Q Have you ever seen the complaint or heard the  
9 details of it?

10 A It was communicated to me, yeah, what some of the  
11 details were.

12 Q By Mr. Myers?

13 A Yes.

14 Q Okay.

15 You have not seen it in writing.

16 A No.

17 Q Do you know that Mr. Myers informed the U.S. Park  
18 Police at some point that he was closing his inquiry into  
19 that matter and there would be no need to meet?

20 A I remember seeing something to that effect in  
21 writing. I don't remember what it was, but yes.

22 Q Okay.

23 Do you know whether Mr. Myers communicated with any  
24 of Chief Chambers' subordinates regarding trying to set up a  
25 schedule for meeting with Mr. Myers?

1           A     I learned subsequent, yes, that that was the case,  
2    yes.

3           Q     Do you know a Mr. Phil Beck?

4           A     Yes.

5           Q     And is he one of Mr. Chambers' subordinates?

6           A     Yes.

7           Q     Was he involved in that communication to try to set  
8    up a meeting with Mr. Myers and Chief Chambers?

9           A     He may have been. I don't know that specifically.

10          Q     Okay.

11                    Do you know what transpired between Mr. Beck and  
12    Mr. Myers in regarding setting up meetings?

13          A     No.

14          Q     And you didn't find that out before you proposed to  
15    remove Ms. Chambers, did you?

16          A     No.

17          Q     Did you ever have occasion to notice Ms. Chambers  
18    that you had concluded that she had been uncooperative with  
19    Mr. Myers prior to proposing her removal?

20          A     No.

21          Q     Now, you've testified for your counsel that, in  
22    regard to charge six, which was the failure to follow chain  
23    of command charge, that you read that charge as essentially  
24    saying Ms. Chambers was not following your instructions, and  
25    that was your -- the basis of your concern in charge six.

1 Did I hear you correctly today?

2 A Yes, you did.

3 Q Okay.

4 Doesn't that mean that charge six is essentially  
5 redundant with charge five, specification one, which says  
6 failure to follow orders or instructions, that it doesn't  
7 really represent a separate offense?

8 A In my judgement, it's a -- it's a separate offense.  
9 Following the chain of command is a -- is a fairly well-  
10 established process in management procedure that's well known  
11 and established throughout management, particularly in law  
12 enforcement.

13 So, the separating of it out as a specific charge,  
14 I think, is significant, and -- because it -- it highlights  
15 the -- the egregiousness of not following my instruction  
16 within that -- within that context, within the context of the  
17 chain of command.

18 Q And when you say "not following my instruction,"  
19 again which specific instruction are you referring to?

20 A I'm again referring to the instruction to put Ms.  
21 Pamela Blyth on -- on -- on detail and the circumvention of  
22 the chain of command in order to have that rescinded and  
23 circumvented.

24 Q So, Ms. Chambers, in telling her and your superiors  
25 that she believed Ms. Blyth was necessary to the command



1 staff of the U.S. Park Police to perform its mission and  
2 should not be detailed, you believe that that was improper  
3 and a basis for discipline?

4 A Yes.

5 Q And Ms. Chambers eventually convinced Mr. Griles,  
6 the deputy secretary, to countermand your direction for this  
7 detail of Ms. Blyth, did she not?

8 A Yes.

9 Q And are you saying that Mr. Griles himself, your  
10 superior, had established some procedure, chain of command  
11 policy, that was broken by Ms. Chambers?

12 A No.

13 Q Okay.

14 Now, who was next below Mr. Griles in the chain of  
15 command for the Department of Interior in the line that goes  
16 to Ms. Chambers?

17 A The assistant secretary of Fish, Wildlife, and  
18 Parks, Judge Craig Manson.

19 Q All right.

20 Is it your testimony that Craig Manson, former  
21 Judge Manson, had established some policy regarding chain of  
22 command that Ms. Chambers violated?

23 A That he had established?

24 Q Yeah. Did he establish a policy that you can like  
25 show us that says here is what chain of command means, you

1 shall not do this, and so forth?

2 A Well, I can show you the organizational chart and  
3 the reporting relationships and --

4 Q Not quite what I'm looking for.

5 Is there a written policy established by Mr. Manson  
6 that says thou shall not go to a second or third or higher-  
7 level supervisor with an issue without first going through  
8 your immediate supervisor?

9 A No.

10 Q Okay.

11 Now, let's see. Is there anyone -- I guess  
12 Director Mainella would be next in line under Mr. Manson?

13 A That's correct.

14 Q Has Ms. Mainella established a written policy on  
15 chain of command to the effect that I stated?

16 A No.

17 Q Have you established a written policy in that  
18 regard?

19 A No.

20 Q Do you understand that Mr. Griles was not offended  
21 by Ms. Chambers approaching him in the manner that she did on  
22 the detail of Ms. Blyth?

23 MR. L'HEUREUX: Objection, relevance.

24 THE WITNESS: No.

25 JUDGE BOGLE: He's answered.

1           Let's continue.

2           He said no. Let's continue.

3           MR. HARRISON: Oh, I'm sorry. I missed his answer.

4           BY MR. HARRISON:

5           Q     The answer was no?

6           A     Yes.

7           Q     Thank you.

8                     Was there a meeting that occurred on the direction  
9 of Mr. Griles shortly after August 25th, when this detail was  
10 countermanded by Mr. Griles, that discussed the Ms. Blyth  
11 issue and how the organization should proceed?

12          A     Yes.

13          Q     And you attended?

14          A     Yes.

15          Q     Mr. Griles and several of your superiors were  
16 present for that, were they not?

17          A     That's correct.

18          Q     And did you understand that Mr. Griles believed  
19 that that discussion should have resolved the matter of Ms.  
20 Blyth's transfer at that time?

21          A     No.

22          Q     You did not understand that.

23          A     No, I did not.

24          Q     Did you believe that that meeting was called to  
25 evaluate Ms. Chambers' performance?

1           A     No.

2           Q     Did you believe that meeting was called to consider  
3 disciplinary action regarding Ms. Chambers?

4           A     No.

5           Q     Did Ms. Chambers make an effort to follow her chain  
6 of command in regard to the detail of Ms. Blyth?

7           A     As far as I know.

8           Q     As far as you know, she did make an effort.

9           A     Ms. Blyth wasn't detailed, so I'm not sure I  
10 understand the --

11          Q     Let me rephrase the question for you.

12                   Your charge asserts that Ms. Chambers violated a  
13 chain of command requirement in seeking to cancel the detail  
14 of Ms. Blyth by going to your superiors.

15                   Is that correct?

16          A     Yes.

17          Q     Okay.

18                   Did Ms. Chambers attempt to go up the chain to your  
19 superiors, meaning Director Mainella, Mr. Manson, prior to  
20 getting in touch with Mr. Griles, on that issue of the detail  
21 of Ms. Blyth?

22          A     I'm sorry. I'm really not trying to be difficult.  
23 I just -- the last part of it I don't understand.

24          Q     You do know that Ms. Chambers had discussed the  
25 issue of Ms. Blyth's detail with Director Mainella. You knew

1 that, did you?

2 A Yes.

3 Q Okay. And did you know that Director Mainella had  
4 told Ms. Chambers that the director would defer entirely to  
5 you on whatever decision was made about that detail?

6 A Yes.

7 Q Okay.

8 Did you know that Ms. Chambers had contacted or  
9 attempted to contact Mr. Manson about the detail of Ms. Blyth  
10 before she called Mr. Griles?

11 A I didn't know that at the time, no.

12 Q Do you know it now?

13 A Yes.

14 Q Okay.

15 What was your understanding at the time you  
16 proposed to remove Chief Chambers in regard to whether Ms.  
17 Chambers had attempted to contact Mr. Manson?

18 A I had no knowledge of her attempting to try to  
19 contact Mr. Manson.

20 Q Okay. And did her -- did your perceived -- did  
21 your perception that she had failed to do that play a role in  
22 your decision to propose to remove Ms. Chambers?

23 A No.

24 Q Okay.

25 So, had you known at the time that Ms. Chambers had

1 talked to Mr. Manson, that wouldn't -- would not have  
2 affected your decision.

3 A No.

4 Q Even though he was part of the chain of command  
5 you're saying she skipped over. Do you understand my  
6 question?

7 A I understand your question.

8 Q So, I guess my question is, if Ms. Chambers had  
9 told you she spoke with Director Mainella and Mr. Manson  
10 before going to Mr. Griles, wouldn't that have satisfied your  
11 chain of command concern?

12 A If she would have spoken with them up the chain,  
13 Ms. Mainella, Mr. Manson, yes.

14 Q Okay. Yes, it would have satisfied your concern?

15 A Yes.

16 (Pause.)

17 JUDGE BOGLE: Okay. Why don't we take a couple of  
18 minutes off the record and you can gather your thoughts over  
19 there so that we can conclude with the cross of this witness?

20 MR. HARRISON: Doing my best.

21 JUDGE BOGLE: Okay. Let's take a couple of minutes  
22 off the record.

23 (A brief recess was taken.)

24 JUDGE BOGLE: Mr. Harrison?

25 MR. HARRISON: Thank you, Your Honor.

1 BY MR. HARRISON:

2 Q Mr. Murphy, when did you first come to know the --  
3 the gist or the substance of Ms. Chambers' complaint that she  
4 filed on December 2, 2003, that concerned you and Mr. Krutz?

5 A I still don't know the gist, but I know a complaint  
6 was filed.

7 Q Okay.

8 Do you know it concerned you and Mr. Krutz?

9 A Yes, I've since learned that, yes.

10 Q Okay. And do you know there was at least an  
11 allegation of some sort of misconduct by you and Mr. Krutz?

12 A No, I don't know that.

13 Q Okay.

14 Do you know it was complaining about something you  
15 had done?

16 A Yes.

17 Q Okay. When did you first learn that?

18 A As I said earlier, the first time I heard of any  
19 kind of complaint was on the day that the -- the former  
20 chief, Chief Chambers, was placed on administrative leave.

21 Q Okay. And at that point you realized it was at  
22 least complaining about something you were alleged to have  
23 done.

24 A I didn't know what it was.

25 Q Well, my question is, when did you first learn that

1 that complaint complained about you and something you might  
2 have done?

3 A It was sometime in -- in late December.

4 Q 2003?

5 A Yes.

6 Q All right.

7 When you met with Ms. Chambers on December 5, 2003,  
8 and gave her the order placing her on administrative leave,  
9 was that the first notice Ms. Chambers had, or had you told  
10 her in advance that was going to happen?

11 A No, that was the first notice she had.

12 Q Okay.

13 So, if that was the first notice, why was Ms.  
14 Chambers even there at that time? Why did she show up at  
15 your office?

16 A Because she was directed to show up at the office.

17 Q Why?

18 A To meet with me and the director.

19 Q For what purpose?

20 A Initially, she was ordered to come to the office to  
21 meet with us to -- to have a discussion about general law  
22 enforcement issues, but subsequent to that, I had made the  
23 decision to place her on administrative leave.

24 Since the appointment was already established, I  
25 didn't change it.



1 Q Okay.

2 So, you didn't tell Ms. Chambers the plan had  
3 changed.

4 A No, I did not.

5 MR. L'HEUREUX: Objection, Your Honor, relevance.

6 MR. HARRISON: Well, I can explain that if you need  
7 to hear it, Your Honor.

8 JUDGE BOGLE: I need to hear it.

9 MR. HARRISON: Okay.

10 The concealment of the reason for the meeting is  
11 part of the circumstantial evidence of retaliatory motive.

12 It's not necessarily related to the merits of the  
13 Chapter 75.

14 JUDGE BOGLE: I don't understand how that gets you  
15 there, but you may continue.

16 MR. HARRISON: We consider it irregular procedure,  
17 Your Honor, to mislead an employee about the reason for a  
18 meeting.

19 JUDGE BOGLE: I understand.

20 BY MR. HARRISON:

21 Q Did Ms. Chambers ask you for the reasons for her  
22 being placed on administrative leave at the time of that  
23 meeting?

24 A Yes.

25 Q And did you tell her the full -- full reasons you

1 had in mind at that time?

2 A No.

3 Q Did you ever tell her the full reasons for placing  
4 her on administrative leave?

5 A No.

6 Q Is it fair to say that the reasons that you placed  
7 her on administrative leave were the same reasons you  
8 communicated to Mr. Krutz in Human Resources in directing him  
9 to draft up a disciplinary document?

10 A That contributed to it, yes.

11 Q Okay.

12 There may have been others?

13 A Yes.

14 Q Is there any writing, any document you could point  
15 me to that would have put Ms. Chambers on notice that Ms.  
16 Blyth's detail was to start on August 25th?

17 A No.

18 Q The week prior to -- maybe the week of -- the week  
19 of your notice to Ms. Blyth to do this detail, I believe,  
20 would have been the week where the Friday was August 22nd of  
21 2003. The following Monday, the detail was to start on  
22 August 25th.

23 Does that sound right?

24 A It sounds right.

25 Q Okay. And did you give Ms. Blyth that notice on

1 Friday, August 22nd, about her detail?

2 A No.

3 Q When did you give it to her?

4 A We had been discussing this for about two weeks.

5 Q I mean the date.

6 A The date?

7 Q Yes. August 25th would be the start of the detail.

8 When did you tell her that?

9 A I believe earlier that week, 18th, 21st, somewhere  
10 around there.

11 Q Okay.

12 Were you at work on that week? Were you physically  
13 present at work on that week?

14 A I don't recall.

15 Q You might have been traveling?

16 A I could have been traveling that week.

17 Q Do you recall talking to Ms. Blyth about  
18 communicating with you on Saturday because you might have  
19 been traveling?

20 A I don't recall talking to her about that, but I  
21 recall talking to her on Saturday.

22 Q Okay.

23 You indicated to your counsel that Ms. Mainella  
24 would have been available for phone calls over that weekend.

25 Do you remember saying that?

1           A     I remember saying that she has her cell phone with  
2 her at all times.

3           Q     Do you know, from your own personal knowledge,  
4 whether Ms. Mainella was, in fact, available on that weekend?

5           A     No.

6           Q     You were asked by your counsel about whether you  
7 knew what Mr. Griles was talking about when he referred to  
8 some budget document the chief had to work on for Mr. Manson,  
9 the assistant secretary, and I believe you said you didn't  
10 know what he was talking about.

11                   Is that fair?

12          A     That's fair. That's correct.

13          Q     Okay.

14                   Did you ask Mr. Griles what budget document he was  
15 referring to?

16          A     No, I did not.

17          Q     Now, you were interviewed in the press regarding  
18 Ms. Chambers being placed on administrative leave, and an  
19 article appeared on December the 6th in The Washington Post  
20 about that. Do you recall that?

21          A     Yes.

22          Q     And in that article on December the 6th, the Post  
23 reporter said that they had spoken with you earlier on  
24 December 3rd and had asked you whether the agency was  
25 considering disciplinary action against Chief Chambers, and

1 the Post stated in that article that you told them on  
2 December 3rd that you were not even considering disciplinary  
3 action against the chief at that time. Do you remember that  
4 article?

5 A I don't remember that explicitly, specifically.

6 Q You don't. Okay. Let me find that article.

7 Did you -- well, let me ask you. Were you  
8 considering disciplinary action against the chief on December  
9 3rd?

10 A As I stated earlier, ever since November, I was  
11 considering disciplinary actions against the -- the chief.

12 Q Okay.

13 A Yes. So, the answer is yes.

14 Q And in terms of disciplinary action in relation to  
15 the chief's comments to the Post, were you considering  
16 disciplinary action in regard to that on December the 3rd?

17 A The disciplinary action that I was considering had  
18 to do with not following instructions, and it went back as  
19 far as -- the contemplation of it went back as far as  
20 November and -- and beyond, as I've testified earlier.

21 Q So, is your answer yes or no to my question? My  
22 question was, were you considering disciplinary action in  
23 relation to Ms. Chambers' statements to the Post on December  
24 the 3rd.

25 A Not in relation just to her statements to the Post.

1 Q I didn't say "just to."

2 Was, in part, what you were considering  
3 disciplinary for regarding Ms. Chambers on December the 3rd  
4 her statements to The Washington Post?

5 A Insofar as they were not following my instructions,  
6 that part of it, yes.

7 Q Okay. Thank you.

8 I want to show you this Washington Post article and  
9 see if it refreshes your memory, and I believe it's in our  
10 record. I'll try to give you a reference.

11 Look at this and see if it refreshes your memory,  
12 sir.

13 A (Examining.)

14 MR. HARRISON: And Your Honor, for the record, this  
15 document is in evidence as part of Ms. Chambers' response to  
16 the proposed removal submitted to Mr. Hoffman under the tab  
17 for evidence for charge three. And it should be in the  
18 agency's response document, as well, because they've put in  
19 the appellant's response.

20 JUDGE BOGLE: You don't know what page under --

21 MR. HARRISON: Yes, I think we can tell you a page,  
22 but the appellant's response I don't think was numbered  
23 initially when she submitted it to Mr. Hoffman. I believe  
24 it's right near the tab for charge three.

25 JUDGE BOGLE: It's not only numbered, there are 98

1 pages, 99 pages, 98 pages.

2 MR. HARRISON: Yes, there are. We'll look for it  
3 in the agency's response to see if we can find it more  
4 precisely.

5 BY MR. HARRISON:

6 Q And has it refreshed your memory, Mr. Murphy?

7 A Yes. Uh-huh.

8 Q Okay.

9 MR. HARRISON: And -- and it would be page 58 at  
10 tab 4-M, as in Mary.

11 JUDGE BOGLE: Okay. Thank you.

12 MR. HARRISON: You're welcome.

13 BY MR. HARRISON:

14 Q And so, do you recall telling The Washington Post  
15 on December the 3rd that you were not even considering  
16 disciplinary action against Chief Chambers?

17 A I don't remember this exactly, no, but it's here,  
18 and that's how I'm -- I'm quoted. I recall them asking about  
19 being suspended, fired, or -- or otherwise disciplined, and  
20 we really don't talk about those kinds of things to the  
21 press.

22 Q Well, no, it's one thing to say we have no comment,  
23 but it's something else to say we're not considering  
24 something affirmatively. Do you think the Post misquoted  
25 you, or did you say that to the Post?

1           A     I don't recall saying that exactly, so I could have  
2     been misquoted, but I know what -- what -- what I've  
3     testified to in terms of my consideration of -- of  
4     disciplinary actions.

5           Q     So, certainly, had you said it, it wouldn't have  
6     been correct.

7           A     That's correct.

8           Q     Now, did you meet with Ms. Pamela Blyth on or about  
9     August 21, 2003, to talk about her detail?

10          A     What's the date again?  The 21st?

11          Q     Yes, on or about the 21st.

12          A     Yeah, somewhere around there, yes.

13          Q     Did you say something -- words to the effect to Ms.  
14     Blyth that Teresa Chambers, or Teresa, is doing some things  
15     that are making some important people above her uncomfortable  
16     and she is going to get into trouble?  Did you say words to  
17     that effect?

18          A     I don't recall saying anything like that, no.

19          Q     Okay.

20                     Do you deny that it happened?

21          A     I deny saying anything like that.  I just don't  
22     think I would have said anything like that to a subordinate  
23     of hers.

24          Q     Uh-huh.

25                     When you were interviewed by Mr. Hoffman in his



1 inquiry into this matter as the deciding official, do you  
2 remember Mr. Hoffman asking you about your statements to WTOP  
3 radio on or about December the 4th?

4 A I believe so, yes.

5 Q Okay. And there were some statements that were  
6 attributed to you or could have been read as being attributed  
7 to you in the WTOP article.

8 A Yes.

9 Q Did you tell Mr. Hoffman that -- in essence -- that  
10 those items that you were quoted as saying in quotation marks  
11 were probably correctly attributed to you but those items  
12 that were not in quotations were not properly attributed to  
13 you, something to that effect?

14 A I believe so, yes.

15 Q Okay. Did you consider whether or not, in your  
16 proposing the removal of Ms. Chambers, the same phenomenon  
17 might have happened regarding her statements to The  
18 Washington Post?

19 A No, not at the time, no.

20 Q In your interview with Mr. Hoffman, do you recall  
21 him asking you -- and I'm basically quoting here -- this  
22 would be on page -- you don't need to look it up, but on page  
23 102 to 103 of his interview of you. So, did it surprise you  
24 to hear that Chief Chambers did not then decide to contact  
25 Judge Manson as assistant secretary for Fish, Wildlife and

1 Parks but instead leaped up to the secretary's office and  
2 contacted Deputy Secretary Griles? Do you recall being asked  
3 that?

4 A I believe so, yes.

5 Q And do you recall telling Mr. Hoffman under oath at  
6 that time that, yes, you were surprised that Ms. Chambers had  
7 not contacted Mr. Manson?

8 A Yes.

9 Q Okay. And do you recall also later telling Mr.  
10 Hoffman that -- well, hang on. I beg your pardon. Do you  
11 recall telling me in your recent trial deposition that, in  
12 fact, you had come to know that Ms. Chambers had contacted  
13 Mr. Manson?

14 A I think I learned that subsequently, yes.

15 Q Okay.

16 MR. HARRISON: No further questions, Your Honor.

17 JUDGE BOGLE: Mr. L'Heureux, any redirect?

18 MR. L'HEUREUX: Yeah, I have a brief redirect, Your  
19 Honor.

20 REDIRECT EXAMINATION

21 BY MR. L'HEUREUX:

22 Q Mr. Murphy, considering the -- I'm forgetting which  
23 charge it is now. I think it's charge -- charge two  
24 concerning improper disclosure of security information. You  
25 don't need to look at it. I'm just going to ask you about

1 your recollection.

2           Considering that -- that charge, you've testified  
3 on cross examination that you relied on the -- the September  
4 30th document and its enclosures in determining that what  
5 Chief Chambers said about the numbers of officers at the  
6 monuments was sensitive.

7           My question is this: Was that the only  
8 consideration that you relied on, was that it was -- it was  
9 described as law enforcement sensitive in a document that you  
10 were aware of?

11           A     No.

12           Q     What were the other considerations that caused you  
13 to believe that that was sensitive security information?

14           A     As I testified earlier, the Office of Law  
15 Enforcement and Security, our protection division under  
16 Visitor Services and Resource Protection, members of the  
17 Joint Terrorism Task Force -- we all discussed security  
18 issues.

19                     We had security reviews done on an almost regular  
20 basis since 9/11. We had regular discussions about security  
21 profiles and -- and threats.

22                     All of that information, taken together,  
23 contributed to -- to my -- in my professional judgement --  
24 that this was information that shouldn't be divulged so  
25 liberally to the public.

1           Q     Were you relying on your professional experience  
2 for that judgement, at least in part?

3           A     Yes, in part.

4           Q     Did you -- did you consider it to be an exercise in  
5 poor judgement that -- that such information would be  
6 disclosed?

7           A     Yes.

8           MR. L'HEUREUX: I have no further questions, Your  
9 Honor.

10          JUDGE BOGLE: Any recross?

11          MR. HARRISON: No, Your Honor.

12          JUDGE BOGLE: All right.

13          Thank you. You're excused.

14          (Witness excused.)

15          JUDGE BOGLE: Now, it's 1:58. It's my  
16 understanding Ms. Weatherly is scheduled for 3:00?

17          MR. HARRISON: Yes. And she has confirmed, as I  
18 understand it.

19          JUDGE BOGLE: Okay. Excellent. So, we might as  
20 well recess and reconvene at 3:00.

21          MR. L'HEUREUX: Your Honor, may I safely release  
22 Ms. Mainella, who is present?

23          MR. HARRISON: Well, I don't expect Ms. Weatherly  
24 to take very long. So, if you mean release her for the day,  
25 I certainly wouldn't do that.

1           MR. L'HEUREUX: All right.

2           JUDGE BOGLE: I mean I want to run the hearing till  
3 at least 4:00, and then it's usually my practice, if we have  
4 somebody on the stand at 4:00 and it looks like we can finish  
5 up with them, we'll go later.

6           MR. L'HEUREUX: Okay.

7           JUDGE BOGLE: So, you know, if --

8           MR. HARRISON: I apologize if that ends up having  
9 Ms. Mainella stay, but it would be the safest thing to do.

10           (Whereupon, at 1:58 p.m., a luncheon recess was  
11 taken.)

12

1                   A F T E R N O O N   S E S S I O N

2                   JUDGE BOGLE:   Back on the record.

3                   MR. HARRISON:   We'd call Ms. Debbie Weatherly, and  
4 with your permission, I'll bring her in.

5                   JUDGE BOGLE:   All right.

6                   (Pause.)

7                   MR. HARRISON:   Ms. Weatherly has her counsel from  
8 the House with her, and with your permission, I just wanted  
9 to leave Counsel's card in case there was an inquiry later  
10 regarding the matter.

11                  JUDGE BOGLE:   All right.   Thank you.

12                  Do you have any objection to taking an oath?

13                  MS. WEATHERLY:   Not at all.

14                  JUDGE BOGLE:   Would I stand, please, and raise your  
15 right hand?

16                  Whereupon,

17                                   DEBORAH WEATHERLY

18                  was called as a witness and, having been first duly sworn,  
19 was examined and testified as follows:

20                  JUDGE BOGLE:   Please be seated, and state your name  
21 and your title.

22                  THE WITNESS:   Deborah Weatherly.   I'm staff  
23 director of the interior appropriations subcommittee, House  
24 of Representatives.

25                  MR. HARRISON:   And Your Honor, just for the record,

1 counsel for Ms. Weatherly today is Ms. Christine Davenport.  
2 She is present.

3 DIRECT EXAMINATION

4 BY MR. HARRISON:

5 Q Ms. Weatherly, do you know Ms. Teresa Chambers?

6 A I do.

7 Q And what is your current job position?

8 A Staff director, or clerk, as it's more commonly  
9 known, on the Subcommittee for Interior and Appropriations.

10 Q I see.

11 So, you work for Congress?

12 A I do.

13 Q All right. And in that capacity, you came to know  
14 Ms. Chambers?

15 A I do. Uh-huh. That's right.

16 Q And was that in Ms. Chambers' role as chief of the  
17 United States Park Police?

18 A That's correct.

19 Q All right. And have you ever had occasion to speak  
20 with Ms. Chambers on the telephone?

21 A Yes.

22 Q And do you recall a time period when you may have  
23 talked with Ms. Chambers on the telephone?

24 A Late in '03, December, in that time period.

25 Q Okay. Might have been November, perhaps?

1           A     It could have been, certainly could have been.

2           Q     Okay. Your memory is not perfect on that, on the  
3     date?

4           A     There were a lot of phone calls going on during  
5     that three-or-four-month period of time regarding this  
6     matter.

7           Q     Okay. And do you recall Ms. Chambers leaving you a  
8     voice mail and then you returned her call?

9           A     Not specifically, but I wouldn't dispute that.

10          Q     Okay. And do you recall whether or not if, in  
11     fact, you did return Ms. Chambers' call, Ms. Chambers would  
12     have informed you at that time that she had managed to get  
13     the question answered that she had called about and that you,  
14     yourself, then initiated some conversation that carried on?  
15     Do you know whether it happened in that way?

16          A     It's certainly possible.

17          Q     Okay. You wouldn't dispute it.

18          A     I wouldn't dispute it.

19          Q     Okay. All right.

20                 Do you have any problem, objection, to officials of  
21     agencies contacting your office?

22          A     Absolutely not.

23          Q     All right. So, if Ms. Chambers were to contact  
24     your office and express a concern about staffing or funding,  
25     you would not consider that improper.



1 A Not the call itself, no.

2 Q Okay. And not the subject matter.

3 A Not the subject matter.

4 Q Okay.

5 When Ms. Chambers communicated with you in November  
6 or December, whichever it was, in your memory, in 2003, did  
7 you have occasion to follow up with any official of the  
8 Federal Government in response to Ms. Chambers' call?

9 A Whether it was directly in response to her call or  
10 not, I couldn't say, but when it became clear to me that  
11 there was confusion over how much of the NAPA recommendations  
12 had been implemented, there were many phone calls between my  
13 office and the Park Service and the department.

14 Q All right.

15 Do you recall asking Ms. Chambers, in words to the  
16 effect, what's going on over at the Park Police and how are  
17 the NAPA recommendations being implemented?

18 A I'm sure I did.

19 Q Okay. Do you recall ever discussing -- well, let  
20 me just say, did Ms. Chambers give you an answer to your  
21 question?

22 A She did.

23 Q Okay. Do you ever recall discussing that same  
24 matter, implementation of NAPA recommendations, with either  
25 Mr. Murphy or Ms. Mainella?

1           A     I'm sure I did.

2           Q     Okay.

3                     Did you perceive at any point in time whether there  
4 might be a discrepancy in the information you were receiving  
5 regarding that matter, the implementation of NAPA  
6 recommendations, between Ms. Chambers on the one hand and Mr.  
7 Murphy and Ms. Mainella on the other?

8           A     It's absolutely true.

9           Q     Okay. And did that discrepancy concern you?

10          A     Absolutely.

11          Q     And did you make inquiries to check into that  
12 discrepancy?

13          A     I absolutely did.

14          Q     All right.

15                     Is it fair to say that any concern you had that was  
16 prompted by Ms. Chambers' communications was in this category  
17 of being concerned about a discrepancy in the content of  
18 information being given to you by different officials of the  
19 Department of Interior regarding the same question, which was  
20 how NAPA recommendations were being implemented?

21          A     Could you repeat that?

22          Q     That's kind of a long question. I'll try. Let me  
23 see if I can.

24                     Was your central concern at that time regarding Ms.  
25 Chambers' communication not that she was contacting Congress

1 or expressing a need for staffing or funding but that what  
2 she was saying about NAPA implementation seemed to be  
3 different in content than what you had heard from other  
4 sources?

5 A That's correct.

6 Q Okay.

7 Do you recall receiving an e-mail from Ms. Chambers  
8 on or about December 2, 2003?

9 A Yes, I do.

10 Q All right. And I believe there will be a bound set  
11 of documents in front of you with a brown cover, and you  
12 should see some tabs, one of which be 4-i, I'm hoping, will  
13 be a tab. It may not have a sticky, but it will have a tab,  
14 4-i. See if you can find that.

15 A Yes, I've got it.

16 Q Okay.

17 Does that look like an e-mail from Ms. Chambers to  
18 you?

19 A It does.

20 Q All right. Dated December 2nd?

21 A Uh-huh.

22 Q Okay. And you recognize it?

23 A I do.

24 Q All right.

25 If you will sort of glance over the content there

1 and tell me whether you recall Ms. Chambers communicating to  
2 you regarding her view of the NAPA recommendations  
3 implementation, which I think you will see referenced in the  
4 second and third paragraphs --

5 A Uh-huh.

6 Q -- and also, Ms. Chambers goes on to talk about --  
7 on the next-to-the-last paragraph -- her concern about  
8 staffing and funding.

9 Do you see that?

10 A Yes, I do.

11 Q Okay. And do you recall getting communications to  
12 that effect about this time-frame?

13 A Yes.

14 Q All right.

15 Were you in any way offended or concerned that Ms.  
16 Chambers was communicating to Congress, as she did in the  
17 next-to-the-last paragraph there, that she perceived there to  
18 be a crisis that might result in loss of life or destruction  
19 of a monument? Did that -- were you offended by that in any  
20 way?

21 A I was concerned about it, because several years  
22 earlier, when we realized that there -- this was prior to  
23 Teresa coming to the Park Police --

24 Q Uh-huh.

25 A There was gross fiscal and day-to-day mismanagement

1 of the Park -- to the degree that they were on the borderline  
2 of being anti-deficient, which is a very serious offense.

3 Q I'm sorry.

4 A That means spending more money than Congress  
5 appropriates to you.

6 Q Is that a no-no?

7 A That is a major no-no.

8 Q Okay.

9 A And we had been very generous to the Park Police of  
10 the last eight years.

11 In fact, they had got larger increases than the  
12 parks -- the national park units as a whole. I won't go into  
13 -- to all the details.

14 Q Okay.

15 A I'll be happy to submit that for the record, but  
16 when we -- when NAPA went in and did -- made their findings  
17 and made their recommendations, it was the committee's  
18 position that until the fiscal problems, management problems  
19 were under control, that we would not certainly cut their  
20 budget, we would give them adequate budgets, but we -- we  
21 didn't -- we felt like we had a level playing field before we  
22 looked at what the -- what the needs were based on a day-to-  
23 day basis.

24 At the same time, there were, you know, huge  
25 deficits growing and budgets were shrinking, and so, I was

1    irritated to the extent that I felt like there should have  
2    been a lot more progress, particularly on the most important,  
3    most serious recommendations of NAPA, before we talked about  
4    -- I'm not challenging the fact that the Park Police has  
5    needs

6           Q     Okay.

7                    So, you weren't saying that the needs being  
8    represented might not exist.

9           A     But I felt like it was inappropriate, given what I  
10   had just learned, that there was -- there were major  
11   recommendations that had not been attended to.

12          Q     Okay.

13                   So, let me be clear. Your answer to my question,  
14   which is you weren't disputing that these needs might exist -  
15   - that's correct, is it not?

16          A     They may or may not.

17          Q     Okay. And so, your concern was that, because of  
18   the history of the issue of the Park Police management and  
19   funding, which the NAPA recommendations were intended to  
20   address and, hopefully, improve upon, that your office, the  
21   appropriations committee, was hoping for more progress in  
22   implementing NAPA before additional funds would be allocated  
23   for the Park Police.

24          A     That's absolute -- and if I may --

25          Q     Sure.

1           A     -- go on further, one of the key recommendations  
2 was that they were to re-look at the mission of the Park  
3 Police.

4                   NAPA felt like the Park Police were performing  
5 duties that weren't core to their mission --

6           Q     Okay.

7           A     -- and so, that was directly related to how we  
8 might view additional appropriations, obviously if there  
9 could be savings in that area, but that -- that had not been  
10 accomplished, and I don't believe that it's been accomplished  
11 to date.

12          Q     Okay. Even as of today?

13          A     Correct.

14          Q     Now, who was it that the NAPA team, if you know,  
15 recommended take responsibility for refining the mission and  
16 perhaps narrowing the mission of the U.S. Park Police?

17          A     Well, NAPA, I believe, recommended that the chief  
18 work along with the Secretary of Interior and the director of  
19 the National Park Service.

20          Q     Okay.

21          A     Am I not correct?

22          Q     Well, I'm just asking your memory.

23          A     Yes.

24          Q     Okay. And do you understand that there was a -- I  
25 don't know if it was a committee but a -- a group of people

1 assigned within the Department of Interior to work on the  
2 mission of the Park Police? Do you know that?

3 A Uh-huh.

4 Q And do you know who was in charge of that  
5 committee?

6 A Don Murphy was involved. Larry Parkinson, who  
7 works for the secretary. He's the chief law enforcement  
8 officer.

9 Q Okay.

10 I take it from your answer that the U.S. Park  
11 Police mission has not been narrowed or refined as of today.  
12 Is that correct?

13 A That's my information.

14 Q Okay.

15 Now, if Ms. Chambers or any public official came to  
16 you and said I'm concerned because of staffing or funding  
17 limits that there may be a danger to the public, would you be  
18 offended by that? Just, per se, is that a problem?

19 A Someone in the government contacting the committee,  
20 no. I mean --

21 Q It's something they have a right to do?

22 A Absolutely.

23 Q Congress is willing to receive that information?

24 A Absolutely.

25 Q Okay.



1           Did you ever recommend to Mr. Murphy or Ms.  
2 Mainella or anyone that Chief Chambers should be disciplined  
3 or punished for talking with you or your office?

4           A     No.

5           Q     Okay.

6           Do you think there was any law violated by Ms.  
7 Chambers talking to your office?

8           A     No, but I was informed at some point by someone at  
9 the department that there is some kind of a administrative --  
10 I don't know whether it's part of the Department of  
11 Interior's guidelines, but I guess there's a process by which  
12 people have to go through when they contact people on the  
13 Hill, but that's not a Federal law, and it isn't of concern  
14 to --

15          Q     Okay.

16                    It's not --

17          A     -- the committee.

18          Q     -- one of your policies.

19          A     No.

20          Q     Okay.

21                   Do you believe that Ms. Chambers and other agency  
22 employees have a right to tell Congress if they believe they  
23 need additional funding?

24          A     People tell us that every day from the agencies.

25          Q     And --

1 A Informally and formally.

2 Q It happens. It happens frequently, I take it?

3 A It's a fairly common occurrence.

4 Q Okay. And there's no rule that prohibits it, I  
5 take it.

6 A No.

7 Q Okay.

8 Did anyone in particular that you remember inform  
9 you about the existence of some policy in the Department of  
10 Interior that requires employees to go through some office  
11 before contacting Congress?

12 A At some point.

13 Q Do you remember who said that?

14 A No, I don't, and I've been vaguely aware of it for  
15 years, I suppose.

16 Q Okay. If you had asked Ms. Chambers a question in  
17 the telephone call in November or December and Ms. Chambers  
18 had given you an honest answer, do you believe that it's a  
19 basis for her to be disciplined that she answered your  
20 question?

21 A I don't know if it's appropriate for me to answer  
22 that question.

23 Q I'm just asking your opinion. If you don't know,  
24 you can say you don't know.

25 MR. L'HEUREUX: I'm going to object to asking her

1 opinion. She's not called as an expert on the subject.

2 MR. HARRISON: I'm not asking for an expert  
3 opinion.

4 JUDGE BOGLE: I'll sustain it.

5 MR. HARRISON: All right.

6 BY MR. HARRISON:

7 Q I take it that you certainly didn't recommend any  
8 discipline against Ms. Chambers for answering your questions.

9 A No, because we get contacted dozens of times a week  
10 by Federal employees.

11 Q All right.

12 If you would turn, in that same set of documents,  
13 to tab 4-D as in David --

14 A Uh-huh.

15 Q And I believe you'll see another e-mail there.

16 A Yes.

17 Q Do you recognize it?

18 A I do.

19 Q And is that an e-mail from Ms. -- well, actually  
20 from you to Don Murphy?

21 A It's from me, that's correct.

22 Q And dated December 4?

23 A Uh-huh.

24 Q And do you recall sending that to Mr. Murphy?

25 A I do, at his request.

1 Q Okay. Mr. Murphy requested you to do this.

2 A Well, we had had a conversation about it.

3 Q Okay. Well, tell me about that. What conversation  
4 did you have?

5 A Again, I can't remember the specific conversation,  
6 because we spoke multiple times, and the committee's -- what  
7 we were trying to determine is what was the accurate  
8 information, what, in fact, had been implemented and to what  
9 extent, and what had not been, and what decisions had been  
10 made about recommendations that they had no intention of  
11 implementing.

12 Q And these are the NAPA recommendations?

13 A Yeah. I mean that's the committee's interest --

14 Q Okay.

15 A -- is implementing NAPA.

16 Q All right.

17 Did Ms. Chambers ever tell you that she had no  
18 intent to implement NAPA?

19 A No.

20 Q Okay.

21 When you got this disparate information from Ms.  
22 Chambers, on the one hand, and others, perhaps Mr. Murphy and  
23 Ms. Mainella, about the NAPA recommendations, did you have  
24 any way of knowing which version was correct absent some type  
25 of inquiry by NAPA or some other body?

1           A     I did not.

2           Q     Okay.  And do you know that NAPA did conduct a  
3 follow-up inquiry?

4           A     We asked them to.

5           Q     Okay.

6                     Do you know whether Chief Chambers was interviewed  
7 in that process?

8           A     I think -- believe you told me she was not, but I  
9 did not --

10          Q     You don't know either way.

11          A     No, I didn't.

12          Q     Do you know what recommendations Chief Chambers  
13 made within the Department of Interior to cut out certain  
14 services like Wolftrap and possibly other services to narrow  
15 the mission and live within her budget?

16          A     I don't believe so, prior to our conversation.

17          Q     Okay.  And Mr. Murphy or Ms. Mainella never  
18 communicated to you Ms. Chambers' recommendation?

19          A     No.  What was actually extremely odd about this  
20 whole circumstance is, normally, when NAPA makes  
21 recommendations, normally we have meetings with the agencies  
22 on a fairly regular basis to keep track with what's being  
23 implemented and what's not.

24                     In this particular case, the committee stepped back  
25 for a while, because Teresa Chambers had just come to town;

1 it was a new job. They were pretty formidable changes --  
2 excuse me --

3 Q Yes.

4 A -- pretty fundamental to the organization, and so,  
5 we let a little time go by before we started making formal  
6 inquiries.

7 Q I see.

8 You indicate in the first line of Exhibit 4-D -- or  
9 behind tab 4-D, this e-mail -- you say, "In light of the  
10 inaccurate news reports of this week . . ." Are you  
11 referring to news coverage of Ms. Chambers and the Park  
12 Police?

13 A I would have to assume so.

14 Q Okay. And did you see some news coverage that  
15 involved Ms. Chambers in the week of December 2nd to December  
16 5th?

17 A I must have.

18 Q Okay.

19 Did you read the Washington Post article that  
20 referred to Ms. Chambers?

21 A I'm sure I did.

22 Q Okay.

23 A I mean I haven't seen it since then, but I'm sure -  
24 -

25 Q Okay.

1           A     -- that's what prompted this.

2           Q     Did you watch any television coverage of Ms.  
3 Chambers in that time period?

4           A     Yes.

5           Q     Okay.

6                     Did you and Mr. Murphy talk about Ms. Chambers'  
7 comments in the press?

8           A     I'm sure we did.

9           Q     Okay.

10                    Do you think that was at your initiative or Mr.  
11 Murphy's?

12          A     I can't honestly say.

13          Q     Okay.

14          A     If -- if I may, I mean the -- I mean I'm trying to  
15 remember, best of my knowledge, but --

16          Q     Uh-huh.

17          A     The committee is always concerned when it's  
18 represented in the media by anyone where the inference  
19 Congress isn't doing its job properly, not supplying enough  
20 money, and it's the feeling of the -- the members that we  
21 have done more than an adequately job, given the current  
22 circumstances, with the Park Police, so --

23          Q     I understand.

24                    Well, I take it from your prior testimony that if  
25 Ms. Chambers said to The Washington Post that she needed X

1 amount of money for protecting the parks or a monument, that  
2 other than what you've already explained, which you were  
3 hoping for implementation of NAPA before more money was  
4 requested, you weren't necessarily taking a position on the -  
5 - the substance of her comment that, you know, here's how  
6 much money we need to do this job.

7 A It was an inappropriate forum.

8 Q I don't understand your answer.

9 A That's not the proper forum to go through --

10 Q -- to --

11 A We have hearings where people come and testify.  
12 You can submit testimony.

13 Q Okay. And Ms. Chambers could testify to your  
14 committee on this matter?

15 A We have had the Park Police chief on occasion in  
16 the past over the years, rarely.

17 Q Okay. But it's not prohibited?

18 A It's not prohibited.

19 Q Okay.

20 So, did you think it violated some rule for Ms.  
21 Chambers to talk to the press about these matters, what she  
22 felt was needed?

23 Do you know of any rule that was violated?

24 A I don't know of any -- I mean I don't -- can't  
25 speak for the executive branch.



1 Q Okay. It didn't violate any rule of Congress, I  
2 take it.

3 A No.

4 Q Okay.

5 A Obviously.

6 Q So, what you're saying is you would have preferred  
7 that the communication come to your committee rather than  
8 going through the media?

9 A Absolutely.

10 Q Okay.

11 Do you know what opportunity was given Ms. Chambers  
12 to be involved in formulation of the Department of Interior's  
13 proposed budget for the Park Police?

14 A No, I would have no way of knowing that.

15 Q When you say that -- you say in your -- that first  
16 big paragraph there in this memo -- that you were contacted  
17 by Ms. Chambers on November 3, 2003. Do you think that might  
18 be the call you were referring to earlier?

19 A I would assume so, yes.

20 Q Okay. And you say the conversation was troubling  
21 to you, and you say first she indicated that the Park Police  
22 were under-funded and understaffed, and again, to be clear,  
23 are you saying you felt that Ms. Chambers shouldn't be  
24 telling you those things or that you were getting disparate  
25 information from her versus other people?

1           A     Disparate information.

2           Q     Did you know Chief Chambers' predecessor, Mr.  
3 Langston?

4           A     I did.

5           Q     Okay. And did Mr. Langston ever communicate with  
6 the press regarding the needs of the Park Police?

7           A     I can't answer that. Perhaps. I don't have any  
8 vivid recollection of that.

9           Q     Okay.

10           Did Mr. Langston ever communicate with you about  
11 the needs of the Park Police?

12           A     Occasionally.

13           Q     Okay.

14           A     Rarely.

15           Q     And in those occasions, did he indicate that there  
16 was some need for additional funds?

17           A     Always.

18           Q     Always? Okay.

19           To your knowledge, was Chief Langston ever  
20 disciplined for making those comments to you?

21           A     I would have no knowledge of that.

22           Q     Not that you're aware of.

23           A     Not that I'm aware.

24           Q     You mention, at the bottom of that big paragraph,  
25 at the beginning, a sentence that says, "Just the other day

1 she," meaning Chief Chambers, "sent me an e-mail in which she  
2 again requested more money and staff, and contends that most  
3 of the NAPA recommendations have been implemented." Do you  
4 mean the December 2nd e-mail we were just looking at? Do you  
5 think that's what it's referring to?

6 A Perhaps.

7 Q Okay. And you say I've forwarded that e-mail to  
8 you under separate cover. So, did you submit that e-mail to  
9 Mr. Murphy?

10 A I'm sure I did.

11 Q Okay.

12 You indicate in the next single-sentence paragraph  
13 that you saw Ms. Chambers on television indicating publicly -  
14 - and you say "again indicating publicly that there is a  
15 dangerous crisis because of lack of money and staff." When  
16 you said "again" indicating the dangerous crisis, what are  
17 you meaning, "again"?

18 A I assume what I referred to is there was another  
19 news media event, I would have to assume.

20 Q Okay.

21 A I mean if, in fact, we really did have a crisis  
22 situation, I would have expected the director of the park  
23 service --

24 Q -- to tell you?

25 A -- to come to -- to come to the committee and

1 explain -- explain that situation to us.

2 Q Okay.

3 Now, you say in the third paragraph regarding the  
4 NAPA recommendations the committee is disappointed by the  
5 lack of Park Police management to implement fully the  
6 recommendations of the NAPA study.

7 Did you understand that some of those  
8 recommendations took involvement by an authority higher than  
9 the chief of police?

10 A Yes, I did.

11 Q Okay.

12 You indicate your belief that Chief Chambers'  
13 belief, as you understood it, that most of those  
14 recommendations of NAPA had been implemented, that Chief  
15 Chambers was incorrect in believing that, but you earlier had  
16 told the court today that you had no way of knowing the  
17 extent of implementation and who was correct in the competing  
18 information you were getting without perhaps a follow-up NAPA  
19 inquiry.

20 A Well, let me clarify that.

21 Q Uh-huh.

22 A I assumed that they were making progress on the two  
23 or three most serious matters.

24 Q Okay.

25 A And the information that I got was kind of evolving

1 over a several-week, several-month period of time, again  
2 conflicting information coming -- coming from both sides.  
3 When I had a full understanding of what had or had not been  
4 done, I can't tell you, but it was -- it was very confusing  
5 and very conflicting, and again, that's why we sent NAPA in  
6 again, which is a bit unusual.

7 Q Okay.

8 Regarding this December 4th e-mail, had Mr. Murphy  
9 not contacted you and asked you to put something in writing  
10 for him, do you think you would have sent this e-mail on your  
11 own initiative at this time?

12 A No, I wouldn't have sent the e-mail, but again,  
13 there were conversations. I mean I was having conversations  
14 with several people trying to get to the bottom of it.

15 Q Understood.

16 I get the impression that, after getting this  
17 disparate information from Chief Chambers and Director  
18 Mainella and Deputy Director Murphy, that you made inquiries  
19 with other parties, meaning other than those three people.  
20 Is that correct?

21 A I talked to an awful lot of people.

22 I talked to people in the department, if that's  
23 what you're --

24 Q In the Department of Interior?

25 A I'm sure I did, yes.

1           Q     Okay.  And you were trying to find out how to  
2     resolve this disparate information, I take it.

3           A     Right.  Correct.

4           Q     Okay.

5                     Did you ever have occasion to do a follow-up  
6     conversation with Ms. Chambers to get more details from her  
7     on -- in answering that question?

8           A     I can't remember.

9           Q     Okay.

10          A     I don't believe I ever initiated a call, but I  
11     can't tell you whether we spoke again or not.

12          Q     Uh-huh.

13                   MR. HARRISON:  Nothing further, Your Honor.

14                   JUDGE BOGLE:  Mr. L'Heureux, any cross?

15                   MR. L'HEUREUX:  I have no questions, Your Honor.

16                   JUDGE BOGLE:  I have just a couple --

17                   THE WITNESS:  Sure.

18                   JUDGE BOGLE:  -- that I think are the core of why  
19     we called you as a witness.

20                             Charge number one in this case is labeled "improper  
21     budget communications," and down here in what I perceive to  
22     be the crux of the charge, it says, "You telephoned," you,  
23     meaning Ms. Chambers, "telephoned a senior staff member of  
24     the interior appropriations subcommittee," you, Ms.  
25     Weatherly, "and told her that you believed the review was not

1 necessary." This would be the NAPA re-review, the second  
2 NAPA review.

3 Did Ms. Chambers tell you in that telephone  
4 conversation that she believed the re-review was not  
5 necessary?

6 THE WITNESS: I have no recollection of that.

7 JUDGE BOGLE: Okay.

8 THE WITNESS: The conversation I had with her  
9 regarding that that I vividly remember was about who would  
10 pay for it, the appropriateness of whether the Park Police  
11 pays or whether --

12 JUDGE BOGLE: That's the second part. The second  
13 part of that sentence is -- and I'm paraphrasing here -- and  
14 you also told her that you believed the U.S. Park Police  
15 should not have to pay for the review.

16 Now, in your deposition, you said --

17 THE WITNESS: That's not true at all. Who said I  
18 said that?

19 JUDGE BOGLE: No, no, no. I'm sorry.

20 THE WITNESS: I'm sorry.

21 JUDGE BOGLE: I've got too many you's in there.  
22 No, the charge is that Ms. Chambers called you and told you  
23 that she did not believe the U.S. Park Police would have to  
24 pay for the review.

25 Now, your deposition covers that. In your

1 deposition, you say that she did. Is that still your  
2 testimony today?

3 THE WITNESS: My recollection is that that's what  
4 the conversation -- she had already spoken to someone in the  
5 meantime but that I said it was the position of the committee  
6 that when the committee directs a NAPA or a GAO  
7 investigation, that the agency that's involved pays for it.

8 JUDGE BOGLE: Okay. Thank you.

9 Mr. Harrison?

10 MR. HARRISON: Yes. Thank you.

11 BY MR. HARRISON:

12 Q Now, when we -- when I asked you earlier about this  
13 conversation, you said you didn't remember whether Ms.  
14 Chambers might have told you at the beginning of it that she  
15 had her question answered and that you pursued the  
16 conversation further.

17 I take it you're not changing that answer at the  
18 moment.

19 So, if, in fact, you had discussed who would pay  
20 for the study with Ms. Chambers, it would have been in a  
21 conversation that you decided to have with Ms. Chambers, not  
22 that Ms. Chambers was pressing you for.

23 A I can't -- I mean it was all the same conversation,  
24 and --

25 Q Okay.



1           A     -- to be perfectly frank, every agency who we  
2     direct a NAPA -- always raises the issue of whether they  
3     should have to pay for it.

4           Q     Okay.

5           A     It's not an uncommon thing to happen.

6           Q     Not uncommon.

7                     Now, did Ms. Chambers ask you a question of whether  
8     she or her agency should pay, or did she argue with you that  
9     they shouldn't have to pay?

10          A     She didn't argue with me. I mean I think she  
11     expressed concern over the cost.

12          Q     Okay. In terms of where the money might come from.

13          A     Yes.

14          Q     Okay.

15                     So, you're not saying Ms. Chambers pressed you and  
16     took the position that the Park Police shouldn't have to pay  
17     for this.

18                     You're saying the question was discussed about  
19     whether they should have to pay for this.

20          A     She was concerned about it, but I wouldn't say that  
21     she argued with me over whether it should be done.

22          Q     She accepted your answer?

23          A     To my recollection, yeah.

24          Q     Yeah. Did you have a problem? Was this  
25     conversation offensive to you in some way?

1           A     Again, my -- my irritation was substantial progress  
2 had not been made and that we were having to spend more  
3 Federal taxpayer money going back in to determine what had  
4 and hadn't been done.

5           Q     Okay.

6                     So, that irritation, as you describe it, wasn't  
7 because Ms. Chambers asked who should have to pay for this.  
8 It was because of the substantive lack of progress in  
9 implementing NAPA.

10          A     I think that's accurate.

11                     MR. HARRISON: Thank you.

12                     Nothing further.

13                     JUDGE BOGLE: Okay.

14                     Well, let me just follow up on that. The charge --  
15 the wording of the charge actually is your statement, meaning  
16 Ms. Chambers' statements, caused the interior appropriations  
17 subcommittee staffer -- that's you, Ms. Weatherly -- to  
18 question the veracity of the National Park Service director's  
19 stated intent to carry out the direction from Congress and  
20 implied to committee members that the National Park Service  
21 did not intend to comply with Congress' direction. Is that  
22 accurate?

23                     THE WITNESS: Could you run that by me one more  
24 time?

25                     JUDGE BOGLE: Okay. I'll try to leave out the --

1 THE WITNESS: -- the he's and the she's.

2 JUDGE BOGLE: Yeah, the he's and the she's. Okay.

3 Caused you to question the veracity of the National Park  
4 Service director's stated intent to carry out the direction  
5 from Congress.

6 Let's leave -- let's stop there. Is that --

7 THE WITNESS: We were very upset. Let's put it  
8 that way.

9 JUDGE BOGLE: Did it cause you to question the  
10 veracity of the director's intent to carry out the direction  
11 from Congress?

12 THE WITNESS: I suppose.

13 JUDGE BOGLE: Okay.

14 THE WITNESS: Interesting phraseology.

15 JUDGE BOGLE: And -- and implied to committee  
16 members that the park service did not intend to comply with  
17 Congress' direction. Did it imply that?

18 THE WITNESS: I'd say yes.

19 JUDGE BOGLE: Okay.

20 THE WITNESS: I mean it was -- it was over two  
21 years' period of time.

22 JUDGE BOGLE: Okay.

23 Anybody have anything else they would like to ask?

24 MR. HARRISON: I do, in follow-up to Your Honor's  
25 question.

1 JUDGE BOGLE: Okay.

2 BY MR. HARRISON:

3 Q Now, are you saying, Ms. Weatherly, that Ms.  
4 Chambers' communications to you in this telephone call, which  
5 you could not remember a moment ago as to whether you even  
6 pursued the conversation after Ms. Chambers wanted to end it  
7 -- are you saying you remember that call specifically enough  
8 to say that something Ms. Chambers said caused you to  
9 question the veracity of the park service director, Ms.  
10 Mainella's stated intent to carry out the direction from  
11 Congress to implement the NAPA recommendations? Did  
12 something Ms. Chambers say cause you to question Ms.  
13 Mainella's veracity in that regard?

14 A I hate to plead ignorance, but I just --

15 Q Do you understand the question?

16 A Not totally. I mean --

17 Q Well, that's my concern.

18 A I mean we were concerned that it hasn't been  
19 implemented.

20 We were concerned that we were getting inaccurate  
21 information.

22 Q Okay.

23 A There is no congressional law that says that people  
24 can't contact the Congress. I can't speak to the  
25 requirements within the executive branch.

1 Q I understand that.

2 A I mean --

3 Q So -- but as I understood your testimony today,  
4 your concern was you were getting information from Ms.  
5 Chambers, information from Ms. Mainella, Mr. Murphy, it  
6 didn't match, it was disparate in terms of how well NAPA  
7 recommendations were being implemented.

8 Now, that disparity is created by two different  
9 sources, Ms. Chambers and Ms. Mainella and Mr. Murphy. Is  
10 that true?

11 A That's correct.

12 Q So, is one of them more responsible for the  
13 disparity than the other?

14 A I don't know. Maybe I can answer it this way.

15 I mean at some point I became aware of the fact,  
16 probably from Don Murphy, that they had been having  
17 difficulties with Teresa following through and implementing  
18 that.

19 I can't state whether that's accurate or -- or not  
20 accurate, but I mean --

21 Q Okay.

22 You wouldn't know whether Ms. Chambers was the  
23 problem or someone else was the problem.

24 A All I can tell you is, at some point, Don Murphy,  
25 someone in the park service, indicated to me that Teresa was

1 not following directions or not -- or not doing something to  
2 implement it.

3 I can't speak to whether that was accurate or -- or  
4 not accurate.

5 Q Okay.

6 A But I -- I became aware that there were --

7 Q Well, the allegation was there.

8 A -- these difficulties. That is correct.

9 Q Now, what precisely did Mr. Murphy or Ms. Mainella  
10 allege that Ms. Chambers wasn't doing that she should be  
11 doing?

12 Do you know?

13 A I never got into -- into details.

14 Q Okay.

15 A All I was aware of is -- and I don't believe they -  
16 - they offered up specifics.

17 Again, I was concerned that it wasn't being done  
18 and how do we get it back on track.

19 Q Okay.

20 A It became very evident to me that they were having  
21 difficulties with Teresa following what they thought -- path  
22 they thought she should be -- or direction they thought she  
23 should be taking.

24 Q From what they told you.

25 A Correct.

1           Q     So, the question, though, that the judge and I were  
2 asking about had not to do with communications from Mr.  
3 Murphy and Ms. Mainella but whether Ms. Chambers herself had  
4 said something in this conversation that, as the charge puts  
5 it, for better or worse, to cause you to question the  
6 veracity of Ms. Mainella, the director, the veracity of her  
7 intent to carry out the direction from Congress. Did you  
8 conclude based on something Teresa Chambers said that Ms.  
9 Mainella did not intend to carry out the direction of  
10 Congress?

11           A     No.

12           Q     No.

13                     (Pause.)

14           MR. HARRISON: Nothing further, Your Honor. Thank  
15 you.

16           JUDGE BOGLE: Mr. L'Heureux, anything?

17           MR. L'HEUREUX: Can we have a short recess, Your  
18 Honor?

19           JUDGE BOGLE: No, we can't have a recess.

20                     You can have a brief discussion with your co-  
21 counsel there.

22                                     CROSS EXAMINATION

23           BY MR. L'HEUREUX:

24           Q     Let me just ask a few questions --

25           A     Sure.

1 Q -- Ms. Weatherly.

2 A Sure.

3 Q Again, dealing on this thing.

4 Now, what I understand your testimony to be is that  
5 Ms. Weatherly -- concerning the implementation of the NAPA  
6 recommendations, that Ms. Weatherly was telling you one thing  
7 and you were hearing something else from -- I'm sorry -- that  
8 Ms. Chambers was telling you one thing about the  
9 implementation of the NAPA recommendations and that you were  
10 hearing a different thing from officials in the department.  
11 Is that correct?

12 A Correct.

13 Q Was that a matter of concern for you that you were  
14 getting this different information from these two different  
15 sources?

16 A Absolutely.

17 MR. HARRISON: Asked and answered.

18 THE WITNESS: Absolutely.

19 MR. L'HEUREUX: It wasn't asked and answered by me,  
20 Counsel.

21 JUDGE BOGLE: Not by him. Not by him. Let's  
22 proceed.

23 MR. L'HEUREUX: All right.

24 BY MR. L'HEUREUX:

25 Q Again, we're dealing with the language in the



1 charge here, is where I'm trying to go. Did this cause you  
2 to express any concerns to Mr. Murphy or Ms. Mainella about  
3 what the department's intention was with respect to the NAPA  
4 recommendations?

5 MR. HARRISON: Objection. The question is vague  
6 when it says "did this cause you." I don't know what the  
7 "this" is.

8 JUDGE BOGLE: Overruled.

9 BY MR. L'HEUREUX:

10 Q Do you have the question?

11 A I think so. I hope I'm answering --

12 Q Would you like me to ask it again?

13 A Well --

14 Q Let me strike the question and ask -- and ask  
15 perhaps a different question that might be more  
16 comprehensible.

17 Did this -- did the information that you got from  
18 Ms. Chambers cause you -- the information about the  
19 implementation of the NAPA study -- what was that  
20 information?

21 What did she tell you about that, about the  
22 progress in implementing the NAPA recommendation?

23 A Her -- this was not the first conversation I had  
24 had during this brief time period. I mean I was keeping -- I  
25 was asking questions of the park service.

1           The information that Teresa gave me, particularly  
2 in that memo, about how many have specifically been  
3 implemented, was very different than what the department and  
4 the park service had been telling me, and at some point  
5 during that period, they expressed concern that she might not  
6 have been following direction.

7           I mean I -- I came to understand that there had  
8 been a conflict that had been going on longer than I was  
9 aware of.

10           This -- this came to me during that time period of  
11 how serious the situation was.

12           MR. HARRISON: Your Honor, I would move to strike  
13 the last part of the answer as non-responsive to the  
14 question.

15           JUDGE BOGLE: Denied.

16           Let's proceed.

17           MR. L'HEUREUX: Yes.

18           BY MR. L'HEUREUX:

19           Q     Now, as a result of what Ms. Chambers had said to  
20 you, did that -- did that cause you to make a telephone call  
21 to any of the department officials, specifically Mr. Murphy  
22 or Ms. Mainella?

23           A     I'm sure I did.

24           Q     All right. Why would you have called them in -- in  
25 reaction to anything that Ms. Chambers told you?

1           A     Because I was, I think, shocked -- I mean I didn't  
2 know what the factual information was.

3                     All I knew is there was a huge discrepancy, and I  
4 was shocked, and I knew the members would be surprised, that  
5 more progress had not been made.

6           Q     Well, all right.

7                     Had you -- had you learned from Ms. Chambers that  
8 progress had not been made, or did you learn that from  
9 somewhere else?

10          A     No, I think it became very evident that her picture  
11 was much brighter than --

12          Q     All right. Is it fair to say, then, Ms. Weatherly,  
13 that the information you got from Ms. Chambers made you doubt  
14 whether you had gotten correct information from the  
15 department?

16          A     That they intentionally gave me inaccurate  
17 information?

18          Q     No, no. Just that -- my question is whether you  
19 doubted that the information you were getting from the  
20 department was accurate after you heard what Ms. Chambers had  
21 to say.

22          A     I knew there was a problem, and I knew there was a  
23 discrepancy. I didn't know whose discrepancy it was.

24          Q     All right. Did you ever come to learn whether the  
25 NAPA recommendations had been fully implemented?

1           A     Absolutely.  NAPA briefed me and said that most of  
2  them had not.

3           Q     And was that different from what Ms. Chambers had  
4  told you when she spoke to you about that?

5           A     Yes, it was, dramatically different.

6           Q     I'm sorry.  Your answer?

7           A     Dramatically different.

8           MR. L'HEUREUX:  I have no further questions, Your  
9  Honor.

10          JUDGE BOGLE:  Okay.

11          Thank you very much.

12          MR. HARRISON:  Your Honor, I believe I'm allowed to  
13  follow up on Counsel's questions.

14          JUDGE BOGLE:  No.  We've been going back and forth  
15  here quite a bit.  You've had several opportunities, Mr.  
16  Harrison.

17          MR. HARRISON:  I beg your pardon, Your Honor.  I  
18  have never been able to address the extent that this witness  
19  relied on a NAPA document to tell her the answer to the  
20  question of whether Ms. Chambers was correct or not, and I'm  
21  entitled to cross on that.

22          JUDGE BOGLE:  I don't even think that's relevant,  
23  Mr. Harrison.

24          MR. HARRISON:  That's a different matter.  I  
25  appreciate that.

1 JUDGE BOGLE: Thank you. You're excused.

2 (Witness excused.)

3 JUDGE BOGLE: Do we have our next witness?

4 MR. L'HEUREUX: Yes, Your Honor. I call Director  
5 of the National Park Service Fran Mainella.

6 MR. HARRISON: I'm sorry. Just for the record, I  
7 wanted to note my objection to not being able to examine this  
8 witness on the questions that Mr. L'Heureux asked.

9 JUDGE BOGLE: Noted.

10 MR. HARRISON: Thank you.

11 JUDGE BOGLE: Come up here, please.

12 Do you have any objection to take an oath?

13 MS. MAINELLA: No, I do not.

14 JUDGE BOGLE: Would you stand over here, please?  
15 Raise your right hand.

16 Whereupon,

17 FRAN MAINELLA

18 was called as a witness and, having been first duly sworn,  
19 was examined and testified as follows:

20 JUDGE BOGLE: Please be seated, and state your full  
21 name and your title.

22 THE WITNESS: Frances P. Mainella, and I'm director  
23 of the National Park Service.

24 JUDGE BOGLE: Okay.

25 Mr. L'Heureux?

1 MR. L'HEUREUX: All right.

2 DIRECT EXAMINATION

3 BY MR. L'HEUREUX:

4 Q Good afternoon, Ms. Mainella.

5 A Good afternoon.

6 Q What are your duties as the -- briefly -- briefly  
7 stated -- as the National Park Service director?

8 A Well, basically, as National Park Service director,  
9 I'm responsible statutorily with overseeing the -- the 388  
10 national parks in our unit, national park units, also  
11 including in that, of course, are grants that we do to local  
12 governments. We have a outreach. We have rivers and trails.  
13 We have, of course, our law enforcement, both our Park  
14 Police and also our U.S. Park Rangers.

15 Q All right.

16 Are you a political appointee?

17 A I am a presidential appointment that required  
18 confirmation of the Senate.

19 Q All right. And how long have you been serving in  
20 this position?

21 A I came in in July of '01.

22 Q All right.

23 Would you briefly -- and please, given the hour,  
24 very briefly describe your experience before coming to this  
25 position?

1           A     I've been in the park and recreational field for  
2 almost 40 years.

3                     I started as a summer playground counselor back in  
4 Connecticut, as I worked my way through college, but let me  
5 take it, actually, from the other end. I'll start as  
6 National Park Service director. Prior to that, I served 12  
7 years as the Florida State park director, and we also became  
8 the outstanding park service -- recognized the best state  
9 park system in the country.

10                    Prior to that, I was the executive director of a  
11 nonprofit called the Florida Recreation and Park Association,  
12 and did that for about seven years. Prior to that, I was a  
13 municipal director for park and recreation in the Palm Beach  
14 County area of Florida.

15                    Prior to that, I was a community center assistant  
16 director in Tallahassee, Florida, at a predominantly all-  
17 black community center where I was the first white to work  
18 there.

19           Q     All right. In your present duties or in the time  
20 that you've served as the director of the National Park  
21 Service, were you -- excuse me -- was Teresa Chambers under  
22 your supervision?

23           A     Teresa Chambers was under my supervision, but my  
24 work -- Don Murphy, my deputy, was the working supervisor.

25           Q     Were you her second-line supervisor with respect to

1 that relationship?

2 A Yes.

3 Q All right. With respect to the -- the decision --  
4 the proposal or decision, proposal and decision to remove  
5 Teresa Chambers from Federal service, were you either the  
6 proposing official or the deciding official with respect to  
7 that decision?

8 A No, I was not.

9 Q With respect to the proposing, the proposal to  
10 remove Teresa Chambers, did you have any influence over that  
11 decision?

12 A No, I did not.

13 Q Did you consult with Mr. Murphy about that  
14 decision?

15 A No, I did not.

16 Q Did you advise Mr. Murphy what he should do or not  
17 do with that decision?

18 A No, I did not.

19 Q Did Mr. Murphy seek your advice about what to do or  
20 not do with respect --

21 A No.

22 Q -- to that decision?

23 A No, he did not.

24 Q Concerning the -- the decision, do you know who was  
25 the deciding official?



1           A     The deciding official -- I know that Deputy  
2 Assistant Secretary Paul Hoffman was named a deciding  
3 official.

4           Q     Did you advise Mr. Hoffman with respect to how he  
5 should make his decision?

6           A     No, I did not.

7           Q     Mr. Hoffman interviewed you, did he not?

8           A     Yes, he did.

9           Q     And apart from that interview, did you have any  
10 communication with Mr. Hoffman concerning the decision to  
11 remove Teresa Chambers?

12          A     No, I did not.

13          Q     All right.

14                I'd like to -- to ask you about some events which  
15 occurred in -- in something like early November of 2003.  
16 During that time, did you receive a telephone call from Ms.  
17 Deborah Weatherly, who works for the House of  
18 Representatives?

19          A     Yes, I did.

20          Q     And was there a telephone call that concerned  
21 communication that she had had with Teresa Chambers?

22          A     Yes.

23          Q     What do you recall about that telephone call?

24          A     Well, Ms. Weatherly called me and was quite  
25 concerned that we -- myself, as director, and Don Murphy, as

1 deputy -- weren't -- were allowing a debate by Ms. Chambers  
2 of an issue that had already been determined by the  
3 appropriators.

4 Q What was that issue?

5 A That issue was regarding the NAPA -- having a  
6 second NAPA review and also who would pay for it, and it was  
7 already, in Ms. Weatherly's mind, very clear that the NAPA  
8 review was already determined to be done, the second review,  
9 and Park Police, U.S. Park Police, would pay for it.

10 Q And do you recall with any clarity what exactly Ms.  
11 Weatherly had said that Ms. Chambers said to her that caused  
12 her to say this to you?

13 A She -- my memory of what took place was that she  
14 said that Ms. Chambers was questioning why -- what need there  
15 was for such a review and also that she felt it was very  
16 clear that we had already -- it was already decided that the  
17 -- that the U.S. Park Police would pay for it and that that  
18 should not be debated. Evidently, both those were being  
19 debated in that -- in the communications with Ms. Chambers.

20 Q Did -- did Ms. Weatherly raise any other concerns  
21 with you during this -- this telephone call?

22 A Just basically said I needed to make sure that I  
23 was clearly in control of all that was happening, that when a  
24 determination was made by the appropriators, we needed to  
25 follow through with it.

1 Q Did this -- did this message from Ms. Weatherly  
2 cause you any concern?

3 A Yes, it did.

4 Q What was your concern?

5 A Basically we like to have our appropriators and  
6 their staff to be supportive and think we are performing well  
7 in all that we do, and to have her think and question whether  
8 we are doing a good job in overseeing our staff is certainly  
9 disconcerting to me.

10 Q This has just come up in this hearing, so let me  
11 ask you if Ms. Weatherly had raised any other concerns  
12 besides the payment for the NAPA study issue with you about  
13 her communication with Ms. Chambers.

14 Was there anything else on her mind about that  
15 phone call?

16 A Only think I know is she always wants to see the  
17 NAPA -- all the NAPA requirements implemented, what was in  
18 the NAPA review.

19 Q Did she -- did she talk about that in this  
20 conversation? Do you recall?

21 A I don't remember other than that she wanted the  
22 NAPA -- you know, that she -- she wants to make sure that she  
23 knows where we are and what we're doing and was -- and that  
24 there shouldn't be a debate whether we have another review or  
25 not.

1 Q What was her tone -- her tone with respect to you?

2 Was --

3 A Very irritated.

4 Q Did you get the impression that she was irritated  
5 at you or at someone else?

6 A I felt she was irritated with all -- with the  
7 situation, that it was being debated, and that we were -- you  
8 know, we were having people debate issues that she thought  
9 were resolved.

10 Q Anything else that Ms. Weatherly said that you  
11 recall?

12 A Not that I -- not that I can think of.

13 Q All right.

14 What did you do with this -- with this information  
15 that you got from Ms. Weatherly? What did you do next?

16 A I went to Don Murphy and asked if he knew of Ms.  
17 Weatherly's concerns regarding Ms. Chambers and this  
18 incident.

19 Q Did he know about that?

20 A He said he would just handle it for me.

21 Q All right.

22 Did you understand what he was going to do when he  
23 handled it for you --

24 A No.

25 Q -- when he handled it?

1           A     No, I did not know what he would do.

2           Q     Did you tell him what to do?

3           A     No, I did not.

4           Q     Did you imply to him what he should do about it?

5           A     No, I did not.

6           Q     Did he ever -- did he ever report back to you about  
7 what he was going to do?

8           A     All I know, the report back was, is that we were  
9 going forth with a NAPA review, another NAPA review, and it  
10 would be paid for by the U.S. Park Police.

11          Q     And that's what Mr. Murphy told you.

12          A     Uh-huh.

13          Q     All right.

14                 During that telephone conversation with Ms.  
15 Weatherly, did Ms. Weatherly tell you that -- that Ms.  
16 Chambers had been raising with her concerns about public  
17 safety in the parks or -- or the safety of the -- of the  
18 national monuments?

19          A     No.

20          Q     All right.

21                 I'd like to -- I'd like to change focus a little  
22 bit right now and talk about budget deliberations that occur  
23 within the National Park Service and the Department of  
24 Interior.

25                 Are you someone who participates in discussions

1 about what the budget is going to be for the National Park  
2 Service?

3 A Yes.

4 Q Does that include the U.S. Park Police?

5 A Yes.

6 Q During those budget discussions, are there any  
7 warnings or cautions given to participants about what they  
8 can say and not say about what's talked about in there?

9 A We repeatedly, through our -- what's called our  
10 National Leadership Council meetings and our staff meetings  
11 that we have on Mondays and the Thursday associate meetings,  
12 which Park Police and others would attend -- we -- when we  
13 talk about budget, budget prior to release by the President -  
14 - in other words, before the President releases his budget,  
15 we know that those numbers -- remind everyone that those  
16 numbers are not to be shared with the public. It's only for  
17 our in-house work.

18 Q Who gives those reminders?

19 A I do sometimes. The comptroller will do it when he  
20 -- when we speak about numbers. The deputies might do so,  
21 and usually a lot of my associates to each other remind each  
22 other about that.

23 Q Can you say with any certainty whether Teresa  
24 Chambers was ever present when these warnings were given?

25 A I would expect that she would be, because she

1 attended the majority of our staff meetings, she or her  
2 representative, as well as the National Leadership Council  
3 meetings.

4           So, she would be, plus this would be -- she'd been  
5 with us through two budgets, so I would think so.

6           Q     Were these warnings given out during both budget  
7 cycles?

8           A     Yes.

9           Q     And Teresa Chambers would have participated in  
10 those meetings?

11          A     Yes.

12          Q     Did you ever have a conversation directly with  
13 Teresa Chambers about -- about disclosing these budget  
14 numbers?

15          A     I don't -- I would not think, one on one, as much  
16 as I would have done, you know, through -- as normal practice  
17 through our meetings, our staff meetings.

18          Q     In a group setting.

19          A     Yes.

20          Q     All right.

21                 I want to direct your attention to around mid- or  
22 late November of 2003.

23          A     Uh-huh.

24          Q     By the date of November 20th of 2003, if I can  
25 direct your attention to there --

1           A     Right.

2           Q     -- did you have some idea of what the amount of  
3     increase the National Park Service and the Department of  
4     Interior were going to request for the U.S. Park Police for  
5     the following fiscal year?

6           A     Yes.

7           Q     How did you have that information?

8           A     Well, as what we submitted to OMB, the Office of  
9     Budget and Management. We had not had our pass-back from  
10    them at that time, though.

11          Q     Was -- was that something that would have been  
12    known to Teresa Chambers?

13          A     Yes.

14               MR. HARRISON:  Objection, vague.

15               JUDGE BOGLE:  I'll permit it.

16               BY MR. L'HEUREUX:

17          Q     And what makes you say that?

18          A     Well, because we shared the numbers with what she  
19    had sent over that the -- went from the Department of  
20    Interior, which is called the secretary's budget, which went  
21    over to OMB, Office of Management and Budget, and so, those  
22    are shared back with our staff, our leadership, which is --  
23    Ms. Chambers would be a part of at that time.

24          Q     All right.  So, I mean it's your testimony, then,  
25    that by -- by November 20th, it was known and to -- including



1 to Ms. Chambers -- that the amount of increase that would be  
2 requested is \$8 million. Is that --

3 A That's correct.

4 Q -- accurate? All right. Thank you.

5 Let me shift focus again. Before I go off on that,  
6 did you read the Washington Post article in which Teresa  
7 Chambers was interviewed which appeared in The Washington  
8 Post on December 2, 2003?

9 A Yes.

10 Q Did you see anything in that article that caused  
11 you concern about budget numbers being discussed?

12 A Yes.

13 Q What was it that you saw?

14 A Basically, I saw the number that we had asked for,  
15 8 million, and -- being referenced -- as well as other issues  
16 that don't -- with how many officers we might need and  
17 things, but primarily because of the \$8 million being listed  
18 in there.

19 Q You say "primarily." Did that strike your  
20 attention in some way?

21 A Yes.

22 Q How?

23 A Because that was a direct violation of talking  
24 about your budget numbers before -- before the President  
25 comes out with a budget.

1           Q     Well, apart from -- apart from the fact that there  
2 were warnings given by you and others not to discuss these  
3 things, what's -- what problem would it make to discuss those  
4 things?

5                     How would that be a problem?

6           A     There's a circular that talks about that. I don't  
7 remember the number.

8                     We can get that information for you if you need,  
9 but -- that talks about talking about numbers before the  
10 actual President's budget comes out.

11                    Now, the President's budget is not what the  
12 secretary would submit. It goes to OMB, and OMB makes  
13 modifications, and we get to appeal if we wish to.

14                    So, there's no budget normally coming out until  
15 about February.

16                    So, the '05 budget wouldn't have come out until  
17 about February of -- of '04.

18           Q     Well, would -- would release of this information  
19 complicate any -- any of these processes?

20           A     Yes.

21           Q     How would that happen?

22           A     Basically, because we are -- our department is part  
23 of the administration, which means it's part of the executive  
24 -- it's part of -- of the President's team, and we need to be  
25 concurring so that our numbers that we go out with, once he

1 comes out with his numbers, then we can speak about those  
2 numbers, but up until that time, we're not supposed to,  
3 because there's a lot of modifications that can be done. As  
4 I just mentioned, it goes to OMB. Then OMB passes back to  
5 us. The we can appeal.

6 So, there's a lot of chances of changes of numbers.

7 So, by using any specific numbers ahead of that time  
8 compromises the entire budget process for the parks in that  
9 particular area.

10 Q All right.

11 I want to change -- change subjects again, and now  
12 I want to -- I want to ask you briefly about the subject of a  
13 detail of Ms. Pamela Blyth, a subordinate of Ms. Chambers,  
14 from one set of duties to another. Did you become involved  
15 in a decision by Mr. Murphy that Ms. Blyth would be detailed  
16 from the U.S. Park Police for a period of time to another  
17 place?

18 A I knew that there was considerations for training  
19 for Ms. Blyth, and I became more aware of the issues when Ms.  
20 Chambers spoke to me about this.

21 Q When did that occur?

22 A I want to say it was in August.

23 Q Of 2003?

24 A Of 2003.

25 Q How did that conversation come about?

1           A     I know we had a lengthy discussion about it one  
2 night where I met with Ms. Chambers to go over budget as a  
3 whole and she also talked to me about Ms. Pamela Blyth, and I  
4 want to say that was around -- that was like August 5th or  
5 6th, something of that nature.

6           Q     All right.

7                     Well, concerning the detail of Ms. Blyth, what did  
8 Ms. Chambers say to you about that?

9           A     She said that this is something that she couldn't  
10 really live with, this was something that was not -- it was  
11 indicating that people who were opposing her will have won if  
12 Ms. Blyth is detailed anywhere.

13          Q     Did she tell you whether she had been directed to  
14 detail Ms. Blyth during that conversation?

15          A     She said that Don Murphy expected to have Ms. Blyth  
16 either detailed or in -- at one point it was a detail,  
17 another time it was a temporary training opportunity, but I  
18 believe it was the detail that we were speaking to on that  
19 August 5th, and --

20          Q     All right. My question is, at the point where you  
21 spoke to Ms. Chambers, did she tell you whether she had been  
22 ordered to --

23                     MR. HARRISON: Objection. Asked and answered. He  
24 didn't like the answer.

25                     JUDGE BOGLE: I'll permit it.

1 BY MR. L'HEUREUX:

2 Q At the point where you spoke to Ms. Chambers, did  
3 she tell you whether -- tell you or imply to you whether or  
4 not she had been ordered by Mr. Murphy at that point to  
5 effect this detail, in other words whether Ms. Chambers had  
6 been ordered to effect the detail? Did that come up in the  
7 conversation?

8 A I -- I -- I don't know that the word "order" would  
9 have been able -- that I could say that I -- that she told me  
10 it was ordered.

11 She did say that she understood that Mr. Murphy was  
12 intending to detail.

13 Q I see.

14 Had you discussed this with Mr. Murphy?

15 A We had discussed options of enhancing Ms. Blyth's  
16 knowledge and expertise with the Federal system.

17 Q All right.

18 Had that been before or after Ms. Chambers spoke to  
19 you about this?

20 A He would have said that before, I think.

21 Q All right.

22 A Is my memory.

23 Q With respect to that conversation with Ms.  
24 Chambers, not with Mr. Murphy, was there some resolution of  
25 this issue between you and Ms. Chambers?

1           A     We talked in length for about four hours that night  
2 about budget, but with Ms. Blyth, I did say at that point  
3 that I would talk to Don to see what options there were; you  
4 know, is this the -- is this -- you know, with the needs that  
5 Ms. Chambers felt she had, is this the best option?

6           Q     And did you do that?

7           A     Yes, I did.

8           Q     And what was the result in that conversation?

9           A     At that point, it was my understanding they were  
10 going to either attempt or already had done part of that  
11 detail and would -- but was looking at options. We ended up  
12 with coming up with an option for going into some  
13 fundamentals for National Park Service and some other options  
14 that might also help Ms. Blyth be more knowledgeable to the  
15 Federal system.

16          Q     Did Mr. Murphy tell you in this conversation or any  
17 other that he had some willingness to be accommodating about  
18 this detail?

19          A     Definitely.

20          Q     What did he say to you about that?

21          A     He had said that -- you know, that he just wanted  
22 to be able to make sure that we had success with Ms. -- for  
23 Ms. Chambers and the U.S. Park Police, in -- particularly in  
24 the areas from budget to other Federal matters, and he just  
25 felt it was critical that Ms. Blyth have some additional

1 training in that effort.

2 Q All right. But again, concerning the accommodation  
3 issue, did Mr. Murphy say anything about what kind of  
4 accommodation he was willing to make about her absence from  
5 the Park Police or her availability to Ms. Chambers?

6 A He just said he would work -- he heard what I was --  
7 -- that I had expressed some of Ms. Chambers' concerns and he  
8 would try to have some discussion with Ms. Chambers to make  
9 sure it was clear that either a detail would go forward or  
10 another option might come forth that involved other training.

11 Q Do you know if he ever did have that conversation  
12 with Ms. Chambers?

13 A All I know is Ms. Blyth did attend some fundamental  
14 training.

15 Q I see.

16 Did there come a time, concerning the detail of Ms.  
17 Blyth, that Deputy Secretary Griles became involved?

18 A Yes.

19 Q How did you learn about that?

20 A I received a phone call from Deputy Secretary  
21 Griles to stop -- that -- not to go forward with the detail  
22 because of the fact that there was crisis or critical issues  
23 that only Ms. Blyth could do to help Ms. Chambers accomplish  
24 particular assignments.

25 Q To put you on the right page, could that phone call

1 that you're describing have occurred in late August?

2 A It probably could have.

3 Q Do you recall whether it was on a weekend or a  
4 workday?

5 A It was on my cell phone. It was at night. It  
6 seems like it was a Sunday night, but I can't be sure of  
7 that. But it was a night when -- and the way it was left  
8 with Mr. Griles was that the -- in my memory -- was that it  
9 was going to be a Monday that she would start, that -- not to  
10 have her start that Monday but we'd have meetings early part  
11 of that -- the week following regarding this issue.

12 Q Now, you said you recall that Mr. Griles used some  
13 kind of language about the urgency of this thing. Can you  
14 recall anything in addition to what you've said about what he  
15 said?

16 A Said it was urgent, that there was key areas that  
17 only Ms. Blyth could do, and if we failed to get that  
18 accomplished, if Ms. Chambers didn't have Ms. Blyth right  
19 there doing it, there was no one else that could do it, and  
20 it would be -- and it may have dealt with budget, but I just  
21 know it was critical issues that related to U.S. Park Police  
22 accomplishing some type of assignment.

23 Q Did you understand what Mr. Griles was talking  
24 about when he said this to you?

25 A I don't know that I -- I knew -- I knew about the



1 fact that, you know, again, as we said earlier, that there  
2 was consideration for a detail, but as far as the -- what  
3 assignments Ms. Blyth would do, I would not know that.

4 Q All right.

5 To change focus again, I'm not talking about Mr.  
6 Griles and the Blyth detail anymore.

7 In any of your conversations with -- with Teresa  
8 Chambers or in any meetings that you attended, did Teresa  
9 Chambers express that there -- that, for any reason, there  
10 was a danger to public safety or a danger to the national  
11 monuments?

12 Was language like that used to you?

13 A Only time I can really reflect back was at a  
14 training session involved all the -- at least key leaders of  
15 the U.S. Park Police, where it was talked about the  
16 Baltimore-Washington Parkway and that there were a lot of --  
17 like it was the area with the most accidents on it, and so, I  
18 asked that, sometime in the future, we have a briefing to  
19 that regard.

20 Q But did Ms. Chambers ever say, concerning budget  
21 and staffing issues, that there was a danger of loss of life  
22 in the parks?

23 A No.

24 Q Did she ever use language like that to you?

25 A No.

1           Q     Did she ever use language like that -- language  
2     like this, that there was some -- because of budget or  
3     staffing problems, there was some danger to national  
4     monuments?

5           A     Not -- the only time she ever referred to any kind  
6     of danger was in a letter that came or a memo that came in in  
7     November.

8           Q     Was that about November 28th?

9           A     Yes.

10          Q     How did that letter happen to come to you?

11          A     That one, I can't -- I don't remember how it was  
12     delivered.

13          Q     Did it come to your office, or did it come  
14     somewhere else?

15          A     It came to my office. It must have been at my  
16     office. But I don't remember that.

17          Q     Do you recall what the letter said?

18          A     It was basically -- I'm trying to -- the part that  
19     certainly got my attention the most was where, at the end of  
20     the letter, she talked about -- that we are not going to be  
21     able to cover icons or cover, you know -- and it caught my  
22     attention, because -- that this was something we had not been  
23     at before, you know, and so, I immediately went to Don Murphy  
24     and asked him to look into this.

25          Q     All right.

1                   That would have been around the day that you got  
2 it?

3           A     Right.

4           Q     Did you -- did you share those concerns that were  
5 expressed in that letter on November 28th?

6           A     With Don Murphy, for sure.

7           Q     Did you share them personally? Did you agree with  
8 what was --

9           A     Oh.

10          Q     -- the concern that was being expressed?

11          A     No, not at all.

12          Q     Why not?

13          A     Well, you have -- you know, I know that there were  
14 challenges since September 11th, but you know, we have an  
15 operations budget that has gone up since I've been here, in  
16 the U.S. Park Police, by 33 percent or more, and yes, we are  
17 still -- we are addressing icon security around the  
18 Washington Mall and things of that nature, but not ever did I  
19 think that there was life-threatening situations that were  
20 taking place.

21          Q     Did you understand, having read that letter, that --  
22 -- why Teresa Chambers was using that kind of language in a  
23 letter to you?

24          A     The only thing -- the timing came after the time  
25 she had sent a e-mail to us, that she had talked with the

1 Post, and after -- after there had been a discussion at the  
2 NLC meeting conference call, National Leadership -- National  
3 Leadership conference call regarding our budget pass-back.  
4 That's -- it just was interesting it just appeared after that  
5 time.

6 Q Had Teresa Chambers -- prior to the time or around  
7 the time that she sent you this letter, had she -- had she  
8 talked to you and said, you know, I've got a -- I've got a  
9 budget and staffing crisis here, and there's going to be --  
10 there's going to be loss of life, there's going to be danger  
11 if -- if this isn't corrected? Did she use language like  
12 that to you?

13 A Ms. Chambers would say she always needed more  
14 money, but to say that she thought -- which I would ask her -  
15 - I mean she -- she would tell me that we are -- we're taking  
16 care of our parks, we're doing what we can. You know, she  
17 was very proud of how she handled -- from tractor man on to  
18 other issues, and she had been proud of how she was handling  
19 her issues.

20 The only one I had heard of, you know, was the fact  
21 of the Baltimore-Washington Parkway and the fact that, you  
22 know, she'd like a new helicopter, she'd like some other new  
23 things, but you know -- and needed -- wasn't getting her  
24 classes -- her classes through the training as well, but not  
25 that we were in life -- that we were in jeopardy of some

1 kind.

2 Q All right. And let me change focus again now to  
3 December 2nd of 2003.

4 On or about December 2nd of 2003, did you receive a  
5 -- a written communication from Teresa Chambers, the subject  
6 of which was some information about Mr. Murphy?

7 A Yes.

8 Q Do you recall that -- that communication --

9 A Yes.

10 Q -- we're speaking here?

11 Did you interpret that communication to be a  
12 grievance?

13 A Absolutely not. It was a letter of concern, which  
14 I had had some discussion with her even before that letter  
15 was sent.

16 Q What did you do with that letter?

17 A I immediately gave it to our legal counsel.

18 Q Did you discuss that -- that letter or the contents  
19 of that letter at any time with Mr. Murphy?

20 A Absolutely not.

21 Q To this day?

22 A I have never spoken to him or shown that to him.

23 MR. L'HEUREUX: I have no further question, Your  
24 Honor.

25 JUDGE BOGLE: Mr. Harrison?

1 MR. HARRISON: Yes, Your Honor. Thank you.

2 CROSS EXAMINATION

3 BY MR. HARRISON:

4 Q Director Mainella, you were asked by your counsel  
5 your role, if any, in the final decision to remove Ms.  
6 Chambers, and I believe you said that you were not the final  
7 decision-maker.

8 Is that correct?

9 A That's correct.

10 Q Did you ever perceive yourself for any moment in  
11 time to be the final decision-maker?

12 A At one point, I did think I was going to be that  
13 decision-maker.

14 Q Okay. And I take it something convinced you that  
15 you were not going to be.

16 A Well, I was told that I would not be.

17 Q Okay.

18 Who told you that?

19 A I received a call from legal counsel that it would  
20 be Mr. -- Deputy Secretary Paul Hoffman.

21 Q Okay.

22 Did you ever come to understand what authority  
23 superior to you would have pulled you out of that role as  
24 deciding official?

25 A No.

1 Q You had indicated you gave an interview, under  
2 oath, I take it, to Mr. Hoffman regarding Ms. Chambers?

3 A Yes.

4 Q Okay.

5 Did you have any occasion to ever review Ms.  
6 Chambers' written response to Mr. Murphy's proposed removal?

7 A Yes.

8 Q And did you ever have occasion to make handwritten  
9 notes on the document you reviewed?

10 A Yes.

11 Q Okay.

12 Why did you do that?

13 A I did it in preparation -- it's a combination --  
14 when I was preparing to be interviewed by Mr. Hoffman -- and  
15 then I probably added more notes in preparation for when you  
16 interviewed me, in my deposition.

17 Q Okay.

18 Did you ever communicate your observations in your  
19 notes to Mr. Hoffman other than in your interview?

20 A No, I did not.

21 Q Okay.

22 (Pause.)

23 BY MR. HARRISON:

24 Q Now, you had described your conversation with Ms.  
25 Debbie Weatherly -- I believe it was a telephone call?

1 A Yes.

2 Q Okay.

3 Now, Ms. Weatherly was also interviewed by Mr.  
4 Hoffman.

5 Do you know that?

6 A No.

7 Q And she testified under oath on page 4-G-8, and  
8 that is in the agency's response to the Chapter 75 appeal, I  
9 believe, tab 4-G, page 8.

10 She was asked, "Did you get the sense that Teresa  
11 Chambers was complaining about having to do the NAPA review,"  
12 and Ms. Weatherly said no.

13 Would you have any reason to dispute Ms.  
14 Weatherly's answer under oath in that interview?

15 A Well, obviously, that was not the impression I  
16 received via that phone call.

17 Q Okay. But you don't believe Ms. Weatherly is lying  
18 to Mr. Hoffman, do you?

19 A Ms. Weatherly is a very respect -- you know, very  
20 highly respected person, but the impression I received from  
21 my phone call was not that.

22 Q Okay. And you communicated your impression to Mr.  
23 Murphy, I take it.

24 A Yes.

25 (Pause.)



1 BY MR. HARRISON:

2 Q Did Ms. Weatherly at any time tell you that  
3 information you, Director Mainella, had given to Ms.  
4 Weatherly regarding the extent of progress in implementing  
5 the NAPA recommendations did not match the information she  
6 was receiving from Ms. Chambers?

7 A Yes.

8 Q Is there any written document that you could point  
9 the court to that would state the precise cautions that  
10 you've described in your testimony that were given to  
11 employees in meetings regarding not disclosing certain  
12 information having to do with budget deliberations? Were  
13 those written in minutes of any meeting or a follow-up memo,  
14 anything like that?

15 A I don't remember such follow-up notes, but there is  
16 a circular that addresses that.

17 Q All right. But that would be from OMB, I take it.

18 A I'm not sure. I know it guides us -- we hear about  
19 it. That's all I can tell you.

20 Q Okay. You don't know --

21 A And it's pretty well known by all of us that we're  
22 not supposed to talk about '05 numbers until the budget comes  
23 out by the President.

24 Q Okay. But the circular you're referring to -- do  
25 you actually know who wrote it, who the author is?

1           A     No, I don't.

2           Q     Okay.

3                     Now, you did indicate in your testimony to your  
4     counsel that, quote, "those numbers," unquote, are not to be  
5     shared before the President's budget is public, and I'm  
6     wondering, as precise as you can be, what are those numbers  
7     that aren't supposed to be shared with the public?

8           A     Would be what the budget actually came out to be,  
9     which is, you remember, when we talked before --

10          Q     Yes.

11          A     -- was the budget numbers that went -- we had asked  
12     for 8 million; it went down to 3.3 million, I believe was the  
13     number, and --

14          Q     Okay.

15          A     So --

16          Q     Do you mean the precise numbers for a budget  
17     request in a document submitted to OMB?

18          A     From OMB. Again, it goes back and forth through  
19     process, and then the President comes out with his budget  
20     usually in February, and that's the numbers.

21                     You don't -- you're not supposed to talk about  
22     those numbers --

23          Q     Okay.

24          A     -- in a public setting until that time.

25          Q     I see.

1           So, if an employee was asked and answered in a  
2 public setting, you know, what do you think your agency needs  
3 to do its job and the employee gave a number, in their own  
4 opinion, but that number didn't match any particular number  
5 in a budget submission at the levels you're describing, that  
6 wouldn't, I take it, violate the circular you're talking  
7 about?

8           A     I'm not an attorney to make that determination, so  
9 -- normally, what we -- let me just say that normally what we  
10 ask is that you stay talking in general concepts, that I'm  
11 going to need more employees, I'm going to -- you know -- but  
12 don't get into the specific numbers.

13          Q     Okay.

14                 Now, you were asked by Mr. Hoffman in your  
15 interview with him about another instance -- I believe Ms.  
16 Chambers may have raised it in her response -- about some  
17 other employee who had made some statements about budget  
18 numbers, including, I think, a general reference to million  
19 or maybe an 11 million figure. Do you remember that?

20          A     I remember that Mr. Hoffman asked me about other  
21 scenarios that had come -- other times where people might  
22 have referred numbers.

23          Q     Okay. And do you recall telling Mr. Hoffman that  
24 the instance that you were asked about would not be a concern  
25 because it was just a general number like \$11 million?

1           A     My -- what I recollect of that was the fact that  
2     the numbers were all after the President came out with his  
3     budget, and we are allowed to speak to numbers -- in my  
4     memory -- that's my memory, is everything that Mr. Hoffman  
5     singled out for me to respond to that Ms. Chambers may have  
6     referred to were all things done after a President's budget  
7     came out.

8           Q     Okay.

9                     Now, did you -- at the time that you read The  
10    Washington Post -- and I believe you told your counsel you  
11    did read the Washington Post article on December 2nd? Is  
12    that correct?

13          A     I did.

14          Q     And did you go and make an inquiry yourself to  
15    confirm that the number, \$8 million, Ms. Chambers was using  
16    matched numerically with a number in one of these budget  
17    documents that was being submitted?

18                     Did you do that inquiry?

19          A     I did not do where I pulled my budget up and looked  
20    at it.

21                     I just knew 8 million was the -- the area of the  
22    budget that we had asked for.

23          Q     Okay. Is there a chance that that number could be  
24    approximate and the actual number submitted was 9 or 10  
25    million?

1           A     Eight million was what was in my memory, but it  
2 doesn't mean that -- again, I did not go back to my numbers.

3           Q     Okay. All right.

4                     Now, in terms of the -- let's say that, for the  
5 purpose of argument, the number was 8 million in the budget  
6 document you were remembering.

7                     Did you understand what that \$8 million would have  
8 represented? Eight million to do what?

9           A     Basically give us more recruit classes, primarily.  
10                    That was the main focus of what we were trying to  
11 do. We --

12          Q     Okay.

13                    Now, did you understand this \$8 million was the  
14 total budget for the U.S. Park Police, or was it something  
15 different?

16          A     No, that's an addition onto their existing budget,  
17 which, as I said earlier, had already increased by 33 percent  
18 since I've been here.

19          Q     Uh-huh.

20                    So, the 8 million, as you understood it, that you  
21 were remembering from these budget documents, would have been  
22 the amount for the total increase for fiscal year '05 for the  
23 U.S. Park Police.

24          A     That we were asking for.

25          Q     That you were asking for.

1           A     And that was in the operations budget. I do have  
2 different parts of budget, and when I said 33-percent  
3 increase, in the operating, which pays for staff and things  
4 of that nature.

5           Q     Okay.

6                     So, your recollection is that this 8 million figure  
7 would be for an increase, not the total budget but an  
8 increase for fiscal year '05 for the Park Police within the  
9 operations category.

10          A     That's correct.

11          Q     Okay.

12                    Now, when you read the Washington Post article on  
13 December 2nd, did you notice that Ms. Chambers was actually  
14 talking about three different figures in the same -- in the  
15 space of a sentence or two -- a \$12 million figure, an \$8  
16 million figure, and a \$7 million figure? Did you notice all  
17 three of those?

18          A     The 12 million I certainly remember.

19          Q     Okay. You don't recall a reference to needing 7  
20 million for a helicopter?

21          A     I do remember her asking -- I do remember that in  
22 there.

23          Q     Okay.

24          A     And that was one that was even turned down by the  
25 secretary.

1 Q Okay.

2 Now, did you understand that the Park Police had  
3 actually requested as what they wanted for their increase for  
4 fiscal year '05 a number substantially larger than \$8  
5 million?

6 A Yes, I did.

7 Q Okay.

8 Do you recall that amount being somewhere in the  
9 neighborhood of \$42 million?

10 A My memory was 27 million.

11 Q Okay.

12 Now, if you took the Washington Post article and  
13 the reference to the \$12 million, the \$8 million, and the \$7  
14 million and you added those three numbers up, would that be  
15 \$27 million?

16 A About that.

17 Q Okay.

18 Do you have any way of knowing whether or not Ms.  
19 Chambers told The Washington Post in response to their  
20 questions as to what she felt was needed that it was maybe  
21 something in the neighborhood of \$27 million rather than \$8  
22 million for an increase?

23 A I don't know.

24 Q You don't know?

25 (Pause.)

1 BY MR. HARRISON:

2 Q Now, you were asked about the detail of Ms. Blyth  
3 and your conversations with Ms. Chambers regarding that.

4 Did you understand that eventually what Mr. Murphy  
5 came up with after his discussions with you, even if it may  
6 have changed in some form, was still essentially a detail of  
7 Ms. Blyth out of the executive command office of Chief  
8 Chambers?

9 A I knew that she was going to do some period of  
10 detail with Mr. Brown. That's the part I remember, on  
11 strategic planning.

12 Q Okay.

13 I want to show you a document, Director Mainella.  
14 It's been marked as Appellant's Hearing Exhibit Z, as in  
15 Zoro, and let me ask if you've seen that before.

16 Take a moment and let me know if you do recognize  
17 it or not.

18 A No, I don't actually remember seeing this. It  
19 doesn't mean it wasn't part of a budget request that was  
20 submitted to our -- to our fiscal -- our key fiscal officer.

21 Q Okay.

22 A But this is not the type of material I typically  
23 see.

24 Q You wouldn't necessarily have seen this document?

25 A No.



1 Q Okay. Do you understand that it reflects a request  
2 for increased funding for the Park Police for fiscal year  
3 '05?

4 A I see it, what I'm reading here.

5 It says -- all I can say is it's -- it looks like  
6 it's an '05, but I --

7 Q Okay.

8 A It's hard to tell.

9 Q All right. Do you see the amount is \$41-plus  
10 million total?

11 A Yes.

12 Q Okay.

13 Are you prepared to say, from your own knowledge,  
14 that such a request was not made by the Park Police for  
15 fiscal year '05?

16 A I expected that there was a -- I don't know what  
17 was requested.

18 Ms. Chambers and I talked in that August 5th  
19 meeting on budget issues, but I don't know that I went -- we  
20 went into this depth. We went into helicopter -- needing a  
21 helicopter, needing more classes.

22 Q Okay. Understood.

23 MR. HARRISON: And Your Honor, we could wait until  
24 Ms. Chambers' testimony to do this, but I would -- just to  
25 avoid my forgetting it -- move the admission of Exhibit Z.

1 MR. L'HEUREUX: Objection, lack of foundation.

2 MR. HARRISON: Then I guess we'll wait, if Your  
3 Honor wishes.

4 JUDGE BOGLE: Okay.

5 BY MR. HARRISON:

6 Q And if you don't mind, Director, I'll take that  
7 document back.

8 Now, do you recall, Director Mainella, that an  
9 issue arose in regard to the U.S. Park Police budget that had  
10 to do with the -- the chief and other officials of the Park  
11 Police being concerned and upset, perhaps, that Mr. Schaefer,  
12 the comptroller for the park service, had submitted a budget  
13 request for the U.S. Park Police without consulting the U.S.  
14 Park Police?

15 A I remember Ms. Chambers being very upset over a  
16 very long period of time with -- with Bruce Schaefer  
17 regarding budget items as a whole.

18 The reality of increasing your budget when you only  
19 have a 79 million and they want to add 41 million onto it in  
20 one lump sum is expected that you would have your staffing  
21 speaking to Mr. Schaefer's staffing. So, I can't tell  
22 whether that took place or not.

23 Q Okay.

24 Do you recall Mr. Schaefer submitting a request for  
25 fiscal year '05, the same year we've been talking about --

1           A     Uh-huh.

2           Q     -- for the U.S. Park Police, at least ostensibly on  
3 their behalf, in the amount of \$3.3 million or so as the  
4 total increase?

5           A     Yes.

6           Q     Okay. And do you know whether the U.S. Park Police  
7 had input into that particular request?

8           A     Yes, they did.

9           Q     You believe they did. Do you know that from your  
10 firsthand knowledge?

11          A     I know from the fact that they submitted their  
12 paperwork in --

13          Q     And --

14          A     -- and there was discussion back and forth, is my  
15 understanding, from even Ms. Chambers, when we spoke, that  
16 there was staffing to staffing discussions, but it was the  
17 fact that Mr. Schaefer was not evidently convinced of what --

18          Q     Okay.

19          A     -- of what the validity would be.

20          Q     Let me be clear, I guess, in my question. Did you  
21 understand that Mr. Schaefer had submitted a request for \$3.3  
22 million as an increase for fiscal year '05 for the U.S. Park  
23 Police in documentation that represented it as a request of  
24 the Park Police without concurrence from the U.S. Park Police  
25 for that amount?

1           A     I don't know if I knew that.

2           Q     Okay.

3                     Now, you were asked by your counsel about a  
4 November 28th memo that you received from Ms. Chambers, and  
5 do you recall that, actually, Ms. Chambers gave you that  
6 document on your request?

7           A     Which document are we speaking to?

8           Q     This was the November 28th memo that I think was  
9 probably faxed to you. I'll show to you in just a moment to  
10 refresh your memory. And this would be found in the record  
11 at Exhibit 68 to the affidavit of Teresa Chambers for the  
12 stay motion.

13                     See if this refreshes your memory, Director. Do  
14 you recognize that?

15          A     Yes.

16          Q     Okay.

17                     Is that what your counsel, Mr. L'Heureux, had asked  
18 you about earlier today?

19          A     Yes.

20          Q     Okay. And do you recall asking Ms. Chambers to  
21 give you a document such as this around this time-frame in  
22 relation to the OMB pass-back for fiscal year '05?

23          A     We would -- I would not have asked Ms. Chambers, I  
24 don't believe, because our pass-back came to us -- where we  
25 were able to know about it was November the 26th, I believe.

1 Q Okay.

2 That would be six days after the interview by Ms.  
3 Chambers with The Washington Post.

4 A That is correct.

5 Q Okay.

6 A That we knew that, instead of the 8 million, the  
7 3.3.

8 At that point is when we're allowed to appeal.

9 Q Okay.

10 A And so, the direction that would have been given in  
11 the Leadership Council meeting, that conference call that  
12 happened on that day, would have been that here's where we're  
13 at, if you think there's a way for us to appeal anything, let  
14 us have the information.

15 Q I see.

16 A I don't --

17 Q I understand. I appreciate that. So, this may  
18 have been in response to --

19 A This is a general across -- because it wasn't just  
20 U.S. Park Police that would be reduced. It would be --

21 Q Understood. Others may have submitted similar  
22 information.

23 A Right.

24 Q And possibly for the purpose of your appeal or a  
25 suggested appeal?

1           A     Correct.

2           Q     I appreciate that.

3                     Let me show you a -- an e-mail that is Exhibit 70  
4 to that same affidavit in the record, see if you recognize  
5 that.

6           A     Okay. I don't -- I don't recognize it, but it  
7 doesn't mean that it didn't happen.

8           Q     Okay.

9                     You recognize it at least an e-mail, on its face,  
10 from Ms. Chambers to you?

11          A     It looks like it.

12          Q     And you're not disputing you received it?

13          A     I'm not disputing.

14          Q     Okay.

15                    Do you recall Ms. Chambers calling you at home on  
16 the 28th of November about this particular communication,  
17 either the e-mail or the memo I just gave you, the memo of  
18 the 28th?

19          A     I -- I don't necessarily remember. It doesn't mean  
20 it didn't happen.

21          Q     Understood.

22                    If you would -- let me just show you a document --  
23 this is Exhibit 74 to Ms. Chambers' affidavit. Tell me if  
24 you recognize this.

25          A     Yes.

1 Q Okay. And is this the -- the letter that Ms.  
2 Chambers gave to you that concerned her complaints about Mr.  
3 Murphy's conduct?

4 A This letter came to me in a blue envelope --

5 Q Okay.

6 A -- at my office. I don't know if Ms. Chambers  
7 delivered it or not.

8 Q I see.

9 Do you think maybe Mr. Beck or one of her officers  
10 may have delivered it?

11 A That -- that's who I thought I remembered.

12 Q Okay.

13 A But it didn't come -- you know, it was just  
14 delivered in the office.

15 Q I appreciate that. And did you understand it was  
16 sent to you by Ms. Chambers?

17 A I saw her name on it, yeah.

18 Q So, you assume.

19 A Yes.

20 Q All right. Now, in this document, does Ms.  
21 Chambers not ask you to take formal disciplinary action  
22 against Mr. Murphy?

23 A She asked for action, yes.

24 Q Formal disciplinary action.

25 A She says formal discipline action. Uh-huh.

1 Q Okay.

2 Did you begin an investigation of this particular  
3 request for disciplinary action?

4 A No, I just handed it to our attorneys.

5 Q Okay.

6 Was there some reason why you didn't do anything  
7 further on it?

8 A Because of the fact -- it's not a -- not a  
9 grievance.

10 It's -- it's a letter, and I was aware that the  
11 attorneys and others would give me guidance on how to  
12 proceed, because it asked --

13 Q Okay.

14 A -- because she was asking for some discipline.

15 Q So, it was not a grievance.

16 Do you normally give every letter you receive to  
17 your attorney?

18 A Many times, when it involves personnel matters,  
19 yes.

20 Q So, in this case, you gave it to the attorneys  
21 because there was a request for discipline in it.

22 A There was a request for discipline and also the  
23 fact that I just felt that I needed their guidance.

24 Q Uh-huh.

25 Have you taken any action on this letter?



1 A No.

2 Q Okay.

3 Did anyone do an investigation of the allegations  
4 in this letter, to your knowledge?

5 A No.

6 Q Okay. And no one else has taken action on the  
7 complaints made in this letter, to your knowledge?

8 A Not that I'm aware of.

9 Q Okay.

10 (Pause.)

11 BY MR. HARRISON:

12 Q Now, you discussed the concern and complaint that  
13 Ms. Chambers was making about Mr. Murphy's conduct with her  
14 over the phone, also, did you not?

15 A Yes.

16 Q Okay. And was that during the -- perhaps the phone  
17 call that occurred on November -- may have occurred on  
18 November 28th regarding these other communications I showed  
19 you?

20 A It may have. I know she and I did have a talk  
21 before about this.

22 Q Okay.

23 Let me show you a document that's been put into  
24 evidence as agency document tab 4-M, as in Mary, page 122  
25 through 124, and this would be in the -- in the agency appeal

1 of the Chapter 75 removal. Let me know if you've seen that  
2 before.

3 A (Examining) This looks familiar.

4 Q Okay.

5 Do you understand that this is Ms. Chambers copying  
6 you on a communication to Mr. Murphy where Ms. Chambers is  
7 saying essentially that she's willing to live with a detail  
8 of Ms. Blyth if it is not a total removal of Ms. Blyth from  
9 her duties assisting the chief, leaves Ms. Blyth, at least to  
10 some extent, available to the chief?

11 A It appears to be that she's willing to work with  
12 Ms. Blyth doing a detail but with restrictions.

13 Q Okay. And do you understand that to be reflecting  
14 Ms. Chambers' understanding that Mr. Murphy was considering a  
15 flexible detail that might leave Ms. Blyth available to Ms.  
16 Chambers, in part?

17 A I don't know all the details to that.

18 Q Okay.

19 You don't dispute that this document seems to  
20 reflect that.

21 A It seems to reflect generally that way but what  
22 restrictions, I'm not sure.

23 Q Okay.

24 Now, did you have occasion on December 2, 2003 --  
25 you've indicated you read the Washington Post article that

1 came out. Did you see any other media coverage of Chief  
2 Chamber's comments on that day?

3 A Yes. In fact, the first thing I saw was  
4 television.

5 Q Television. Okay. And was Ms. Chambers shown on  
6 the screen?

7 A Yes.

8 Q Okay.

9 What time of day was that?

10 A Would have been when I woke up, so it would be  
11 about 5:30, 6:00 o'clock in the morning.

12 Q Okay. Before you arrived at work.

13 A Right.

14 Q Okay. And did you pass on any concern you had  
15 about that television program to anyone?

16 A Yes.

17 Q To Mr. Murphy?

18 A Yes.

19 Q Okay. And what time of day do you think you may  
20 have spoken to him?

21 A I come in around 7:00 to 7:15. He's usually there  
22 by then. So, it would have probably been at that point. It  
23 was quite a surprise to me.

24 Q Okay. Did you direct Mr. Murphy to take any action  
25 against Ms. Chambers because of her media comments?

1 A No.

2 Q Now, you did agree with Mr. Murphy, did you not,  
3 that Ms. Chambers should be directed to have no more media  
4 interviews on December the 2nd or thereafter?

5 A I did not direct it.

6 Q Did you concur?

7 A I knew of that statement.

8 Q Mr. Murphy told you that he was going to give that  
9 instruction?

10 A I saw the e-mail.

11 Q Saw the e-mail from Mr. Murphy to Ms. Chambers?

12 A Uh-huh.

13 Q Okay.

14 Did you interject any objection to it when you saw  
15 it?

16 A Well, the way I read it, it was regarding the  
17 budget issues, primarily.

18 Q So, did you interject any objection to it?

19 A No.

20 Q So, I'm going to --

21 MR. HARRISON: If I can have just one moment.

22 (Pause.)

23 BY MR. HARRISON:

24 Q I'll show you a document that's in evidence as  
25 Exhibit 81 to Ms. Chambers' affidavit and see if this may be

1 the document you're remembering.

2 A Yes. That's why I thought it was budget, because  
3 it talked about '05.

4 Q Okay.

5 So, this is an e-mail from Mr. Murphy to Ms.  
6 Chambers copied to you?

7 A Uh-huh.

8 Q And it instructs --

9 A Yes.

10 Q Yes. And it instructs Ms. Chambers to have no more  
11 media interviews?

12 Is that correct?

13 A Yes, but the inference is the '05 budget.

14 Q So, you're telling me basically the concern raised  
15 about the interviews was budget issues.

16 A Yes.

17 Q Didn't mention security information, for example.

18 A It didn't in this, no.

19 Q Okay. Now, does this particular communication say  
20 no more media interviews, or does it just say no more  
21 interviews?

22 A The way I read this is you are not -- you are not  
23 to grant anymore interviews without clearing with me or the  
24 director.

25 Q Okay.

1           A     It does go on to talk about the -- you may not  
2 reference the '05 budget.

3           Q     My question was, did it restrict the -- how shall I  
4 say? -- the limitation to media? Does it explicitly restrict  
5 that limitation to media?

6           A     Well, typically, any media contacts are to be  
7 coordinated through our media office --

8           Q     That's not my question.

9                     My question is, does this document restrict Ms.  
10 Chambers only to having media interviews, or does it give a  
11 blanket prohibition on interviews, period?

12                    MR. L'HEUREUX:  Objection, relevance.

13                    JUDGE BOGLE:  I think the document speaks for  
14 itself, so --

15                    MR. HARRISON:  Fine.

16                    BY MR. HARRISON:

17           Q     Did Mr. Murphy ever consult you and get your  
18 concurrence on any communication to Ms. Chambers on December  
19 2nd that would restrict her communications to the press?

20           A     I don't remember any.

21           Q     Okay.  If Mr. Murphy had left Chief Chambers a  
22 voice mail that said the director and I agree and went on to  
23 say something to the effect you shouldn't have anymore  
24 interviews, would you dispute that you had concurred with Mr.  
25 Murphy on that?

1           A     He knows me very well.  I would know that he knows  
2 we have to follow certain procedures.

3           JUDGE BOGLE:  Why are we covering this with this  
4 witness?

5           Everything you've asked her, she basically says she  
6 may have seen but was not instrumental in -- in issuing.

7           MR. HARRISON:  Well, she has said that in regard to  
8 these particular instructions, but we have a voice mail from  
9 Mr. Murphy to the contrary which would go, at a minimum, to  
10 her credibility as a witness for the agency.

11          JUDGE BOGLE:  I really don't think her credibility  
12 is going to be an issue.

13          So, let's move on --

14          MR. HARRISON:  Well, Your Honor --

15          JUDGE BOGLE:  -- to an area that she does have  
16 testimony to give.

17          MR. HARRISON:  I respectfully disagree and object  
18 to Your Honor's characterization.  If Mr. Murphy says  
19 something contrary to this witness, you have the two chief  
20 officers in the National Park Service disputing each other, I  
21 think that's a credibility issue, for the record.

22          JUDGE BOGLE:  I think the area that you're  
23 discussing is not a relevant area.  So, I don't expect that  
24 her credibility is going to be an issue with respect to that  
25 area.

1 MR. HARRISON: Well, I would --

2 JUDGE BOGLE: Let's move on.

3 MR. HARRISON: I --

4 JUDGE BOGLE: Mr. Harrison.

5 MR. HARRISON: May I state relevance for the record  
6 as a proffer, Your Honor?

7 JUDGE BOGLE: Very quickly.

8 MR. HARRISON: Okay. Thank you.

9 The relevance to the IRA appeal is that restricting  
10 communications with the press or with Congress is direct  
11 evidence of retaliatory motive under the case law. If Mr.  
12 Murphy did so and if this witness did so, then that's  
13 relevant to the IRA case, for the record.

14 BY MR. HARRISON:

15 Q Did you understand, Ms. Mainella, that the  
16 Washington Post reporter that interviewed Ms. Chambers had  
17 also spoken with the Fraternal Order of Police  
18 representative?

19 A I believe I remember that.

20 Q Okay.

21 (Pause.)

22 BY MR. HARRISON:

23 Q Did you ever encourage your employees to  
24 communicate with, get to know the appropriations staff at the  
25 congressional committee?



1 A Yes, I would.

2 Q Okay

3 A Going through proper procedures.

4 Q Uh-huh.

5 Did you understand that Ms. Chambers was, in good  
6 faith, working to implement recommendations from NAPA in a  
7 number of areas?

8 A I know that Ms. Chambers was brought on to help us  
9 implement those changes, but our success didn't appear to be  
10 as evident.

11 Q My question is, was Ms. Chambers making efforts in  
12 good faith in a number of areas to implement NAPA  
13 recommendations?

14 Do you know that or not?

15 A Ms. Chambers was making some efforts towards some  
16 of the NAPA review.

17 Q All right.

18 (Pause.)

19 MR. HARRISON: Nothing further, Your Honor.

20 JUDGE BOGLE: Mr. L'Heureux?

21 MR. L'HEUREUX: No further questions, Your Honor.

22 JUDGE BOGLE: All right.

23 Thank you. You're excused.

24 (Witness excused.)

25 MR. L'HEUREUX: Is Ms. Mainella discharged? She

1 has another place to be tomorrow.

2 JUDGE BOGLE: Yes.

3 MS. MAINELLA: Thank you for working with my  
4 schedule.

5 JUDGE BOGLE: Not at all.

6 It is 4:44. I guess we should recess for the day  
7 and reconvene tomorrow at 9:00, and you'll have a witness  
8 who's ready, will you not?

9 MR. L'HEUREUX: We will. We'll proceed with Mr.  
10 Hoffman for the benefit of counsel.

11 MR. HARRISON: Thank you very much.

12 JUDGE BOGLE: All right. Thank you very much.

13 (Whereupon, at 4:44 p.m., the hearing was recessed,  
14 to reconvene Thursday, September 9, 2004, at 9:00 a.m.)

15 \*\*\*\*\*