

UNITED STATES OF AMERICA  
MERIT SYSTEMS PROTECTION BOARD

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TERESA C. CHAMBERS	:
	:
Appellant	:
	:
v.	:
	:
DEPARTMENT OF THE INTERIOR	:
	:
Agency.	:
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1800 Diagonal Road  
Alexandria, Virginia

Thursday, September 9, 2004

THE HEARING in the above-entitled matter reconvened at  
8:59 a.m., pursuant to notice.

BEFORE:

ELIZABETH B. BOGLE, Administrative Judge

APPEARANCES:

On Behalf of the Appellant:

MICK HARRISON, ESQ.  
RICHARD E. CONDIT, ESQ.  
Public Employees for  
Environmental Responsibility  
2001 S Street, N.W., Suite 570  
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On Behalf of the Agency:

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

ALSO PRESENT:

TERESA C. CHAMBERS, Appellant

## C O N T E N T S

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS
Paul Hoffman	4	20	--	--
Teresa Chambers	85	184	--	--
Charles Schaefer	207	218	--	--
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1 P R O C E E D I N G S

2 JUDGE BOGLE: Good morning. We are on the record.

3 Do you have any objection to taking an oath?

4 MR. HOFFMAN: No, ma'am.

5 Whereupon,

6 PAUL DAVID HOFFMAN

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: Paul David Hoffman, Deputy Assistant  
12 Secretary of the Interior for Fish and Wildlife and Parks.

13 JUDGE BOGLE: Before we begin Mr. Hoffman's  
14 testimony, I want to remind you of a discussion during the  
15 pre-hearing conference.

16 At that time, I said that because this is a de novo  
17 hearing, and Mr. Hoffman is the deciding official, he is not  
18 being called to testify as to why he decided to sustain the  
19 charges. The Agency has to separately prove that to me.

20 He is being called essentially because he was the  
21 deciding official who imposed the penalty and also he can be  
22 asked about any of the affirmative defenses.

23 Mr. L'Heureux?

24 MR. L'HEUREUX: Thank you.

25 DIRECT EXAMINATION

1 BY MR. L'HEUREUX:

2 Q Would you describe your present duties?

3 A In my present capacity, I assist the Assistant  
4 Secretary of Fish and Wildlife and Parks in policy decisions  
5 for both the National Park Service and the Fish and Wildlife  
6 Service.

7 We handle correspondence, deal with Congress,  
8 testify on bills, help constituents who have issues with  
9 either of the bureaus, help provide leadership for the  
10 bureaus in meeting their missions within their budgets, and  
11 within the confines of the laws that authorize them and drive  
12 their programs, help them in establishing strategic plans,  
13 goals, those sorts of things, and helping them basically  
14 achieve their function, try to provide a service that leads  
15 to governance.

16 Q How long have you been in your present position?

17 A Two and a half years. I started February 1, 2002.

18 Q Would you briefly describe your experience before  
19 you took this position?

20 A Going backwards in time, immediately prior to this  
21 position, I was the executive director of the Cody County  
22 Chamber of Commerce and Cody Economic Development Council, a  
23 non-profit organization and business membership organization  
24 in Cody, Wyoming, where I helped lead community and economic  
25 development issues, including a lot of Federal land

1 management issues, because the county that Cody, Wyoming is  
2 located in is 82 percent Federal land.

3 In that position, I was responsible for organizing  
4 and leading approximately 200 volunteers out of a 640 member  
5 organization, coordinating about 4,800 hours a year in  
6 volunteer activities.

7 I supervised seven full time professionals and four  
8 part time professionals.

9 Prior to that, I had a couple of sort of in between  
10 opportunity jobs, if you will, that I'll just skip over.

11 From 1985 to 1989, I was the state director for  
12 then Congressman Dick Cheney. In that capacity, I  
13 represented him at various meetings and functions in the  
14 state. I reported to him on issues germane to his  
15 responsibilities to the state. Made recommendations on  
16 policy and legislation. Served constituents and helping  
17 resolve their issues with the Federal Government.

18 I supervised three other staff people who were the  
19 balance of the state staff for Congressman Cheney at that  
20 time.

21 Previous to that, 1980 to 1985, I was a loan  
22 officer at First Llamic Bank in Cody, Wyoming. I began that  
23 career as an installment loan officer, consumer loan officer.

24 When I left in 1985, I was an assistant vice president  
25 making commercial and agricultural loans, as well as being in

1 charge of the consumer loan department. I was responsible  
2 for about a \$4 million loan portfolio. I supervised four or  
3 five people at that time.

4 Before that, I had a number of sort of spotted pre-  
5 marriage jobs.

6 Q Let me ask just to kind of get to the point here,  
7 were you the deciding official concerning the removal from  
8 Federal service of Teresa Chambers?

9 A Yes.

10 Q Did somebody decide that you were going to be the  
11 deciding official, or is that something you did yourself?

12 A I was asked by one of the solicitors if I would  
13 serve as the deciding official in this matter. I took that  
14 to my immediate supervisor, Assistant Secretary Craig Manson,  
15 told him I had been asked to serve as the deciding official,  
16 and he suggested that would be a good thing to do, and agreed  
17 that I should do that.

18 Q Did you in fact make a decision concerning removal  
19 of Teresa Chambers?

20 A I did.

21 Q Did your supervisor or anyone else in the  
22 Department influence you one way or the other about how to  
23 make that decision?

24 A No, not at all.

25 Q Was there any outside influence other than yourself

1 in that decision?

2 A No. In fact, I took steps to ensure that I was  
3 never involved in any discussions concerning this matter with  
4 anybody else in the Department other than counsel, for the  
5 specific reason of ensuring that I made a fair and impartial  
6 decision.

7 Q And you believe that you did make a fair and  
8 impartial decision?

9 A Yes, I do.

10 Q Let me ask you to turn, if you will, to some  
11 documents in front of you. One of them is going to be  
12 reasonably thick, and that's not the one. It will be labeled  
13 Agency File 0752, Volume 1.

14 A I don't think that's here. Oh, Volume 1.

15 Q If you will turn to Tab 4B in that volume.

16 A Yes.

17 Q Would you look at Tab 4B briefly?

18 (Witness reviewing document.)

19 BY MR. L'HEUREUX:

20 Q What is Tab 4B?

21 A This is my decision letter addressed to Teresa  
22 Chambers.

23 Q Is this your decision and your decision alone?

24 A Yes.

25 Q Were there any reasons for your decision to propose



1 the removal of Teresa Chambers that are not contained in this  
2 letter that's found at Tab 4B?

3 A No.

4 Q Let's look at it a little bit in detail. What I  
5 don't want to do is read through each of these considerations  
6 and have you read through what you did.

7 I'm going to ask you just to comment on these  
8 considerations that are written down here. The essence of  
9 this is found first on page two, if you look at page two  
10 under "Penalty Determinations."

11 There in bold is some language that says -- these  
12 are considerations of things called the Douglas Factors; is  
13 that correct?

14 A Yes.

15 Q This factor number one, would you look at that  
16 briefly?

17 A Uh-huh.

18 (Witness reviewing document.)

19 BY MR. L'HEUREUX:

20 Q Without reading through everything you wrote, would  
21 you tell us to what extent factor number one played into your  
22 decision that removal was appropriate of Teresa Chambers?

23 A First and foremost, the position of Chief of the  
24 U.S. Park Police is a very high profile position, which has  
25 high expectations of the highest standard of conduct.

1           That position leads a police department of 600  
2 people, both law enforcement and non-law enforcement. It is  
3 responsible for protecting the National Mall and some of the  
4 nation's most well known national icons.

5           The position is responsible for working closely  
6 with other police and law enforcement agencies in the  
7 District of Columbia from time to time. The position is  
8 responsible for providing the security for events in the Mall  
9 that can include up to half a million people.

10           The U.S. Park Police is part of the National Park  
11 Service, and so as such, it is not a stand alone agency, and  
12 the Chief of the U.S. Park Police answers to, in this  
13 particular case, the Deputy Director of the National Park  
14 Service, and certainly ultimately to the Director of the  
15 National Park Service.

16           Accordingly, it's very important that there be a  
17 high degree of trust and confidence on the part of the  
18 Director of the National Park Service that the Chief of  
19 Police is carrying out the policies and directives of the  
20 National Park Service, and is striving to achieve the mission  
21 as established by the Department of Interior and the National  
22 Park Service.

23           Q     Let me interrupt you, Mr. Hoffman, if I may. Was  
24 there something in particular about the offenses that Ms.  
25 Chambers was charged with that persuaded you that your

1 consideration of this factor meant she ought to be removed?

2 A Yes. In essence, if you take a look at the charges  
3 as a whole, one of the charges involved not carrying out what  
4 was the desire of Congress relative to the NAPA study and the  
5 implementation of the recommendations that resulted from that  
6 study.

7 Through her actions, Teresa Chambers caused a lot  
8 of anxiety on the part of the congressional appropriators  
9 because of her unwillingness to properly carry out their  
10 desires.

11 The improper disclosure of budget figures while  
12 they are in place, so to speak, while they are being  
13 negotiated between the Department of the Interior and the  
14 Office of Management and Budget.

15 The disclosure of staffing levels and numbers of  
16 patrols in the Mall, around the national icons, and on the  
17 Federal parkways, which the Park Police is responsible for in  
18 the Washington area, in my mind, potentially endangered large  
19 numbers of citizens and indeed, the very icons themselves.

20 It was what seemed to me to be a pattern of  
21 unwillingness to follow instructions that caused a serious  
22 erosion in the ability of Deputy Director Murphy to be able  
23 to trust and have confidence that she would carry out other  
24 instructions.

25 Also, to the issue of following instructions and

1 the chain of command, those are two principles that are  
2 absolutely critical in the administration of any law  
3 enforcement agency. You cannot have a situation where your  
4 subordinates do not follow orders or instructions or where  
5 your subordinates go around you in an attempt to breach the  
6 chain of command, particularly when your orders may have life  
7 or death consequences.

8           The principle of following instructions and  
9 adhering to the chain of command is an especially important  
10 principle given the nature of this particular position as  
11 Chief of the U.S. Park Police.

12           Q     Mr. Hoffman, would you turn to page four of that  
13 document that is before you, and at the top, there is a  
14 consideration labeled "The Employee's Past Disciplinary  
15 Record."

16           Without reading this for the Judge, would you tell  
17 the Judge what effect Ms. Chambers' past disciplinary record,  
18 if any, had on your decision to remove Ms. Chambers from  
19 Federal service?

20           A     Well, first and foremost, the fact that in a less  
21 than two year period of time, Ms. Chambers had a reprimand,  
22 in addition to the proposal to remove, was a factor.

23           Secondly, in that reprimand, which she signed and  
24 did not contest, she was told that in her position, she would  
25 be held to a very high standard. She was also told that it

1 was her responsibility to know the policies of the Department  
2 of the Interior and the National Park Service, and to adhere  
3 to those policies.

4 Her actions subsequent to that reprimand  
5 demonstrated to me that she did not listen or take seriously  
6 the essence of that reprimand, and she continued to disregard  
7 policies, and she continued to not hold herself to the high  
8 standard which she was expected to hold herself to.

9 Q Were you influenced at all by what she was actually  
10 reprimanded for having done?

11 A Yeah. I thought it was rather surprising to me  
12 that she would take it upon herself to drive her official  
13 vehicle all the way to the Raleigh/Durham, North Carolina  
14 area on several occasions for personal reasons, not official  
15 business. She was not discharged to that community for an  
16 official reason. As I understand it, she was moving.

17 Nonetheless, she drove her official vehicle against  
18 Department policy to the Raleigh/Durham, North Carolina area  
19 on more than one occasion, and she also authorized one of her  
20 subordinates to do the same thing.

21 Q What did that mean to you with respect to your  
22 decision about removal?

23 A It showed to me a disregard for the image that she  
24 is supposed to uphold in her capacity as Chief of the U.S.  
25 Park Police. Again, as she was told in the letter of

1 reprimand, she is held to a very high standard.

2 She is supposed to be a shining example of how to  
3 do things right for her 600 employees, and for her to take a  
4 government vehicle for personal use on multiple occasions and  
5 authorize another to use a government vehicle for personal  
6 use is demonstrating very poor leadership.

7 Q Without looking at each of these factors and  
8 dissecting each of them in turn, some of them are actually  
9 redundant, let me just ask you this.

10 Did you then or do you know believe that any  
11 penalty other than removal might have been appropriate to  
12 deal with the charges?

13 A I considered it, but I found that no action short  
14 of removal would be appropriate in this circumstance.

15 Q Why?

16 A And the reasons for that are one, I believe that  
17 her actions so severely broke down the trust and confidence  
18 of the directorship of the National Park Service in her  
19 ability to carry out the policies of the Department and  
20 instructions that she is given, that I could not see how that  
21 relationship could be repaired.

22 There was no admission of wrongdoing on her part,  
23 no acknowledgement that any of her actions were  
24 inappropriate.

25 She had been reprimanded already while in her

1 performance as U.S. Park Police Chief and actually evaluated,  
2 and to have a reprimand in almost a year of first taking the  
3 job and then subsequently continuing to commit the same kind  
4 of misconduct that led to the removal, to me, demonstrated  
5 that she was not rehabilitative and that she was not  
6 trustworthy or could enjoy confidence of her superiors as a  
7 U.S. Park Police employee.

8 Q Let me ask you another question. Were you  
9 motivated to decide to remove Teresa Chambers because she  
10 dared to criticize the Department or the administration?

11 A Well, I don't know that I would put it that way. I  
12 was -- the December 2nd Washington Post article wherein  
13 Teresa Chambers said that she needed a force of 1,400  
14 officers in order to properly protect all of the areas she's  
15 responsible for was the exact opposite of the Department and  
16 the National Park Service policies that had been communicated  
17 to her on numerous occasions in meetings leading up to that  
18 point in time.

19 What it said to me was that she was not capable of  
20 communicating Department policy or adhering to Department  
21 policy when she communicated the exact opposite message in  
22 the media.

23 Also, for me, the disclosure of budget figures,  
24 when she should have known, she had attended meetings where  
25 all the National Park Service leadership were advised not to

1 disclose those figures, that disclosure and probably most  
2 important for me, the disclosure of staffing levels and  
3 patrols at the national icons and on the Federal parkways,  
4 anybody in law enforcement knows better than to disclose that  
5 kind of information which might endanger visitors to those  
6 areas and/or endanger the actual physical assets themselves,  
7 which are some of the most premiere icons this country loves.

8 Q Concerning what Ms. Chambers said that you  
9 described that was different from the policies of the  
10 Department, did it matter to you in your decision to remove  
11 her that when she spoke to the Washington Post, she was  
12 speaking officially?

13 A Absolutely. This was not an off the cuff interview  
14 where she was acting outside of her official capacity. She  
15 was responding to the Post questions in her official capacity  
16 as Chief of the U.S. Park Police, in which case I would  
17 expect her to communicate the policies and positions of the  
18 Department of the Interior and not her own personal policies  
19 and positions.

20 MR. L'HEUREUX: I have no further questions, Your  
21 Honor.

22 JUDGE BOGLE: Before we move onto cross  
23 examination, there is just one thing I'd like to ask.

24 You have your decision in front of you?

25 THE WITNESS: Yes.



1           JUDGE BOGLE:  If I can correctly state the case law  
2 that applies, the Board generally defers to the penalty  
3 chosen by the Agency.  However, that is not necessarily true  
4 when less than all of the charges are sustained.

5           In that case, the Board would look to see what the  
6 maximum reasonable penalty for the sustained charges would  
7 be, unless the deciding official has expressed a different  
8 opinion.

9           Looking at these charges here, all of which you  
10 sustain, would you have imposed a lesser penalty if some of  
11 them had not been sustained, and if so, can you tell us which  
12 ones?

13           THE WITNESS:  Yes.  If fewer than all of the  
14 charges had been sustained, I would have still imposed the  
15 penalty of removal.

16           For me, the charge of improper disclosure of budget  
17 information, the violation of the OMB Circular, the  
18 disclosure of the staffing and patrol numbers at the icons  
19 and the Federal parkways, and the willful failure to carry  
20 out instructions by her immediate supervisor, those all  
21 together aggregated to the point that I felt it was justified  
22 in removal.

23           JUDGE BOGLE:  Are you saying that each of these  
24 charges standing alone would warrant the penalty of removal?

25           THE WITNESS:  No, I don't think I'm saying that.  I

1 think what I'm saying is those three in particular together  
2 warrant removal.

3 JUDGE BOGLE: Tell me again which three you are  
4 talking about.

5 THE WITNESS: The disclosure of budget numbers.

6 JUDGE BOGLE: All right, charge one.

7 THE WITNESS: The disclosure of security and  
8 staffing levels at the icons, and the failure to carry out  
9 instructions.

10 JUDGE BOGLE: Those were the three most important  
11 charges in your mind, and if those three were not sustained,  
12 what penalty would you have chosen?

13 THE WITNESS: I would probably have proposed a  
14 suspension and perhaps a reinstatement into a position of  
15 less responsibility.

16 JUDGE BOGLE: Thank you. Mr. Harrison, will you be  
17 doing cross examination?

18 MR. HARRISON: Yes, Your Honor.

19 I do have a request under the Board's rules. As I  
20 understand the rules, once a witness testifies, the opposing  
21 party is entitled to ask for prior statements of the witness  
22 for cross examination purposes, and I would so ask.

23 JUDGE BOGLE: What prior statements did you have in  
24 mind?

25 MR. HARRISON: Any that exist. I know of one that

1 exists, which is Mr. Hoffman's Findings of Fact that he  
2 adopted in his final decision document.

3 JUDGE BOGLE: You have had several ways to get that  
4 document, Mr. Harrison.

5 MR. HARRISON: I'm just doing my job, Your Honor.

6 JUDGE BOGLE: I have to commend you for that. But  
7 now, your request is declined.

8 MR. HARRISON: How about other prior statements?

9 JUDGE BOGLE: Can you identify other statements?

10 MR. HARRISON: I don't know if I can. I don't know  
11 if I know what they are. I think that burden is on the  
12 Agency.

13 JUDGE BOGLE: Mr. L'Heureux?

14 MR. HARRISON: I'm not aware of any prior  
15 statements by Mr. Hoffman that haven't been produced. In  
16 fact, I'm not aware of any that have been produced.

17 JUDGE BOGLE: They have none for you, Mr.  
18 L'Heureux.

19 MR. HARRISON: I appreciate the inquiry, and I  
20 would note my objection or exception to Your Honor's ruling  
21 that we cannot obtain the Findings of Fact of Mr. Hoffman as  
22 a prior statement.

23 I would just note for the record that Mr. Hoffman's  
24 final decision document that has been inquired about today,  
25 the July 9, 2004 document, does make explicit reference to

1 his findings.

2 To the extent that they were drafted at one point,  
3 he has adopted them in his final decision, so they are  
4 certainly no longer a draft, they do represent a statement of  
5 his. He did say today that the decision was his and his  
6 alone, and that would include the findings that he  
7 incorporated.

8 Just for the record, that is the reason I wanted to  
9 see them.

10 JUDGE BOGLE: I understand. Let's have cross  
11 examination.

12 CROSS EXAMINATION

13 BY MR. HARRISON:

14 Q Mr. Hoffman, did you consider Ms. Chambers'  
15 response to Mr. Murphy proposed removal and your  
16 determination both of whether or not to sustain the proposed  
17 charges and as to the penalty?

18 A Her reply?

19 Q I believe it was called a "response." What she  
20 submitted in writing essentially giving her position in  
21 opposition to Mr. Murphy's proposal.

22 A Yes.

23 Q Did you consider it important to consider her  
24 response?

25 A Oh, yes.

1 Q I take it you gave what she said serious  
2 consideration?

3 A Very serious consideration.

4 Q As I understand -- let me ask you. Do you recall  
5 being deposed in this matter?

6 A Yes.

7 Q Did you testify truthfully at that deposition?

8 A Yes.

9 MR. HARRISON: Your Honor, to hopefully shorten  
10 this examination, we will offer Mr. Hoffman's deposition. It  
11 is Exhibit I, I believe, for the Appellant.

12 JUDGE BOGLE: Mr. L'Heureux, any objections?

13 MR. L'HEUREUX: No objection.

14 JUDGE BOGLE: Exhibit I is received.

15 (Appellant's Exhibit No. I was  
16 received into evidence.)

17 BY MR. HARRISON:

18 Q Do you recall the timing of your review of Ms.  
19 Chambers' response or reply, when you actually had a chance  
20 to read it?

21 A I don't recall the exact date I received it. I  
22 believe it was around the middle of January of 2004. I read  
23 and re-read it as well as the proposal to remove numerous  
24 times between then and when I began my investigation of the  
25 facts around the 10th of February.

1           Of course, I consulted that document throughout my  
2 investigation into the facts.

3           Q     I appreciate that. That is where I was going with  
4 my next question, which was subsequent to reading Ms.  
5 Chambers' reply, you began your investigation?

6           A     Yes.

7           Q     That investigation included taking testimony from  
8 several Agency employees, including Mr. Murphy, Ms. Mainella,  
9 Mr. Manson, Mr. Griles, and so forth?

10           MR. L'HEUREUX: Objection, Your Honor; relevancy.

11           MR. HARRISON: I'm about to establish that.

12           JUDGE BOGLE: Proceed.

13           THE WITNESS: And others; yes.

14           BY MR. HARRISON:

15           Q     And those others included Ms. Weatherly?

16           A     Yes. Bruce Schaefer and by affidavit, John Wright  
17 and Randy Myers.

18           Q     Mr. Myers actually had a memo, not an affidavit; is  
19 that fair?

20           A     Yes.

21           Q     Did you make an effort -- I take it you did  
22 consider the testimony you were given in those depositions?

23           A     Yes.

24           Q     You considered Mr. Myers' memo?

25           A     Yes.

1 Q And Mr. Wright's affidavit?

2 A Yes.

3 Q And that figured into your ultimate findings and  
4 conclusions?

5 A Yes.

6 Q Did you make an effort to determine which of the  
7 information you obtained and considered in your inquiry, Mr.  
8 Wright's affidavit, Mr. Myers' memo, Ms. Weatherly's  
9 testimony and so forth, which of that information Ms.  
10 Chambers had an opportunity to be given notice of and to  
11 respond to before you made your final decision?

12 A That was not my understanding of the process. Ms.  
13 Chambers was given the opportunity to reply to the proposal  
14 to remove, both in writing and orally.

15 We granted an extension so that they could have the  
16 time they felt necessary to produce the written reply, and  
17 they declined the opportunity for an oral reply.

18 I did not give either side an opportunity to  
19 respond to information I learned during the course of my  
20 investigation.

21 Q The witnesses you did hear from were Mr. Murphy,  
22 the proposing official, Ms. Mainella, the director, and other  
23 employees that really work for the Agency; is that fair?

24 A Well, they work for the Agency, but that was not  
25 the reason why I -- they were the ones who in Teresa

1 Chambers' reply, she contested what they had said for certain  
2 facts in the proposal to remove. I was seeking to make a  
3 determination as to which side was closest to the truth.

4 Q I appreciate that. My question was did you make an  
5 effort, and I believe your answer was no, and then you gave  
6 an explanation, but let's be clear for the record, did you  
7 make an effort to identify which of the information you  
8 considered that Ms. Chambers had been given no notice of nor  
9 any opportunity to reply to?

10 A No.

11 Q Did you let Ms. Chambers or her attorneys know that  
12 you would be conducting these depositions and would be  
13 receiving a statement from Mr. Wright and Mr. Myers before  
14 they elected not to give an oral reply?

15 A No.

16 Q You indicated you were asked by an attorney to be  
17 the deciding official in the first instance, and you later  
18 talked to Mr. Manson about that. Did I hear you correctly?

19 A Yes.

20 Q Mr. Manson was not the person who asked you in the  
21 first instance?

22 A No.

23 MR. HARRISON: Your Honor, we would offer Mr.  
24 Manson's deposition for impeachment purposes.

25 JUDGE BOGLE: Mr. L'Heureux?



1           MR. L'HEUREUX: I thought we already moved his  
2 deposition into the record.

3           MR. HARRISON: It was not decided, I believe, when  
4 I had raised it before. That might have been actually Mr.  
5 Hoffman's deposition. I don't think we have actually reached  
6 that question.

7           JUDGE BOGLE: I don't recall that it has been  
8 offered.

9           MR. L'HEUREUX: I have no objection.

10          JUDGE BOGLE: Where is it?

11          MR. HARRISON: We have it with us. I can make it  
12 available in just 50 seconds or we can do it on the break,  
13 whichever Your Honor prefers.

14          JUDGE BOGLE: That's fine. We can do it on a  
15 break.

16          MR. HARRISON: We will do that.

17          BY MR. HARRISON:

18          Q     You indicated, Mr. Hoffman, you took steps to  
19 ensure that you maintained a fair and impartial position on  
20 this decision; is that correct?

21          A     Yes.

22          Q     One of those steps, as I understand it, was that  
23 you removed yourself from attending and participating in  
24 certain meetings that you had been participating in at the  
25 Agency. Do you recall that?

1           A     Yes.

2           Q     What were those meetings?

3           A     Those meetings were meetings to assist the U.S.  
4 Park Police in addressing the issues raised in the NAPA study  
5 and in how they could best go about conducting their business  
6 in light of the budget shortfall they were going to be  
7 experiencing.

8           Q     What was your role in those meetings?

9           A     Largely, the meetings began with sort of generic  
10 discussions about the shortfall and the needs, and it became  
11 apparent there were a lot of different roles the U.S. Park  
12 Police had assumed over the years.

13                   The meetings became a series of presentations on  
14 the part of the U.S. Park Police of the various functions  
15 that they have been historically carrying out at least over  
16 the last few years, that I'm aware of, and where the money  
17 came from to perform those functions, whether there was  
18 reimbursement from other entities or agencies, and  
19 discussions about whether or not those were mission critical  
20 functions for the U.S. Park Police.

21           Q     As I understand it, these meetings included the  
22 discussions on mission refinement, I believe, as they termed  
23 it?

24           A     Yeah.

25           Q     And Ms. Chambers attended these meetings?

1 A Yes.

2 Q Did some of Ms. Chambers' staff attend these  
3 meetings as well?

4 A Yes.

5 Q Including Ms. Pamela Blyth on occasion?

6 A On occasion.

7 Q Did you chair these meetings from time to time?

8 A Well, it wasn't that formal of a structure. I  
9 suppose by virtue of my position, I could be called the  
10 chairman.

11 Q I see. Did you receive presentations from Ms.  
12 Chambers and her staff on issues regarding a budget deficit  
13 in these meetings?

14 A No, not per se. There was discussion about  
15 shortfalls. I have never seen a complete U.S. Park Police  
16 budget.

17 Q Never in your entire life?

18 A Never in my entire life.

19 Q In regard to your efforts to avoid -- let me ask  
20 you. Why did you feel the need to remove yourself from those  
21 meetings when you became the deciding official?

22 A Because I felt it was inappropriate for me to  
23 expose myself to acting police chief -- I basically removed  
24 myself from any involvement with the U.S. Park Police because  
25 I thought it was appropriate that I remain as neutral as

1 possible. There may not have been an absolute requirement  
2 for that, but I was taking whatever steps I could to make  
3 absolutely certain that there would not be any appearance of  
4 impropriety on my part.

5 Q How long had you been participating in those  
6 meetings prior to removing yourself?

7 A I believe the meetings started around July of 2003,  
8 and I would have removed myself soon after the proposal to  
9 remove, so mid-December 2003.

10 Q Did you make an effort to insulate yourself from e-  
11 mails that were sent to the Agency in response to Ms.  
12 Chambers' controversy?

13 A Well, it was not possible for me to completely  
14 insulate myself, but yes. What I did was I chose not to read  
15 them. I made a file in my e-mail box, and I just moved those  
16 to the file.

17 Eventually, the Agency set up a screen on the e-  
18 mail system that was supposed to move them automatically, but  
19 it didn't seem to happen that often.

20 Q Did you do anything else with these e-mails besides  
21 move them to this other box on your computer?

22 A No. I read a few of them, but it got to the point  
23 where I thought this is probably inappropriate.

24 Q Did you pass any of them on with comments to other  
25 officials?

1           A     No.

2           Q     Did you pass any on to bring them to anyone's  
3 attention?

4           A     No.

5           Q     Did you make an effort to insulate yourself from  
6 news or media reports about Ms. Chambers' case and  
7 controversy?

8           A     I read newspaper reports and news reports, but that  
9 was it. I would not discuss them with anybody else.

10          Q     You testified today that there were no reasons for  
11 your decision that were not stated in your July 9, 2004  
12 letter. Did I hear you correctly?

13          A     Yes.

14          Q     I want to be clear about what that means. You  
15 state in your July 9th letter, which I assume is still before  
16 you.

17          A     Yes.

18          Q     That you made certain findings of fact, and then  
19 you decided to sustain each of the six charges. Do you see a  
20 reference to that?

21          A     Yes.

22          Q     You are not retracting that statement in your  
23 testimony today, are you?

24          A     Oh, no.

25          Q     You considered that reference to those findings to

1 be one of your reasons that you are saying are included in  
2 this letter? In other words, you are not saying I didn't  
3 really consider those findings, but those findings are part  
4 of the reasons that are referenced here in the letter?

5 A I'm not sure I understand the question. What I did  
6 is based on my findings, I determined to sustain all the  
7 charges.

8 Q And you state so in your letter?

9 A Yes.

10 Q If I were to ask you to recall your specific  
11 findings on charge one that you reference but do not restate  
12 in your letter of July 9th, could you do that from memory?

13 A Probably not.

14 Q Is there a document that would refresh your memory  
15 on those findings?

16 A Well, in answer to your first question, certainly  
17 -- it's been a while since I made those findings. I don't  
18 think I could produce them off the top of my head with 100  
19 percent.

20 Q Could you remember some of them?

21 A I suppose I could.

22 Q Let's do this charge by charge. Do you have the  
23 proposal to remove before you? I believe it's in the  
24 Agency's binder.

25 A I have a summary of the charges in my decision

1 letter. Will that do?

2 Q No. We will help you.

3 A Can you refer me to a tab?

4 Q Yes.

5 A I have it.

6 JUDGE BOGLE: Mr. Harrison, it sounds to me like  
7 what you are about to do is ask him to tell us why he  
8 sustained these charges.

9 MR. HARRISON: Yes, ma'am. I am.

10 JUDGE BOGLE: As we said at the outset of this  
11 proceeding, this is a de novo proceeding. He was not brought  
12 here to tell us why he sustained the charges. The Agency has  
13 to meet its burden of proof before the Board.

14 MR. HARRISON: I appreciate the burden, and to that  
15 extent, agree with Your Honor. I believe that his findings  
16 may well be admissions against the interest of the Agency,  
17 and would support my client's case, and we are entitled to  
18 know them.

19 JUDGE BOGLE: That's not enough reason to take him  
20 back through all of these charges. If you have one specific  
21 thing you want to ask him about that might be relevant, I'll  
22 give you some limited leeway, but we are not going to take  
23 him back through these charges and ask him why he found the  
24 evidence to sustain them.

25 MR. HARRISON: I understand Your Honor's ruling,

1 and I'll note my objection and exception to it.

2 BY MR. HARRISON:

3 Q Mr. Hoffman, if you would turn to Tab 4C in Volume  
4 1, I think you will find the proposed removal there.

5 A Yes.

6 Q Charge one had to do with an allegation that Ms.  
7 Chambers had a communication with a congressional staff  
8 person, Deborah Weatherly. I believe you heard some  
9 testimony from Ms. Weatherly during your inquiry, did you  
10 not?

11 A Yes.

12 Q You understood that is what this charge was about?

13 A Yes.

14 Q I take it that you sustained the charge as stated.  
15 In other words, you sustained a finding that it was improper  
16 for Ms. Chambers to have had that conversation with Ms.  
17 Weatherly that was alleged?

18 A Yes.

19 Q Did you sustain that charge on any legal or policy  
20 basis other than what is stated in the charge?

21 JUDGE BOGLE: Mr. Harrison, I don't see why I  
22 should permit you to continue. I've made it very clear that  
23 he is not to be asked why he sustained the charges. That's  
24 exactly what you are asking him.

25 MR. HARRISON: I will just note my objection,



1 again, Your Honor, and I'll move on.

2 BY MR. HARRISON:

3 Q Let me ask you something specific about that, and I  
4 hope it does not run afoul of Your Honor's ruling, but we  
5 will find out.

6 With regard to charge one, did you make any finding  
7 that Ms. Chambers had essentially initiated the substantive  
8 conversations with Ms. Weatherly or whether Ms. Weatherly had  
9 asked Ms. Chambers questions?

10 A Both.

11 Q You made a finding that both had happened?

12 A Yes.

13 Q Did you make a finding as to what substantive  
14 information was solicited by Ms. Weatherly?

15 MR. L'HEUREUX: Objection, Your Honor. It's going  
16 down the same road again.

17 JUDGE BOGLE: I think we are, Mr. Harrison.

18 MR. HARRISON: I need to understand, Your Honor.  
19 Are you asking me not to pursue the line?

20 JUDGE BOGLE: Yes.

21 MR. HARRISON: Then I just note my objection.

22 BY MR. HARRISON:

23 Q Regarding charge two, this charge has to do with  
24 statements attributed to Ms. Chambers in the Washington Post  
25 article of December 2nd; is that your understanding?

1           A     Yes.

2           Q     Let me ask you, you considered the information from  
3 Mr. John Wright in the form of an affidavit, as I recall, on  
4 this charge; is that correct?

5           A     Yes.

6           Q     The purpose of that affidavit was to verify what  
7 Ms. Chambers had and had not said to the Washington Post; is  
8 that correct?

9                   MR. L'HEUREUX:  Objection, Your Honor.  Now we are  
10 on a new charge, but we are doing the same thing.  Objection  
11 on the ground of relevance.

12                   MR. HARRISON:  I can explain the relevance.

13                   JUDGE BOGLE:  All right.  Go ahead.

14                   MR. HARRISON:  There is case law that establishes  
15 that an agency that relies on statements in the media to take  
16 a disciplinary action against an employee should make an  
17 independent verification of those charges, otherwise, the  
18 agency action would be unreasonable.

19                   I believe this witness is about to say that he made  
20 an effort to follow that guidance.  He may not know the law.

21                   He made an effort to independently verify, and what I want  
22 to establish is that effort was substantially inadequate.

23                   JUDGE BOGLE:  You can argue whether it was adequate  
24 or inadequate.  The record shows what he did.  Why do we need  
25 any questions on this?

1           MR. HARRISON: Your Honor, how do we know that this  
2 witness knows the inadequacy of Mr. Wright's affidavit? Let  
3 me be clear.

4           We deposed Mr. Wright, and we determined in his  
5 deposition certain inadequacies in his inquiry. I'm not sure  
6 this witness knows of that.

7           JUDGE BOGLE: That's all the more reason not to ask  
8 him, isn't it?

9           MR. HARRISON: I suppose it's a strategy call, Your  
10 Honor.

11          JUDGE BOGLE: The objection is sustained. Let's  
12 move on.

13          MR. HARRISON: Just note my objection, Your Honor,  
14 for the record.

15          BY MR. HARRISON:

16          Q       When you made your decision, Mr. Hoffman, on this  
17 charge two, did you conclude or assume that Mr. Wright had  
18 confirmed Ms. Chambers' statements to the Post, that they had  
19 actually been made by Ms. Chambers?

20          MR. L'HEUREUX: Objection, Your Honor.

21          MR. HARRISON: I think there is a due process issue  
22 here.

23          MR. L'HEUREUX: It goes to findings of fact again.

24          MR. HARRISON: Your Honor, this entire process  
25 happened after Ms. Chambers had replied. She was given no

1 notice of the content of what this person relied up, no  
2 chance to rebut it or respond to it.

3 If there was a finding by this decision maker that  
4 statements were made by Ms. Chambers to the Post based on an  
5 inadequate inquiry, and Ms. Chambers was not allowed to give  
6 input and tell him that, that's a due process violation.

7 JUDGE BOGLE: You garbled a couple of issues there,  
8 I think. Sitting here listening to this, I'm thinking that  
9 number one, you raised 18 affirmative defenses, and not one  
10 of them was that the deciding official relied on reasons that  
11 were not part of the proposal notice.

12 MR. HARRISON: I don't believe that's correct, Your  
13 Honor.

14 JUDGE BOGLE: Number two -- I've had to point out  
15 the Stone decision to you in pre-hearing conference. You did  
16 not raise a Stone issue in this case.

17 JUDGE BOGLE: I didn't mention the Stone decision.  
18 We did raise due process.

19 JUDGE BOGLE: The Stone case is the one that would  
20 apply if you were arguing that he considered -- he had ex  
21 parte communications and considered improperly -- raised new  
22 reasons in the case.

23 For that reason, it's not an issue before me now.  
24 I would just state that the preceding case law states there  
25 is nothing wrong with the deciding official doing some

1 investigation once he's received the reply, as long as it  
2 doesn't produce new reasons.

3 As I've just indicated, I don't think you have  
4 alleged before now that it did.

5 MR. HARRISON: Your Honor, we did assert in our  
6 pre-trial filing a due process issue, which involves a  
7 failure to provide predetermination due process as required  
8 by *Latermill, Cleveland Board of Education v. Latermill*.

9 I don't believe we have to state the applicable  
10 case law to preserve an issue.

11 JUDGE BOGLE: You didn't cite *Latermill* until your  
12 exceptions to my conference summary. We had no discussions  
13 in the pre-hearing conference, which I summarized, which  
14 would have raised an issue or rather identified an issue that  
15 the deciding official relied on reasons that were not in the  
16 proposal notice.

17 We are not going to take hearing time now to allow  
18 you to raise any new issues.

19 What else do you have for this individual on cross  
20 examination?

21 MR. HARRISON: Thank you, Your Honor. I will  
22 proceed. I note my objection to your ruling.

23 Let me note there are two issues here. One is the  
24 Stone issue of reasons that were relied upon by the decision  
25 maker beyond the proposal.

1           The other due process issue is the opportunity for  
2 Ms. Chambers to respond to the information presented to the  
3 Agency. That is a separate legal issue. That is certainly  
4 within our due process issue raised in a number of our issues  
5 in the pre-trial filing.

6           JUDGE BOGLE: I just note that the issues are those  
7 that were defined in the pre-hearing conference summary.  
8 Let's move on.

9           MR. HARRISON: Is Your Honor's ruling that I am not  
10 allowed to inquire into whether Ms. Chambers was given notice  
11 of the information given to the Agency for Mr. Hoffman's  
12 decision making?

13          JUDGE BOGLE: I don't even understand that line of  
14 questioning.

15          MR. HARRISON: I can help with that. Under  
16 Cleveland Board of Education vs. Latermill, the employee -- I  
17 should note under the Board's statutes and regulations, an  
18 employee is entitled to have the information relied upon by  
19 the Agency for the proposal --

20          JUDGE BOGLE: What is it you are now claiming she  
21 didn't receive, and may I add, that you never claimed before?

22          MR. HARRISON: I don't agree with that, Your Honor.  
23 Ms. Chambers did not receive a substantial body of  
24 information that Mr. Hoffman relied upon to make his  
25 decision, which includes Ms. Weatherly's testimony, Mr.

1 Myers' memo, Mr. Wright's affidavit, and the underlying  
2 information, and certain specific points, which are too  
3 numerous for me to remember, in the testimony of certain of  
4 the Agency officials, which we actually have noted and were  
5 going to inquire into.

6 JUDGE BOGLE: I understand the argument. Number  
7 one, it wasn't raised before. Number two, there is nothing  
8 wrong with the deciding official conducting an investigation,  
9 as long as it doesn't produce new reasons, and number three,  
10 there is no evidence before me that it produced new reasons  
11 or argument, for that matter.

12 Let's move onto something else for this witness.

13 MR. HARRISON: I will, Your Honor. I note my  
14 objection and exception, if I understand your ruling.

15 JUDGE BOGLE: Mr. Harrison, no, enough. You  
16 understand my ruling. Let's move on.

17 MR. HARRISON: Then I object to not being able to  
18 make a record, Your Honor.

19 Your Honor, I would note on a separate point,  
20 because I have additional questions on what Mr. Hoffman's  
21 findings were, and I understand your ruling to be I cannot  
22 ask those questions at the moment.

23 JUDGE BOGLE: Correct.

24 MR. HARRISON: I would just note, while I skip over  
25 those questions, that answers to those questions might show

1 bias. They might show evidence that protected activity was a  
2 reason, and in any number of legally relevant pieces of  
3 evidence.

4 I object --

5 JUDGE BOGLE: It would not surprise you to know  
6 that I expected you to say that.

7 MR. HARRISON: No, it doesn't.

8 JUDGE BOGLE: The ruling is that if you have one of  
9 these reasons or some of these reasons that you truly think  
10 you can demonstrate bias, you may proceed. That is not a  
11 ruling which opens the door to simply take him back through  
12 all of the reasons.

13 If there is something specific you think would show  
14 bias, I'm not limiting you from proceeding on that.

15 MR. HARRISON: I appreciate that.

16 JUDGE BOGLE: I'm not going to let you start with  
17 charge one and move to charge two the way we were a moment  
18 ago. That's not going to happen.

19 If you want to proceed under that limited ruling,  
20 think long and hard about what you want to ask him about.

21 MR. HARRISON: I will proceed under your ruling,  
22 Your Honor. I'm obligated to do that.

23 To clarify my last point, the questioning was more  
24 towards the deleted findings of fact that we have not been  
25 provided, not to the charges and to --



1           JUDGE BOGLE: As you know, I've read those. It  
2 would not be helpful to you.

3           MR. HARRISON: Your Honor, I sort of believe that's  
4 the Appellant's decision. We would note that for the record.

5           BY MR. HARRISON:

6           Q     Did you say in your direct examination, Mr.  
7 Hoffman, that regarding charge one that Ms. Chambers in your  
8 view failed to carry out a desire of Congress?

9           A     I don't recall with respect to charge one, but I  
10 did say she failed to carry out a desire of Congress.

11          Q     Do you recall what charge you might have made that  
12 in reference to?

13          A     I think it probably is charge one; yes.

14          Q     Did that play into your decision on sustaining that  
15 particular charge?

16          MR. L'HEUREUX: Objection, Your Honor. We are  
17 talking again about sustaining the charge. This falls under  
18 the subject of the penalty.

19          MR. HARRISON: I'm sorry, Your Honor. This was  
20 solicited on direct examination, and there is no way I cannot  
21 inquire into it.

22          JUDGE BOGLE: All right. You may proceed.

23          BY MR. HARRISON:

24          Q     Do you remember the question, sir?

25          A     No. The question was did her failure to carry out

1 the charge of Congress part of the improper conversation she  
2 had with congressional staff, and yes, it did play into my  
3 determination of facts, but it was not the sole determinant.

4 Q I understand. Thank you.

5 You said on your direct exam that the chain of  
6 command issue was critical to you in making your conclusions,  
7 and I want to ask you, did you consider Ms. Chambers to have  
8 failed to follow the chain of command in any incident that  
9 involved like a crime or any sort of enforcement incident?

10 You weren't saying that, were you?

11 A No.

12 Q You indicated your concern about Ms. Chambers'  
13 prior reprimand, but I take it that you are not meaning to  
14 say that you took action in your decision to apply any  
15 punishment to Ms. Chambers for that prior incident?

16 A No, I did not.

17 Q You also indicated in your direct testimony that it  
18 was important to you that Ms. Chambers had signed the  
19 reprimand and had not contested.

20 Did you know what Mr. Murphy had told to Ms.  
21 Chambers or what assurances he had given her with regard to  
22 her signing that particular document?

23 A No.

24 Q You indicated that part of your consideration was  
25 that in your view, Ms. Chambers had not taken the caution in

1 that reprimand and had disregarded policies. What policies  
2 were you referring to in your direct examination?

3 A Well, a number of policies that she should have  
4 known or had an opportunity to have known, and not the least  
5 of which is disclosure of budget numbers while they are in  
6 negotiation with OMB, as well as the general policy relative  
7 to the implementation of the NAPA study, and the  
8 implementation of the recommendations that came from the NAPA  
9 study, and some of the instructions she received were  
10 relative to policy calls.

11 Q Those instructions that you are referring to, did  
12 you say "policy calls?"

13 A Yes. When the Deputy Director of the National Park  
14 Service tells the Chief of the U.S. Park Police to do  
15 something because he feels it is important for the benefit  
16 and inherent to the mission of the National Park Service, I  
17 consider that a policy call.

18 Q The matters you just described were part of what  
19 you relied on in making your decision?

20 A Yes.

21 Q You indicated in response to the Judge's question,  
22 I think, that you did not consider the potential for a lesser  
23 penalty, at least in regard to this combination of charges,  
24 the six charges.

25 Did you ask Ms. Mainella or did she inform you in

1 her testimony that she was prepared to have Ms. Chambers be  
2 reinstated if Ms. Chambers would agree to simply follow the  
3 rules?

4 A I don't recall such a conversation.

5 MR. HARRISON: Your Honor, we would offer Ms.  
6 Mainella's deposition. We did intend to offer it with her  
7 testimony, but I would offer it for this particular witness  
8 as well.

9 JUDGE BOGLE: Mr. L'Heureux?

10 MR. L'HEUREUX: No objection.

11 JUDGE BOGLE: Do we know what letter it is?

12 MR. HARRISON: H, as in Harrison.

13 JUDGE BOGLE: Thank you.

14 (Appellant's Exhibit H was  
15 received in evidence.

16 BY MR. HARRISON:

17 Q Mr. Hoffman, when you deposed Mr. Murphy, and we  
18 are still on that same question of the lesser penalty,  
19 whether a lesser penalty might have been appropriate, did Mr.  
20 Murphy inform you that he was involved in discussions with  
21 Ms. Chambers on December 12, 2003 or thereabouts, which would  
22 be prior to the proposal removal decision, but after the  
23 administrative leave, where the Agency was contemplating  
24 reinstating Ms. Chambers?

25 A I don't recall that specific conversation.

1           Q     I take it from your final decision document, but  
2     correct me if I'm mistaken, where you say in the July 9th  
3     document that you sustain each of the six charges, that you  
4     made no modification to any of those charges, you sustained  
5     them as they were stated?

6           A     Yes.

7           MR. HARRISON: Your Honor, this witness testified  
8     in his direct that a particular point of concern to him was  
9     Ms. Chambers' statement in the Post article regarding the  
10    need for 1,400 officers, and that being contrary to certain  
11    Department policies.

12           Am I allowed to inquire with him as to what  
13    findings he made on that particular point he stated in his  
14    direct examination?

15           JUDGE BOGLE: As long as you are not asking him  
16    what evidence he concluded sustained the charge.

17           MR. HARRISON: Thank you.

18           BY MR. HARRISON:

19           Q     Do you remember, Mr. Hoffman, what finding you  
20    made, if any, regarding this 1,400 officers' statement by Ms.  
21    Chambers?

22           A     I don't believe I made a finding with respect to  
23    that, other than the fact that through John David's (sic)  
24    affidavit, we confirmed that the Washington Post stood behind  
25    the story and they maintained that they accurately quoted Ms.

1 Chambers.

2 Q Do you mean John Wright's affidavit?

3 A John Wright's affidavit, yes, in his conversations  
4 with David Farenthold, the reporter.

5 Q Thank you.

6 MR. HARRISON: Your Honor, based on that answer, I  
7 believe I can explore with him briefly what he understood  
8 about Mr. Wright's affidavit and inquiry.

9 JUDGE BOGLE: What I think he told you on direct is  
10 he found this significant in imposing the penalty of removal.

11 That was the significance. I don't think he was talking  
12 about using evidence -- why he sustained that charge.

13 MR. HARRISON: That may be true, Your Honor, but I  
14 would like to inquire as to the penalty issue at the moment.

15 JUDGE BOGLE: If it's the penalty, you may proceed.

16 MR. HARRISON: Thank you.

17 BY MR. HARRISON:

18 Q In regard to your decision on the appropriate  
19 penalty, Mr. Hoffman, did you rely on Mr. Wright having, how  
20 shall I say, effectively confirmed whether or not each of Ms.  
21 Chambers' statements at issue had in fact been made to the  
22 Washington Post?

23 A I don't think that's the case; no. I don't think I  
24 relied on that for the penalty determination.

25 Q Let me be clear. Was it not important to your

1 penalty determination to know whether or not Ms. Chambers was  
2 misquoted in the Post?

3 A That was important to me in the determination of  
4 whether or not to sustain the charges.

5 Q But not related to the penalty?

6 A Having sustained the charges, I then made the  
7 determination as to what was the appropriate penalty.

8 Q Understood. You indicated in your direct exam that  
9 disclosure of certain budget figures were a concern to you,  
10 and you restated it again in answering my questions about  
11 policies as a concern.

12 Was there a particular budget figure that was a  
13 concern to you that Ms. Chambers had disclosed?

14 A Yes.

15 Q Do you remember what it was?

16 A Yes.

17 Q What was it?

18 A She said in the article that the Agency had asked  
19 for \$12 million to cover a shortfall and that they were only  
20 going to get \$8 million. Those were exact figures that were  
21 in negotiation at that time with OMB.

22 Q Did you see an OMB document or a DOI document that  
23 even used those two figures, the 12 and the 8?

24 MR. L'HEUREUX: Objection, Your Honor. We are  
25 going back to findings of fact now.

1 JUDGE BOGLE: Are we, Mr. Harrison?

2 MR. HARRISON: I thought I was impeaching his  
3 testimony.

4 JUDGE BOGLE: All right. Let's proceed.

5 THE WITNESS: Those figures were discussed  
6 regularly during the meetings we had that I attended from  
7 July to December 2003. I don't recall seeing a document, but  
8 I may have seen those numbers in writing.

9 BY MR. HARRISON:

10 Q But you are not sure?

11 A I'm not sure.

12 Q You testified on direct that you believed Ms.  
13 Chambers and apparently all officials of the Department  
14 should when speaking in their official capacity state only  
15 comments that are consistent with Department policies and not  
16 their own view of what the policies should be.

17 Did I hear you correctly?

18 A I think that summarizes what I said.

19 Q Would you make any exceptions to that view if the  
20 policy issue in question implicated public health, public  
21 safety, national security?

22 A I think that would fall under protected  
23 disclosures.

24 Q So, there would be exceptions?

25 A Yes.



1 Q If you would look to Tab 4B in the Agency's binder,  
2 Volume 1. I believe you had been referred to that earlier.

3 A Yes.

4 Q This is your July 9th decision, I believe.

5 A Yes.

6 Q In your first paragraph there at the bottom, you  
7 make a statement to the effect that on or about December 18,  
8 2003, William Rudman, your associate -- Ms. Chambers, to whom  
9 you addressed this document, "Requested and was provided  
10 copies of the documents Mr. Murphy relied upon to propose  
11 your removal."

12 Do you see that?

13 A Yes.

14 Q Is that something that is within your personal  
15 knowledge, that that is true?

16 A No. Did I see the transaction occur? No.

17 Q Do you know from your own personal knowledge  
18 whether or not every document that Mr. Murphy relied upon was  
19 provided to Ms. Chambers?

20 A It's my understanding they were.

21 Q My question is do you know from your own personal  
22 knowledge.

23 A Did I witness the transaction? No.

24 Q How did you acquire your understanding?

25 A I was advised they were given.

1 Q Mr. Murphy told you that?

2 A I don't recall who told me that.

3 Q That is the basis of your statement here?

4 A Yes.

5 Q Was there a reason you put this statement in this  
6 particular letter?

7 A Well, there are a lot of procedural reasons for a  
8 lot of the references in this letter.

9 Q Do you know what the reason is for this one?

10 A I'm not a lawyer. No, I don't.

11 Q In this decision document, and I may be mistaken,  
12 you indicate on the bottom of the second paragraph, "By  
13 letter dated January 9, 2004, Mr. Noone submitted on your  
14 behalf a written reply and supporting documents," and you go  
15 on to say you chose not to make an oral reply to the removal  
16 proposal, so you made at least a couple of references there  
17 in the first and second paragraphs to some of the procedural  
18 history of the process and Ms. Chambers' involvement in it.

19 What I don't find in here, and maybe I missed it,  
20 is a reference to the process you used in taking depositions  
21 of a number of employees, taking Mr. Wright's affidavit into  
22 consideration and Mr. Myers' memo.

23 Did you reference that process and information in  
24 this document?

25 MR. L'HEUREUX: Objection; relevance.

1 THE WITNESS: No. I'm sorry.

2 JUDGE BOGLE: Mr. Harrison?

3 MR. HARRISON: Yes. The relevance is, Your Honor,  
4 on the due process issue that Your Honor believes is not in  
5 the case, I'm just trying to make a record, that Ms. Chambers  
6 was not advised even by this letter that process had taken  
7 place, and was not given a chance to respond to that  
8 information.

9 MR. L'HEUREUX: Your Honor, if I may, we will  
10 stipulate she was not advised that Mr. Hoffman did an  
11 investigation, nor was she advised of the facts of those  
12 investigations until we produced them in the Agency file in  
13 this proceeding.

14 Does that help?

15 MR. HARRISON: It does.

16 JUDGE BOGLE: Good. Let's proceed.

17 BY MR. HARRISON:

18 Q You indicate at the bottom of page one that for the  
19 reasons stated in the removal proposal and the penalty  
20 determination section below, that you believed the penalty of  
21 removal was warranted. Did you find that?

22 A Yes.

23 Q Do I take it that you adopted without any change  
24 every statement in the removal proposal in determining the  
25 penalty?

1           A     I think that's probably a fair statement.

2                     Could I ask to hear that question again?

3           Q     Hopefully, I can restate it for you.

4                     MR. L'HEUREUX:  Objection, Your Honor.  He has to  
5 restate the question again, the very question.

6                     JUDGE BOGLE:  We are not going to play it back.  
7 Mr. Harrison will have to restate it.

8                     MR. HARRISON:  I was trying to do that.

9                     BY MR. HARRISON:

10           Q     Mr. Hoffman, do I take from your sentence at the  
11 bottom of page one, which says "For the reasons stated in the  
12 removal proposal and the penalty determination section below,  
13 I believe the penalty of removal was warranted," that you  
14 adopted without any change for the purpose of determining the  
15 penalty every statement in the removal proposal?

16           A     I'm not sure I can say I adopted every statement in  
17 the removal proposal, but I did sustain all the charges in  
18 the removal proposal.

19           Q     That's a little different than the wording in your  
20 letter, which says "For the reasons stated in the removal  
21 proposal."  I just want to be clear, is your answer that in  
22 determining the penalty, you relied on the charges being  
23 sustained but not on the reasons contained in the removal  
24 proposal?

25           A     I guess I'm not sure I can answer your question

1 without knowing what specific reasons you're referring to. I  
2 made an investigation into the facts that were presented in  
3 the removal proposal, and after that investigation, I found  
4 the charges in the removal proposal were sustainable.

5 I guess I'm not saying absolutely everything in  
6 there I agreed to, but substantially, yes.

7 Q Is there any document you can refer me to that  
8 would help me understand which of the reasons stated in the  
9 removal proposal you relied on for the penalty and which you  
10 did not?

11 A No.

12 Q And no such document ever existed?

13 A No, not that you described.

14 Q You considered the Douglas Factors in the remaining  
15 pages of your July 9th letter. Factor one includes a number  
16 of considerations, nature and seriousness of the offense and  
17 so forth, including whether the offense was intentional,  
18 inadvertent, malicious, and so forth.

19 I take it that there were no findings of malice or  
20 any actions for personal gain?

21 A No. Well, I guess I did find that Teresa Chambers  
22 exhibited hostility toward her supervisor.

23 Q Why did you find that?

24 A Well, it's clear reading the conclusion of her  
25 reply to the proposal to remove.

1           Q     Something Ms. Chambers said in her reply to the  
2     proposal to remove affected your decision to impose a penalty  
3     based on malice or hostility, I should say?

4           A     "Hostility" would be the word I would use.

5           Q     Do you recall what that was, that expressed that  
6     hostility in your mind?

7           A     It's in her conclusion. I don't recall the exact  
8     wording. It seemed to me to indicate hostility toward her  
9     supervisor.

10          Q     Hostility toward the supervisor?

11          A     Uh-huh.

12          Q     I think you have this, Volume 2, in front of you,  
13     for the Agency.

14          A     Yes.

15          Q     I believe under Tab 4L, you will find Ms. Chambers'  
16     response.

17          A     Yes.

18          Q     See if that will refresh your memory.

19          A     It would.

20                     (Witness reviewing document.)

21                     BY MR. HARRISON:

22          Q     If you find the page, feel free to direct us to it.

23          A     Page 55.

24          Q     I see a section called "Conclusion" there. Is that  
25     where you are looking?

1           A     Yes.

2           Q     If you can find language in there that you believe  
3 you relied on for your conclusion, let me know what that was.

4           A     Yes. The third paragraph, second sentence. It  
5 points to the fact that Mr. Murphy is unworthy of belief, his  
6 post hoc justifications, his illogical and strained  
7 reasoning, his unseemly attempt to convert acts of executive  
8 discretion into actionable misconduct, his puerile reaction  
9 to his decision about Ms. Blyth being overruled, and his  
10 failure to -- I think that pretty much covers it.

11          Q     This is the hostility reference you made in your  
12 testimony?

13          A     Yes.

14               MR. HARRISON: Your Honor, I would move to amend  
15 the Appellant's pre-trial filing based on newly discovered  
16 evidence in this testimony as of this moment, something I was  
17 not aware of until now, that it appears that at least in  
18 regard to the penalty, some action was taken against Ms.  
19 Chambers based on her exercising her appeal rights and  
20 challenging her proposed removal.

21               JUDGE BOGLE: Denied.

22               MR. HARRISON: I note my objection for the record,  
23 or exception, I should say.

24               BY MR. HARRISON:

25          Q     On page two of your July 9th letter in the penalty

1 discussion, the last paragraph on the bottom, "I find that  
2 the misconduct described in the removal proposal constitutes  
3 very serious offenses since it (a) --

4 A I'm sorry. I'm not finding that statement.

5 Q Are you looking at your own July 9th decision  
6 letter? That would be a different tab.

7 A Oh, I'm sorry. Okay.

8 Q Page two of that letter, the last paragraph. It  
9 says "I find that the misconduct described in the removal  
10 proposal constitutes very serious offenses since it (a) was  
11 conduct antithetical to the message of Congress." Do you see  
12 that?

13 A Yes.

14 Q Is what you mean by that what you referenced  
15 earlier in your testimony today?

16 A Yes.

17 Q You say in item (d) there "Was conduct that you  
18 should have known broke the protocol and chain of command  
19 requirements central to your position."

20 Do you see that?

21 A Yes.

22 Q I notice you used "protocol" separately from "chain  
23 of command." Do you mean the protocol reference to mean  
24 something other than chain of command?

25 A Protocols are established ways of doing things.



1 Chain of command is not the only process by which jobs are  
2 carried out or orders are given.

3 Q What was the protocol you were concerned with that  
4 had been broken here?

5 A That she was directed to work with Deputy Director  
6 Murphy and she was advised that he was her direct supervisor,  
7 and that was who she was to work with on issues pertaining to  
8 U.S. Park Police administration.

9 Q That was the protocol. What was the violation you  
10 perceived?

11 A That she did not work with Director Murphy, that  
12 she went over his head.

13 Q I see.

14 MR. HARRISON: Your Honor, at this point I would  
15 offer Mr. Griles' deposition for impeachment purposes.

16 JUDGE BOGLE: Mr. L'Heureux?

17 MR. L'HEUREUX: I don't have any objection to  
18 admitting it.

19 JUDGE BOGLE: Is this one already offered in the  
20 record?

21 MR. HARRISON: I believe it has been. We may not  
22 have had it available. We do now have it available, Your  
23 Honor. We can provide that also on the break.

24 JUDGE BOGLE: All right.

25 MR. HARRISON: Thank you.

1 BY MR. HARRISON:

2 Q When you made this reference, Mr. Hoffman, in item  
3 (3) there in the last paragraph on page two, to both protocol  
4 and chain of command, did you consider them to be distinct  
5 concepts or the same thing?

6 A I think they are really two ways to say the same  
7 thing.

8 Q Thanks. On page three at the top, at the end of  
9 that paragraph, you make a reference to being vigilant, to  
10 police officers being vigilant about terrorist threats and  
11 Ms. Chambers should have known it was imprudent to discuss  
12 where security forces near the Washington Monument and White  
13 House are deployed.

14 By the word "imprudent" there, do you mean  
15 violation of some established law or procedure that you have  
16 seen in writing?

17 A Well, what I mean is going against what -- I'm not  
18 sure I can discuss what he is asking because when you get Top  
19 Secret or other clearances, you are advised of certain  
20 procedures. I'm not sure I should discuss that here.

21 Q I'm not asking for Top Secret information. Maybe I  
22 can ask the question another way.

23 To be clear, Mr. Hoffman, and in light of your last  
24 comment, are you saying when you used the word "imprudent"  
25 here in making your finding on the penalty, that you relied

1 on some classified document or information?

2 I don't want you to tell me what it is. I just  
3 want you to give me a yes or no.

4 A No, I did not rely solely on -- I did not rely on a  
5 classified document.

6 Q There is no Top Secret, Secret or Confidential  
7 matter involved here that would keep you from testifying?

8 A I consider law enforcement sensitive topics that  
9 should not be discussed publicly.

10 Q I appreciate that. That's what I'm trying to ask  
11 in my question, in terms of your use of the word "imprudent."  
12 Why don't you tell us as best you can exactly what you meant  
13 by "imprudent."

14 A Regardless of whether it was classified material,  
15 whether it was law enforcement sensitive material, it is to  
16 me imprudent that any law enforcement professional would  
17 disclose information that would otherwise facilitate  
18 potential acts of terrorism or acts of aggression against  
19 visitors or icons.

20 Q Back to my original question. I understand the  
21 answer you just gave. My original question was did you  
22 include within this use of the word "imprudent" that Ms.  
23 Chambers' disclosure had violated a law or written procedure  
24 that you had seen?

25 A I am not aware of a specific law or written

1 procedure that addresses that issue.

2 Q Thank you. On the bottom of page three, the last  
3 paragraph, you have a sentence in the middle there that says  
4 "Your misconduct and related judgments have caused me to  
5 believe that you cannot be trusted to keep confidential law  
6 enforcement sensitive information," and then you go on and  
7 make a list.

8 Let me see if that sentence finishes grammatically.

9 I'm not sure it does. Did you ever finish that thought  
10 about keeping confidential law enforcement sensitive  
11 information? How did you intend to finish that  
12 grammatically?

13 A It's been a long time. I think the finish to that  
14 sentence is with which you are or may be responsible for  
15 assisting.

16 Q Let me just cut to the chase. Are you saying there  
17 that you concluded that Ms. Chambers could not be trusted to  
18 keep confidential law enforcement sensitive information  
19 private or non-public?

20 A Yes.

21 Q Is that the concept?

22 A Yes.

23 Q Drawing that conclusion, under the Douglas Factors,  
24 I take it that plugged into your decision as to what the  
25 penalty should be?

1 A Yes.

2 Q You are using the term "law enforcement sensitive"  
3 as a term of art, I take it? That means something to you  
4 specifically?

5 A When it's in capital letters, it does.

6 Q There are no capital letters here. What does it  
7 mean to you here?

8 A Well, it means that it's information that should  
9 not be disclosed publicly because it would aid terrorists in  
10 carrying out acts of aggression against the United States and  
11 its citizens and its icons.

12 Q In your personal judgment or according to some  
13 stated policy?

14 MR. L'HEUREUX: Objection; asked and answered.

15 MR. HARRISON: I didn't hear the answer.

16 JUDGE BOGLE: I think it was answered.

17 MR. HARRISON: I object then, Your Honor, because I  
18 don't know the answer sitting here at the moment. I believe  
19 the answer is relevant.

20 I would note, Your Honor, and perhaps my memory is  
21 failing me, I believe Your Honor ruled that law enforcement  
22 sensitive information was irrelevant to this case. I don't  
23 think this document makes it so.

24 BY MR. HARRISON:

25 Q You note on the bottom of page three under item (g)

1 in the Douglas Factors a concern about Ms. Chambers  
2 effectively interacting with members of the law enforcement  
3 community in Washington, D.C. Do you see that?

4 A Yes.

5 Q What do you mean by that?

6 A I mean that when the Chief of the U.S. Park Police  
7 works cooperatively with the Metropolitan Police Department,  
8 the Secret Service, and other agencies as may be involved in  
9 providing security during a public event in Washington, D.C.,  
10 it is essential that those other entities and leaders be able  
11 to trust that the Chief of Police will carry out  
12 instructions, will keep information secret that should not be  
13 disclosed publicly, and otherwise, would enjoy the trust and  
14 confidence of those other leaders.

15 This is a very high profile position that requires  
16 a lot of collaboration because the actual real estate that  
17 the U.S. Park Police is responsible for within the District  
18 of Columbia is commingled with a lot of other jurisdictions,  
19 Capital Police is another one to raise.

20 There is a very high level of trust required in  
21 order for this cooperation to be successful.

22 Q Are you familiar with the International Association  
23 of Chiefs of Police and any endorsement that they may have  
24 given to Chief Chambers?

25 A I'm not.

1 Q Was there an allegation in the proposed removal to  
2 your knowledge that Ms. Chambers was not effectively  
3 interacting with members of the law enforcement community?

4 A No.

5 Q You didn't happen to catch any news reports last  
6 night did you, by any chance?

7 MR. L'HEUREUX: Objection, Your Honor; relevance.

8 JUDGE BOGLE: Objection sustained.

9 MR. HARRISON: Might I at least offer a proffer,  
10 Your Honor?

11 JUDGE BOGLE: No.

12 MR. HARRISON: I note my objection to not being  
13 able to make a record.

14 BY MR. HARRISON:

15 Q You indicate here on the bottom of page four under  
16 item four in your July 9th letter that you understand that no  
17 deficiencies in the work performance of Ms. Chambers have  
18 been formally noted.

19 Do I read that correctly?

20 A I believe you do; yes.

21 Q Did you make an inquiry into Ms. Chambers'  
22 performance in drawing any judgment about the penalty?

23 A No.

24 Q You indicate there is evidence of Ms. Chambers'  
25 problems with her ability to get along with others. What do

1 you mean by that?

2 A As I recall, it's referenced in her reply, but I  
3 also recall numerous discussions with her over the course of  
4 her tenure as Chief of the U.S. Park Police, wherein she  
5 described inappropriate acts on the part of certain  
6 subordinates in the U.S. Park Police who she referred to as  
7 "snipers."

8 Q When did you receive that information from her?

9 A In the course of conversations.

10 Q What time period?

11 A Like I said, over the course of her tenure. I  
12 don't recall specific times.

13 Q Prior to your being appointed as the deciding  
14 official?

15 A Yes.

16 Q That information was not provided to you during the  
17 process of your decision making in this matter, was it?

18 A Except to the extent that I believe it was  
19 referenced in her reply.

20 Q Only to that extent?

21 A Yes.

22 Q Did you believe that the fact that Ms. Chambers was  
23 the victim of harassment from these snipers or detractors was  
24 evidence that she couldn't get along with people?

25 A Well, as the letter says, I did not corroborate



1 that fact.

2 Q This allegation has not been corroborated?

3 A Right.

4 Q Which allegation were you referring to?

5 A The allegation that she alleged there were snipers  
6 and detractors.

7 Q Did you make an inquiry during your investigation  
8 into whether or not there was corroboration?

9 A No.

10 MR. HARRISON: Your Honor, I would move the  
11 admission of Mr. Holmes' deposition. He testified in some  
12 length on that matter.

13 JUDGE BOGLE: Is this the one we decided to take up  
14 at a later time?

15 MR. HARRISON: It is.

16 JUDGE BOGLE: Mr. L'Heureux?

17 MR. L'HEUREUX: I don't have any specific objection  
18 on relevance.

19 JUDGE BOGLE: This is not something that has been  
20 offered; right? I don't have it as a proposed exhibit?

21 MR. HARRISON: No. We kept it until the later  
22 moment, Your Honor. We will provide it on the break.

23 JUDGE BOGLE: All right.

24 MR. HARRISON: Thank you.

25 BY MR. HARRISON:

1 Q Do you believe you could tell us where in Ms.  
2 Chambers' reply she had made the references that you relied  
3 upon for a finding on her ability to get along with others?

4 A I'd have to scan it.

5 Q You couldn't do it quickly, you don't think?

6 A No.

7 Q Was it the reference to snipers?

8 A I believe so.

9 Q You indicate on that same paragraph at the bottom  
10 of page four that there were some problems with Ms. Chambers  
11 challenging her supervisor's authority. I assume you mean  
12 Mr. Murphy?

13 A Yes.

14 Q What was it that you meant by "challenging his  
15 authority?"

16 A In the course of my investigation, it became  
17 apparent to me that she was openly defiant to carrying out  
18 his instructions, that it went beyond reasonable discussions  
19 of the merits of these instructions and stepped over into the  
20 realm of being openly defiant and refusing to carry out his  
21 instructions.

22 Q What was this open defiance that you are referring  
23 to? Can you identify it?

24 A The three specifications in charge five.

25 Q Not following orders?

1           A     Yes.

2           Q     Mr. Hoffman, you have explained that you  
3 essentially conducted your depositions to inquire into what  
4 Ms. Chambers had presented to you in her response, if I  
5 understood your prior testimony. Is that correct?

6           A     I conducted my investigation in order to determine  
7 to the best of my ability what the proof was when there  
8 appeared to be facts in dispute.

9           Q     Was there reason, since Ms. Chambers mentioned the  
10 sniper thing, that you didn't inquire with your other  
11 witnesses that you chose to call about the sniper issue?

12          A     It was not germane to the charges.

13          Q     What about the penalty?

14          A     Well, to the extent that it's germane to the  
15 penalty, it argues for the penalty, because if indeed, the  
16 case of the snipers was true, it would demonstrate her  
17 inability to get along with fellow workers. I did not go  
18 down that road because it was not part of the charges.

19          Q     You clearly relied on it for your penalty  
20 determination, but you didn't -- you have probably answered  
21 my question. Is there anything else you want to say about  
22 why you didn't inquire into that?

23          A     No.

24          Q     Did you know from Ms. Chambers' response what type  
25 of harassment had happened from the snipers situation?

1 A I knew from prior knowledge.

2 Q Prior to?

3 A Prior to me becoming the deciding official.

4 Q Can you name one example that comes to mind?

5 A Officers leaving condoms on a patrol car or office  
6 door, something to that effect.

7 Q You blame Ms. Chambers for that?

8 A No.

9 Q Do you know whether or not any official of the  
10 Department of Interior and any official of the U.S. Park  
11 Police had determined that those acts of harassment were  
12 actually criminal acts, crimes committed by the perpetrators?

13 A I don't know.

14 Q You indicate at the bottom of page four that you  
15 did not find that the snipers issue was a mitigating factor.  
16 Was that because you found that essentially there was no  
17 proof that it happened or that you assumed it happened, but  
18 you didn't find it mitigating?

19 A I don't think you have characterized the  
20 application of that sentence appropriately.

21 Q Help me out. What did you mean by that?

22 A Accordingly, I do not find that all of Douglas  
23 Factor number four is a mitigating factor.

24 Q I'm sorry. It was a more inclusive reference?

25 A Right.

1           Q     You indicate on page five at the top under item  
2 five, the last sentence in that paragraph, "Your supervisor  
3 has stated that your misconduct has caused irreparable injury  
4 to your professional relationship with him." That would be  
5 Mr. Murphy, I take it.

6           A     Yes.

7           Q     Did he say that in his testimony under oath?

8           A     I don't recall exactly whether it was in his  
9 testimony or in his proposal to remove.

10          Q     Did you seek Ms. Chambers' input on that particular  
11 question, whether that relationship was irreparably harmed?

12          A     No.

13          Q     In the third paragraph under item five in the  
14 middle, you make a reference "Indeed, your open hostility and  
15 contumacious attitude towards your supervisor," do you see  
16 that?

17          A     Uh-huh.

18          Q     Is that referring to anything other than what you  
19 pointed to in Ms. Chambers' response?

20          A     Yes. That refers to more than what was in the  
21 conclusion of her response. It was what I learned during the  
22 investigation of the facts, that she demonstrated stubborn  
23 obstinance and resistance to following instructions given to  
24 her by her supervisor.

25          Q     You learned this during your depositions?

1           A     Yes.

2           Q     Did you seek Ms. Chambers' response to that  
3 conclusion you made from getting information in those  
4 depositions?

5           A     No.

6           Q     You indicate under item six that in the recent  
7 history of the U.S. Park Police, you have concluded there  
8 have not been any instances of misconduct by a chief of the  
9 U.S. Park Police similar to those that Ms. Chambers was  
10 charged with.

11                   Did you include Mr. Langston, the former Chief of  
12 Police, in that conclusion?

13           A     He was not Chief of Police during my tenure.

14           Q     No, but in "the recent history of the Park Police,"  
15 he would be, would he not?

16           A     Well, I don't know what your definition of "recent"  
17 is.

18           Q     Wasn't Mr. Langston the immediate predecessor to  
19 Ms. Chambers?

20           A     I don't know.

21           Q     I take it you didn't inquire about Mr. Langston?

22           A     No.

23           Q     In item seven at the bottom of page five, you note  
24 "In your case, the Department's table of penalties does not  
25 provide guidance for the type of penalty that should be

1 imposed for your misconduct."

2 Do you see that?

3 A Yes.

4 Q You reviewed the table of penalties personally?

5 A I have the table of penalties; yes.

6 Q Did you read it thoroughly for the purpose of  
7 making your decision?

8 A I read it over.

9 Q Is this your conclusion here that table of  
10 penalties doesn't give guidance on the penalty that should be  
11 applied to Ms. Chambers' misconduct?

12 A Yes.

13 Q On page six of your decision, the notoriety of the  
14 offense and impact upon the reputation of the Agency, did you  
15 take care in making your findings to distinguish between  
16 notoriety that might have been caused by Ms. Chambers'  
17 offense or alleged offense, and the impact of the offense on  
18 the Agency versus the notoriety of a public controversy that  
19 may have been caused by the Agency's actions against Ms.  
20 Chambers?

21 A The notoriety I'm referring to there is the  
22 notoriety surrounding her offenses. Her misconduct was  
23 conducted in a very public forum, i.e., the Washington Post  
24 news story and other news media outlets.

25 Q When you say in the first sentence "Your misconduct

1 and removal proposal have been the subject of numerous  
2 newspaper articles and radio and television news stories,"  
3 aren't you talking about not only the December 2nd media  
4 coverage, but the follow up coverage about the fact that the  
5 Agency had proposed to remove Ms. Chambers?

6 A No. There were follow up articles that were not  
7 specific to the proposal to remove.

8 Q That's not my question. My question is aren't you  
9 including the articles that did talk about the Agency's  
10 proposal to remove.

11 A No, I'm not talking about those articles.

12 Q Why did you say here "Your misconduct and removal  
13 proposal have been the subject?"

14 A Well, that's a fact.

15 Q You stated it merely because it was a fact, not  
16 because it was relevant to your consideration?

17 A No. What I'm trying to point out here is that the  
18 way in which this misconduct occurred, the issue became very  
19 public, and there was notoriety associated with it.

20 Q There would be no need to reference the removal  
21 proposal?

22 A I don't know.

23 Q You go on to say in terms of the impact on  
24 productivity and efficiency, numerous departmental and Park  
25 Service officials and employees have spent a great deal of



1 time responding to letters and telephone calls concerning  
2 your offenses.

3 How many letters do you think you received  
4 concerning Ms. Chambers' offenses versus letters complaining  
5 of her removal or proposed removal? How would you balance  
6 those?

7 A I don't think I could balance those because most of  
8 those letters commingled those issues.

9 Q Are you saying that the letters received by the  
10 Department complained about what Ms. Chambers had done or  
11 complained of Ms. Chambers being removed or both in the same  
12 letter?

13 A What I'm saying is that most of those letters in  
14 the same letter referred to her original actions which led to  
15 the charges in the proposal to remove, and may have referred  
16 to the proposal to remove, and may have expressed support or  
17 opposition to that proposal to remove.

18 The letters were wide ranging in content and topic.

19 Q How would you know that without reading them?

20 A I said I read a few. I don't recall an exact  
21 number and they all begin to look alike after a while. I  
22 have other things to do.

23 Q You considered them in your penalty determination,  
24 did you not?

25 A No.

1           Q     You indicate in item nine, which is a Douglas  
2 Factor concerning the clarity with which the employee was on  
3 notice of any rules violated.

4                     Did you actually go through for your penalty  
5 determination and attempt to identify for each of the six  
6 charges whether there ever had been a written rule or order  
7 that was provided to Ms. Chambers that was the subject of the  
8 charged offense?

9           A     No.

10          Q     Would you know sitting here today for each of those  
11 charges whether or not a written order or rule was provided  
12 to Ms. Chambers in advance of her conduct that would relate  
13 to the charged offenses?

14          A     Yes.

15          Q     And would the answer be she was not given an  
16 written rule or order in some cases?

17          A     No, the answer would be that in the letter of  
18 reprimand in March 2003, she was told that she should know  
19 and adhere to the policies of the Department and the National  
20 Park Service, and she was told that she would be held to a  
21 very high standard. Those are written directions to her  
22 conduct, which she failed to adhere to six months later, nine  
23 months later.

24          Q     Is it your understanding that for purposes of  
25 Douglas Factor number nine, that it was sufficient that Ms.

1 Chambers was given a global notice to follow all the rules?

2 A When you take that in the context of her position  
3 and what is expected of a professional who is leading one of  
4 the most prestigious police forces in the nation, yes. I  
5 think that's notice enough.

6 Q In your determination under item nine here, did you  
7 take into consideration that Ms. Chambers was hired from  
8 outside the Federal service and had been employed for two  
9 years or less?

10 A Yes.

11 Q Did you take into consideration that Ms. Chambers  
12 was -- let me rephrase the question.

13 Did you take into consideration that the Department  
14 of Interior had planned and instructed other officials, not  
15 Ms. Chambers, to provide Ms. Chambers certain training and  
16 information regarding policies, Federal rules and procedures,  
17 because she was hired from the outside?

18 A I missed the question part of that.

19 Q I'll be happy to restate it.

20 Did you take into consideration under item nine of  
21 the Douglas Factors that Department of Interior officials  
22 higher than Ms. Chambers had directed to other Department of  
23 Interior officials that they provide Ms. Chambers training  
24 and information about Federal regulations, procedures and so  
25 forth, because she had been hired from outside?

1           A     No.

2           Q     Did you determine in your inquiry whether or not  
3 any training that had been promised had in fact been provided  
4 to Ms. Chambers?

5           A     No. I'm sorry.

6           Q     Are you still speaking to my question?

7           A     Yes, I am. Except to the extent that I know that  
8 Ms. Chambers attended meetings where the issue of not  
9 discussing budget items in negotiation prior to the  
10 President's budget are not to be talked about outside the  
11 Department.

12                   I guess that doesn't go to your question because it  
13 is not as a result of somebody directing somebody to train  
14 Ms. Chambers specifically.

15           Q     You are precisely correct. I appreciate your  
16 attempt to give a full answer.

17                   You refer on page six to "Mr. Murphy gave you  
18 specific instructions on more than one occasion." Are you  
19 referring to specific instructions in writing when you make  
20 that statement?

21           A     I don't recall whether they were all in writing or  
22 some in writing. I know some of them were verbal and some of  
23 them may have been in writing.

24           Q     Do you remember any specific one that you can say  
25 with certainty was in writing sitting here today?

1           A     I can't say with certainty sitting here today; no.

2           Q     Did you take into consideration under item nine  
3 that Ms. Chambers had never been given a performance  
4 appraisal that might have put her on notice of some of these  
5 matters?

6           A     No.

7           Q     Did you make any finding in your inquiry under item  
8 nine as to whether Ms. Chambers ever had a job description in  
9 writing and how specific it might have been on the matters at  
10 issue?

11          A     I don't recall.

12          Q     Do you know whether there was a position  
13 description for Ms. Chambers?

14          A     I don't know.

15          Q     Do you know whether Ms. Chambers had ever been  
16 given performance standards?

17          A     I think the letter of reprimand certainly sets some  
18 standards.

19          Q     Regarding?

20          A     The requirement that she know the policies and  
21 implement the policies of the Department and the Park  
22 Service, and that she conduct herself to the high standard to  
23 which was expected of that position.

24          Q     Do you know what the term "performance standards"  
25 means as a term of art in human resources?

1           A     No.

2           Q     You indicate at the bottom of page six that part of  
3 your consideration under Douglas Factor number ten was that  
4 Ms. Chambers denied wrongdoing. Did I read that correctly?

5           A     Yes.

6           Q     Were you referring to her statements in her reply?

7           A     Yes.

8           Q     Again, you reference "hostility toward your  
9 supervisor." Is that the reference you had given us earlier?

10          A     Yes.

11          Q     When you make a reference to Ms. Chambers  
12 attempting to rationalize her actions, are you referring to  
13 her statements in her reply?

14          A     Yes.

15          Q     Under item number 11 on page seven, mitigating  
16 circumstances, such as unusual job tensions, I take it from  
17 your prior testimony that you did not consider the history of  
18 harassment by the snipers as part of an unusual job tension?

19          A     I did not.

20          Q     Nor did you consider it under the category there of  
21 harassment, I take it?

22          A     Well, I was aware of the snipers, but it was not an  
23 overriding issue in this particular Douglas Factor because I  
24 know that on several occasions, both Director Murphy and  
25 Director Mainella offered Teresa Chambers assistance in

1 dealing with the "snipers/detractors," and Ms. Chambers  
2 suggested that she had it under control, she could handle it  
3 just fine, and she'd take care of it.

4 Q Did you know that from your activities prior to  
5 becoming the deciding official?

6 A Yes.

7 Q And you didn't receive that information as part of  
8 your role as deciding official?

9 A No.

10 Q Did you put Ms. Chambers on notice that you were  
11 relying on that information so she could respond to it?

12 A No, because harassment is only one part, one factor  
13 of 12 factors, and it is not material to the charges.

14 Q We are talking about the penalty at the moment.

15 To respond to your observation, let me just ask  
16 you, are you saying that you made a conclusion in deciding  
17 the penalty that the harassment by the snipers was not  
18 relevant to any of the charges?

19 Was that your conclusion?

20 A Yes.

21 Q Did you know that Ms. Chambers had actually raised  
22 a concern in opposition to the detail of Ms. Blyth that it  
23 would encourage the snipers to continue their harassment?  
24 Did you know she had said that?

25 A Yes.

1           Q     In your deposition -- strike that. We will let  
2 your deposition speak for itself.

3                     Let me just ask you, do you wish today to change  
4 any of your testimony in your deposition? Do you believe you  
5 stated anything that was not honest or correct?

6           A     I believe I was as honest and accurate as I could  
7 be at that time.

8           Q     Appreciate that.

9                     MR. HARRISON: If I could have just a moment, Your  
10 Honor, I may be able to close with the witness.

11                    (Pause.)

12                    BY MR. HARRISON:

13           Q     Mr. Hoffman, when you considered the issue of  
14 notoriety, did you consider the existence of one or more web  
15 sites that may have contained information about Ms. Chambers'  
16 case?

17           A     No.

18           Q     I take it none of those web sites played a role in  
19 your determination?

20           A     Nobody's web site played a role in my  
21 determination. In fact, I made a specific point of not going  
22 to the web site you are referring to.

23           Q     Probably more than one, but I understand your  
24 answer.

25                    Did you consider Ms. Chambers' statements or issues



1 raised in her complaint against Mr. Murphy filed on December  
2 2, 2003 in any consideration regarding the penalty?

3 A No.

4 MR. HARRISON: Nothing further, Your Honor.

5 JUDGE BOGLE: Mr. L'Heureux, any redirect?

6 MR. L'HEUREUX: I have no redirect, Your Honor.

7 JUDGE BOGLE: Thank you.

8 MR. L'HEUREUX: Just a moment, Your Honor, if I  
9 may.

10 JUDGE BOGLE: Short moment.

11 (Pause.)

12 MR. L'HEUREUX: No further questions.

13 JUDGE BOGLE: Thank you. You are excused.

14 (Witness excused.)

15 JUDGE BOGLE: Let's take about a ten minute break.

16 MR. L'HEUREUX: If I may, before we take a break,  
17 Your Honor, what I would like to do in lieu of calling Ms.  
18 Chambers, is to offer her deposition, and then rest at that  
19 point. I'll just reserve the right to cross examine Ms.  
20 Chambers on her testimony in her case-in-chief.

21 JUDGE BOGLE: Mr. Harrison, any objection?

22 MR. HARRISON: No, Your Honor. We don't object to  
23 that.

24 JUDGE BOGLE: Okay. On the break, I need the  
25 Manson deposition, the Griles' deposition, the Holmes'

1 deposition from you, Mr. Harrison, and the Chambers'  
2 deposition from you.

3 Let's take a break.

4 (A brief recess was taken.)

5 JUDGE BOGLE: Back on the record. The first thing  
6 I need to do is receive these depositions. Mr. L'Heureux,  
7 you have offered Ms. Chambers' deposition. What shall I mark  
8 it?

9 MR. L'HEUREUX: Agency Hearing Exhibit 7, I  
10 believe, is the next one in order.

11 JUDGE BOGLE: You do not object, right, Mr.  
12 Harrison?

13 MR. HARRISON: We do not object.

14 JUDGE BOGLE: Okay.

15 (Agency Exhibit No. 7 was  
16 marked for identification  
17 and received in evidence.)

18 JUDGE BOGLE: Do you have the Manson, Griles, and  
19 Holmes' depositions?

20 MR. HARRISON: Yes and no. We have two and two are  
21 on the way. Actually, that number doesn't match. We are  
22 also going to offer the deposition of Mr. Beck, if there is  
23 no objection.

24 MR. L'HEUREUX: There is no objection.

25 JUDGE BOGLE: Okay. That makes four. Do you want

1 to wait until you receive all of them and we will do them at  
2 once?

3 MR. HARRISON: That will be fine, Your Honor.

4 JUDGE BOGLE: Okay.

5 MR. HARRISON: Thank you.

6 JUDGE BOGLE: You are not calling Mr. Beck. Are  
7 you calling Mr. Fear?

8 MR. HARRISON: No. He probably was on our list  
9 initially, but we do not believe the record is such that we  
10 need to call him.

11 JUDGE BOGLE: Beck and Fear are withdrawn. Does  
12 that just leave Ms. Chambers?

13 MR. HARRISON: It probably does, Your Honor. I  
14 have a witness issue and this may be a good time to address  
15 that.

16 JUDGE BOGLE: What is that?

17 MR. HARRISON: Your Honor had noted in your pre-  
18 trial rulings that should the trial develop in a manner that  
19 it would appear any witness that Your Honor did not initially  
20 approve was going to be required, that the issue could be  
21 raised, so I'm raising one issue at the moment, and that is  
22 Ms. Pamela Blyth.

23 There was certain testimony by Mr. Murphy that we  
24 would have Ms. Blyth rebut, and also offer her testimony for  
25 impeachment.

1           As it happens, I believe that same content is in  
2 her affidavit, which is in this record already. My concern  
3 is that Your Honor or reviewing courts may not give the same  
4 weight to an affidavit as to live testimony, and counsel may  
5 also wish the opportunity to cross examine on that testimony.

6           Because of those concerns, I would want to call Ms.  
7 Blyth for some very brief testimony on points that are in  
8 fact in her affidavit.

9           JUDGE BOGLE: Mr. L'Heureux, you have seen the  
10 affidavit?

11          MR. L'HEUREUX: I have seen the affidavit. I'm  
12 trying to pull it up in my recollection right now.

13          JUDGE BOGLE: Are there points in there on which  
14 you would wish to cross examine?

15          MR. L'HEUREUX: I don't think so, Your Honor.

16          JUDGE BOGLE: Will the affidavit suffice?

17          MR. HARRISON: I believe so, Your Honor. If I  
18 understand that it would be given the same weight as her live  
19 testimony.

20          JUDGE BOGLE: Yes.

21          MR. HARRISON: Then that would be fine, it would  
22 suffice.

23          JUDGE BOGLE: Does that take us to Ms. Chambers?

24          MR. HARRISON: I think it does take us to Ms.  
25 Chambers, Your Honor.

1                   JUDGE BOGLE: All right. Do you have any objection  
2 to taking an oath?

3                   MS. CHAMBERS: No.

4 Whereupon,

5                                   TERESA CHAMBERS

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

8                   JUDGE BOGLE: Please be seated and state your full  
9 name for the record.

10                   THE WITNESS: Teresa C. Chambers.

11                   JUDGE BOGLE: Mr. Harrison?

12                   MR. HARRISON: Thank you.

13                                   DIRECT EXAMINATION

14                   BY MR. HARRISON:

15                   Q    Ms. Chambers, when were you first hired as Chief of  
16 the U.S. Park Police?

17                   A    February 10, 2002.

18                   Q    Did you have occasion to request additional staff  
19 be hired to support your functions?

20                   A    Yes, almost from the start.

21                   Q    Do you know a Ms. Pamela Blyth?

22                   A    Yes, sir.

23                   Q    Was she someone hired as part of your executive  
24 command staff?

25                   A    She was, sir, in April.

1 Q April 2002?

2 A Yes, sir.

3 Q What was her function?

4 A It was a myriad of things, primarily organization  
5 and development, financial management of the U.S. Park  
6 Police.

7 Q Do you recall an issue arising which involved Mr.  
8 Murphy indicating his desire that Ms. Blyth be detailed?

9 A Yes, sir; I do.

10 Q Can you explain to the Court as best you can  
11 chronologically, step by step, what communications transpired  
12 between you and Mr. Murphy in regard to the Blyth detail?

13 A Sure. I first learned about it on August 7th, when  
14 Director Mainella and I were speaking. She referred to that  
15 meeting yesterday when she testified. She and I had spent  
16 about four hours going over budget numbers and a number of  
17 issues with the development of the Park Police.

18 During that meeting, she asked me if Mr. Murphy had  
19 told me of his intention to detail Pamela Blyth. I was  
20 surprised, and she was surprised that I did not know about  
21 it. I told her that I was not aware of it, and asked if she  
22 could provide some more details.

23 I spoke to Mr. Murphy actually the next day. He  
24 called me in and said I understand that the Director  
25 mentioned Pamela's detail to you, and he told me much of what

1 he said yesterday, that he was hoping to help develop Ms.  
2 Blyth's Federal background.

3 He said she would be working directly for him, that  
4 he would serve as a mentor and a coach, and that he hadn't  
5 picked the exact date yet, but that he would want her over  
6 there for a period of time, perhaps up to 120 days, while she  
7 engaged in a number of projects and learned more about the  
8 budget, about strategic planning, about things that his  
9 office did, anything involving the National Park Service.

10 My shock was that the timing of it was very  
11 difficult. We were right in the middle of the beginning  
12 stages of mission and budget meetings, which you heard Mr.  
13 Hoffman testify to, and we heard testimony from Judge Manson  
14 during his deposition.

15 We had assignments that were due within a few days,  
16 all of which fell in Ms. Blyth's command. We had to figure  
17 out how to take care of a \$12 million shortfall and to meet  
18 the requirements of not only the Secretary's directive on law  
19 enforcement reforms, but on her directives with regard to how  
20 to staff the icon parks, and actually to comply with one of  
21 the NAPA recommendations about putting our attention in  
22 Washington, D.C. on those icons.

23 All of that was going to stop in midstream if Ms.  
24 Blyth would be moved from that position. I had expressed  
25 that the night before to Director Mainella as well. She

1 referred me to Mr. Murphy and said she would defer to him on  
2 matters with regard to when or how, but she seemed to agree  
3 that it made sense to have some flexibility, as did Mr.  
4 Murphy, by the time that conversation ended that day.

5 Q What happened after that?

6 A He had given me approval by the time we had  
7 finished talking that evening that I could alert Ms. Blyth to  
8 the fact that he, Mr. Murphy, would be contacting her. I  
9 didn't know if it would be an in person conversation or just  
10 over the telephone.

11 I did contact her that night. I believe she was on  
12 some type of leave that day. I told her that an opportunity  
13 would be presented and that I thought it was best that she  
14 heard the details from Mr. Murphy, but not to be surprised if  
15 she got that call, which she did on August 21st.

16 Q That call to Ms. Blyth came from whom?

17 A Either Mr. Murphy or his secretary. She was asked  
18 to appear in his office for a meeting.

19 Q How did you come to learn that?

20 A Ms. Blyth told me. I was her immediate supervisor.

21 Q After Ms. Blyth got that call noticing her of that,  
22 what transpired after that?

23 A She appeared in his office and was met by not only  
24 Mr. Murphy but another gentleman in a Park Service uniform,  
25 who I don't believe up until that point she had known before.



1 I know this information because again as her supervisor, she  
2 came back and shared it with me.

3 She told me that this person was introduced as  
4 Michael Brown, and that somewhere during the conversation she  
5 learned he was about to become her new supervisor, although  
6 no date for the transfer or the detail was actually  
7 established at that time.

8 Q Did you subsequently learn that a date had been  
9 established for the transfer?

10 A It was actually established two days later on a  
11 Saturday. What Pamela shared with me is some concerns she  
12 had, not with what Mr. Murphy had told her, but when Mr.  
13 Murphy stepped out of the room, Mr. Brown apparently engaged  
14 her in some very candid conversation.

15 He mentioned that he had been a former Park Police  
16 employee, that he had some disdain for the Park Police, that  
17 he was going to show Pamela how to do things the Park Service  
18 way, and that she would be working for him full time.

19 She tried to politely interject that wasn't her  
20 understanding, that she had a number of obligations at the  
21 Park Police that needed to be fulfilled. He said that's not  
22 what Don Murphy told me, once you come to work for me, you  
23 work for me full time, you don't work for Teresa Chambers,  
24 and you will not be doing any projects for the U.S. Park  
25 Police.

1           Pamela came back and shared those concerns with me.

2       I suggested that perhaps she should reach out to Mr. Murphy  
3 because the last thing he had told her was if you have any  
4 questions or concerns about what's going to happen, please  
5 give me a call. She sent him an e-mail the following day.

6       Q     What happened in regard to the decision making on  
7 that detail after that?

8       A     Saturday, my recollection is Ms. Blyth and Mr.  
9 Murphy actually talked on the telephone. He was on travel  
10 and apparently literally in the air most of the day on Friday  
11 and couldn't be reached.

12           When they spoke on the phone, and I only have  
13 Pamela's side of the story, she told me that she had  
14 expressed her concerns of what Mr. Brown had told her. She  
15 had expressed her concerns of not being able to live up to  
16 the obligations she had promised to me and others in the  
17 chain of command with regard to the budget and activity based  
18 costing and a number of other projects in which she was  
19 involved.

20           And that she thought Mr. Murphy may not know what  
21 Mr. Brown had said, because it was certainly different than  
22 what he had told her and me, and that was he would work out  
23 some schedule, four hours a week, eight hours a week, a  
24 rotation, something where she could both gain the experience  
25 and continue to work almost full time in the Park Police.

1           To her surprise, when she shared what she had  
2     learned from Mr. Brown with Mr. Murphy, he said, well, that  
3     is the way it's going to be, at least for right now, I'll  
4     evaluate it every two weeks, but your assignment starts  
5     Monday morning. He may have given her a reporting time. I  
6     don't recall.

7           He told her it would be full time. He would review  
8     it in two weeks, and that Mr. Brown was correct, she no  
9     longer would work for Chief Chambers, that she worked for  
10    Michael Brown.

11          He said at that meeting or the one a few days  
12    earlier that while she thought she might want to come back  
13    and work for the Park Police, he thought that perhaps by the  
14    time the detail was over, she would find there were other  
15    places in the National Park Service that would interest her.

16          That sent up a flag to Ms. Blyth that perhaps once  
17    she left for this detail, over the weekend, and appeared  
18    Monday morning, that she may never return to the Park Police.

19        Q     What did you do at this point?

20        A     There are a number of things that occurred all at  
21    one time. Apparently, right before Ms. Blyth notified me or  
22    perhaps right after, she started reaching out to people to  
23    whom she had made commitments for the following week, to  
24    advise them that she would no longer be living up to those.

25          One of the persons she contacted was Officer Jeff

1 Capps, who at that time was the chairman of the Fraternal  
2 Order of Police Labor Committee for the U.S. Park Police.

3 He had taken the initiative, which I learned some  
4 time later that day, to contact Deputy Secretary Griles. It  
5 was not unusual. They had a working relationship. They  
6 talked, I don't know how often. I know a handful of times  
7 that Officer Capps told me or the Deputy Secretary himself  
8 told me.

9 I huddled the rest of the executive team in a  
10 telephone conference call, that would have included Assistant  
11 Chief Ben Holmes, Deputy Chiefs Barry Beam and Dwight  
12 Pettiford, about the news, that we were about to lose one-  
13 fifth of our executive command staff, and what would that  
14 mean to us.

15 The remarks were pretty much universal, that none  
16 of us was prepared, not just because of time constraints, but  
17 because we didn't have the background. We weren't involved  
18 in the day to day work Ms. Blyth had been doing, to pick up  
19 and take care of her assignments at a time when the  
20 Department was looking to us to resolve this \$12 million  
21 shortfall.

22 We talked about a variety of options that we might  
23 look to. By the time I got off the call, I knew I at least  
24 had to take it up my chain of command, having already  
25 exhausted the opportunities with Mr. Murphy and Director

1 Mainella to have my issues heard, I tried to reach out to  
2 Judge Manson, Assistant Secretary Manson.

3 Q What did you do in that regard?

4 A I had known from a conversation with his secretary  
5 earlier in the week that he was on travel to Acadia. I know  
6 the cell phone coverage is spotty, nevertheless, I tried. It  
7 went right into voice mail.

8 I left him a message. I didn't remember as many  
9 details as Judge Manson did when he testified in his  
10 deposition, but apparently I told him in great detail from  
11 what he said what the conversation was to be about, and also  
12 alerted him that time was of the essence, that this detail  
13 was to begin Monday morning, and that if I didn't hear from  
14 him by the end of the weekend, I would reach out and try to  
15 find Mr. Griles.

16 I believe Mr. Griles ended up calling me before I  
17 had made the decision to reach out to him.

18 Q Do you know why Mr. Griles might have called you  
19 before you decided to reach out to him?

20 A Yes, sir. Officer Capps had called and left a  
21 message with him. He, too, was on travel and unavailable.  
22 He left a message on his voice mail that there was some issue  
23 that Mr. Griles would want to know about involving the Park  
24 Police, and he urged him to call Chief Chambers.

25 Apparently, Mr. Griles and Officer Capps had a

1 trusting enough relationship that without question, he did  
2 that.

3 Q What transpired? Did you talk with Mr. Griles?

4 A I did, sir. He called me. I was at home, Sunday  
5 evening, maybe 7:00, 8:00, 9:00, somewhere in that area. He  
6 told me he had received the message from Officer Capps and  
7 could I tell him what was going on.

8 I shared basically what I just shared here about  
9 Ms. Blyth's detail was coming up. Mr. Griles was familiar  
10 with the work of Pamela Blyth. He was very familiar with the  
11 budget issues I was facing. He and I had spoken on at least  
12 one occasion one on one.

13 I believe it didn't take a lot of convincing for  
14 him to understand that if there was one move at that moment  
15 that could set us up for failure in the Park Police with  
16 regard to management of that organization, it was the  
17 movement of Pamela Blyth.

18 The budget was number one to Mr. Griles. From the  
19 first day I had met him, his marching orders were clear, get  
20 your budget in order. I took that seriously.

21 Q What did Mr. Griles decide, if anything, that you  
22 know in regard to the detail of Ms. Blyth?

23 A At that moment, my recollection is that he just  
24 stayed quiet. He listened and asked some questions, gathered  
25 as much information as possible.

1           I believe at the end of that conversation, he told  
2 me he didn't know exactly what he was going to do, but that  
3 he would let me know something before the end of the night,  
4 so that in turn, I could tell Ms. Blyth where to report on  
5 Monday morning.

6           Q     Before we get to the outcome of that, had you had  
7 any conversations with Mr. Griles prior to the issue coming  
8 up about Ms. Blyth's detail in regard to how he felt about  
9 your communicating with him directly without Mr. Murphy or  
10 Ms. Mainella or Mr. Manson being present in your chain?

11          A     Yes, sir. One very vivid conversation and then  
12 many short conversations in the hallways.

13          Q     Give us the gist of those conversations, when they  
14 happened and what was said.

15          A     In the hallways, they would be quick updates. He  
16 would pass me on the hall, extend a hand, and he has a great  
17 mind, he would mention something that had just occurred.  
18 Sometimes it was appraising, sometimes it was a quick  
19 question. What's the status of X.

20                 The longer conversation did surprise me because we  
21 had never had this type of one on one, and was sometime after  
22 July 18th. I know that because of a conversation I had with  
23 Director Mainella on that date, and some time before, we  
24 ended up talking on the weekend of August 23rd/24th.

25                 I had gone by his office late in the afternoon. We

1 had a meeting the following day. Now, I'm thinking it was  
2 probably on August 7th, because on August 8th is when Mr.  
3 Murphy and I were in Mr. Griles' office talking about the  
4 radio conversion project.

5 I had stopped by his secretary's desk to say hey,  
6 this meeting is coming up, I'm not familiar with the  
7 protocol, is it okay if I bring my technical expert. I  
8 wanted to bring the lieutenant in charge of the radio  
9 project, so that if any technical questions were asked.

10 His secretary, Holly, was about to answer the  
11 question when apparently Mr. Griles heard my voice and came  
12 out of the office himself to the reception area, and he said,  
13 certainly, you can bring whomever you like to bring to the  
14 meeting so we can make it fruitful.

15 He then said tell me what's going on with your  
16 budget. I dropped my gaze, everything is fine with the  
17 budget, sir. No, come on, this is me asking. What's going  
18 on with your budget. I said, sir, everything is fine, thank  
19 you.

20 He takes my shoulder and leads me into his office  
21 and closes the door. He says this is me talking one on one.

22 I want to know, I'm hearing about a shortfall, I'm hearing  
23 there are problems afoot with regard to whether we are going  
24 to be able to staff certain things, the icons in particular,  
25 and I'm asking you what's going on.



1           I remember his words. He said you don't have to  
2 worry about talking to me. I said, sir, it's not you that  
3 I'm worried about. Director Mainella has made it very clear  
4 that I answer only to her, and I'm not to have budget  
5 discussions with anybody, the budget office in Interior or  
6 certainly anybody above her level.

7           He said I can't help you if you don't tell me  
8 what's going on. I rely on people like you that are in  
9 positions of authority to help me keep the pulse on things.

10           I did share the same information I had shared with  
11 Mr. Murphy and the same information with Director Mainella,  
12 about the \$12 million shortfall, what that meant to our icon  
13 protection, or conversely, what that meant to the protection  
14 of our parks that would likely lose officers if we had to  
15 move them around.

16           Q     Moving back to the events of the Blyth detail, at  
17 some point, did you learn what Mr. Griles had done in regard  
18 to the Blyth detail?

19           A     Yes, I did. I got another phone call from him  
20 either late Sunday night or very early Monday morning,  
21 certainly before Ms. Blyth would have reported to work, I  
22 don't believe that he told me who he talked with and I didn't  
23 expect him to.

24           His direction to me was I need you to call Pamela  
25 Blyth and tell her to report to Police Headquarters and not

1 to wherever else Mr. Murphy may have told her to appear.

2 He knew that I hadn't personally been given the  
3 direction of where she was to report or the date and time,  
4 but she had.

5 Q I take it Ms. Blyth was not detailed?

6 A No, sir; she was not.

7 Q That detail or whatever it was, that detail had  
8 been countermanded?

9 A By the Deputy Secretary; yes, sir.

10 Q Did Mr. Murphy ever give you a direct order to  
11 detail Ms. Blyth?

12 A Never, sir.

13 Q Would it make a difference if I asked you whether  
14 he did so in writing or verbally?

15 A There was no order in writing or verbally.

16 Q When Mr. Murphy talked with you about the Blyth  
17 detail, did you ever have occasion to reference persons that  
18 have been referred to in this proceeding as the "snipers,"  
19 internal snipers?

20 A We probably touched on it, he and I. That was one  
21 of those hallway conversations. He had approached me one day  
22 about having heard about persons in the organization that  
23 weren't fond of change.

24 Officer Capps had alerted him to some petty,  
25 perhaps, but criminal acts nonetheless, that were taking

1 place against me and other members of the executive team.

2 Q Were you present for the deposition of Mr. Holmes?

3 A Yes, sir; I was.

4 Q Did you hear Mr. Holmes describe some of the  
5 harassment incidents?

6 A I did.

7 Q I won't ask you to repeat them, but did you  
8 understand his testimony to essentially cover those  
9 incidents?

10 A He may have missed one, I'm not certain he  
11 remembered theft of personal property, a bike that I stored  
12 there, but I believe he got the others.

13 Q Do you recall having an occasion to be interviewed  
14 by the Washington Post?

15 A Many times; yes, sir.

16 Q Do you recall being interviewed by the Washington  
17 Post on or about the 20th of November?

18 A I do.

19 Q Can you tell us how that interview came to happen?

20 A I was with the National Leadership Council of the  
21 National Park Service in Los Angeles when Sergeant Fear  
22 reached out to me and told me that a Post reporter, whom we  
23 all know, named David Farenthold, had contacted him and told  
24 him that he had met with the FOP Union president, Officer  
25 Jeff Capps.

1 Q The "FOP" being?

2 A Fraternal Order of Police. I'm sorry.

3 That Officer Capps and he had talked about issues  
4 of staffing, of budgets, and specifically about icon  
5 protection, what the officers were now required to do, and  
6 what that meant to the overall operation of the Park Police.

7 In his typical reporting fashion, Mr. Farenthold  
8 wanted to give management an opportunity to add and weigh  
9 into the story.

10 Q Did you come to be asked some questions by Mr.  
11 Farenthold?

12 A Yes, sir. It was the evening of November 20th. I  
13 believe it was my first day back in town from the L.A. trip,  
14 7:00 at night or thereabouts.

15 Q Do you recall Mr. Farenthold asking you questions  
16 that had to do with the funding needs of the U.S. Park  
17 Police?

18 A Yes, sir; he did.

19 Q Did you respond to those questions?

20 A I did.

21 Q In your conversation with Mr. Farenthold, did you  
22 have occasion to mention certain numbers that represented  
23 amounts of monies that might be needed for various purposes?

24 A Actually, that came up in the very last question  
25 Mr. Farenthold asked.

1 Q The very last question?

2 A Yes, sir.

3 Q Tell us how that came to be and what question was  
4 asked of you at the end.

5 A Let me tell you the second to last question to lay  
6 a foundation for that. He had almost as a wrap up asked from  
7 everything you told me about the staffing issues and some of  
8 the challenges of protecting our nation's icons in the post-  
9 9/11 world, if you were able to fix it, what are your most  
10 pressing needs right now, what is it that you need to do what  
11 you believe you are supposed to do.

12 I thought that was sort of obvious, but I answered  
13 anyway, that certainly staffing was the number one answer,  
14 but I qualified that that without an infusion of monies to go  
15 with that separate from hiring money, that would not give us  
16 instant relief.

17 If today, as the Chief of Police, I'm authorized to  
18 hire a person, I first have to wait to have room to train the  
19 person, get 24 people together, get them to FLETC, six months  
20 later they come back to Washington, four months later they  
21 are finally on solo patrol. It has taken about two months to  
22 recruit them and get them on board.

23 A full year would go by before we realize any  
24 growth. The influx of monies for overtime was an absolute  
25 must to continue to staff the icons at a level that not only

1 the Secretary supported, but I supported as well. Common  
2 sense tells us that in the terror ridden world we live in, we  
3 have to pay special attention to those areas.

4 That was the second to last question. He then  
5 followed that with what is it that you would need to get by.

6 That is pretty much how he framed the question.

7 Q Did you answer the question?

8 A I did, sir.

9 Q Do you recall what you told him as to what you  
10 might need to get by?

11 A I recall that for a moment, I paused, because I  
12 wanted to think carefully through what my answer would be. I  
13 knew that we were already \$12 million in the hole in fiscal  
14 year 2004, that the fiscal year had started just one month  
15 earlier, two months earlier by that point, almost.

16 There were going to be tremendous service cuts,  
17 especially as the summertime came, if that \$12 million was  
18 not somehow made whole, either with a supplemental for 2004,  
19 and it would be worse in 2005.

20 I also knew that with the new staffing demands at  
21 the icon parks, it cost \$8.3 million in overtime just to  
22 staff the additional positions mandated by Secretary Norton  
23 at the icon parks.

24 On top of that, I thought of all the equipment  
25 needs that we had. The one that was most critical,

1 especially with the war on terror and in the Washington, D.C.  
2 area, was our helicopters.

3 It was the medi-vac program in D.C., and also  
4 heavily involved in moving Cabinet members out of Washington  
5 if there is a disaster.

6 One of our helicopters is 13 years old and badly  
7 needs to be replaced.

8 I thought those were my top three priorities, the  
9 \$12 million and \$8 million and \$7 million, for a total of \$27  
10 million.

11 Q Did you ever say to Mr. Farenthold at any time in  
12 that interview I need and am requesting \$8 million for a  
13 total increase in fiscal year 2005?

14 A No, and that wouldn't have been true if I had said  
15 it.

16 Q Do you know whether or not the U.S. Park Police had  
17 actually submitted a budget request for funds for fiscal year  
18 2005 at the level you are talking about for the Park Police?

19 A Yes, we did, around March of 2003.

20 Q Do you recall approximately how much was requested  
21 as an increase for fiscal year 2005?

22 A Yes, sir. It was \$42 million, understanding that  
23 everything wouldn't get funded. The \$42 million was the  
24 request that we sent.

25 Q Did an issue arise at some point about the

1 comptroller, Mr. Schaefer, submitting something regarding the  
2 Park Police budget?

3 A Yes, sir. In late July, somewhere around the 19th  
4 of July, I learned for the first time that Mr. Schaefer had  
5 put forward a budget from the National Park Service to the  
6 Department of Interior for roughly \$3 million for the Park  
7 Police, as an increase to our budget.

8 I certainly was disappointed in the amount, but I  
9 wasn't as disappointed as I was surprised that he would do  
10 that without any opportunity for me to converse with Director  
11 Mainella about it or at least in conversation with him.

12 I thought as the comptroller, he would want to know  
13 what the implications were, the pro's and the con's of  
14 funding and not funding certain things.

15 Q Is it fair to say that Mr. Schaefer's submitting a  
16 \$3 million or so figure increase for fiscal year 2005 for the  
17 Park Police was not done with your authorization or approval?

18 MR. L'HEUREUX: Objection; leading.

19 JUDGE BOGLE: I'll permit it.

20 THE WITNESS: It was not done with our approval or  
21 knowledge. We learned about it actually through a meeting in  
22 Mr. Parkinson's office.

23 BY MR. HARRISON:

24 Q When you were chatting with Mr. Farenthold of the  
25 Post, did you have a conversation with him that had to do



1 with staffing numbers for the U.S. Park Police?

2 A Yes, sir.

3 Q How did those conversations come to take place?

4 A Farenthold came very well armed with information.  
5 I understood after the fact that he had been researching this  
6 story that he ran nearly three weeks before he talked to me,  
7 it was a month before the report was actually published.

8 He apparently had done his homework very well,  
9 because the information he had was accurate, documents I had  
10 seen.

11 Q Did you disclose to Mr. Farenthold in that  
12 conversation any staffing numbers that to your knowledge had  
13 ever been classified by any person as either national  
14 security, Top Secret, or confidential, or in any other way  
15 classified as law enforcement sensitive or not subject to  
16 disclosure?

17 A Those numbers in and of themselves were never  
18 classified; no, sir.

19 Q There has been some discussion by Mr. Murphy about  
20 a certain document that was originally submitted under seal  
21 by the Agency as their Hearing Exhibit No. 4, I believe.

22 A Yes, sir.

23 Q Have you looked at that document?

24 A I have.

25 Q This is the document I think you sent to Mr.

1 Parkinson, was it?

2 A Yes, sir, at the request of Secretary Norton.

3 Q Did you put a designation on that document as "law  
4 enforcement sensitive?"

5 A I did not; no, sir.

6 Q Do you know who did so?

7 A I do.

8 Q Who was it?

9 A Lieutenant Beck. He was my executive officer.

10 Q Was there anyone in the U.S. Park Police or as far  
11 as you know, in the Department of Interior, that was  
12 officially designated as having authority to designate  
13 documents "law enforcement sensitive?"

14 A Not an official designation. It was something that  
15 apparently had been ongoing for decades before my arrival.

16 Q A practice?

17 A A practice; yes, sir.

18 Q Do you know why they did that practice from time to  
19 time?

20 A The first time that I asked about whether it had  
21 any power, I was told that it was just a common sense  
22 approach, we look at a document in its entirety, if it was  
23 the type of thing that shouldn't be sitting out on a  
24 secretary's desk or left in a mail room unsecured, or  
25 shouldn't be given in whole to the media without someone

1 going through and redacting certain information.

2 Frankly, it was anybody who felt comfortable doing  
3 that.

4 Q Did you direct Mr. Beck to designate this Hearing  
5 Exhibit 4 for the Agency as "law enforcement sensitive?"

6 A No, I didn't.

7 Q Is it your understanding that once a document is  
8 designated "law enforcement sensitive," that every piece of  
9 information in it is therefore law enforcement sensitive?

10 A No, that would never be true, that I can think of.

11 Q Have you seen documents that have been designated  
12 "law enforcement sensitive" that in fact contained pieces of  
13 data that you knew were not sensitive?

14 A Yes, in fact, even in documents that the Department  
15 gave us in our response to requests for documents.

16 Q In this case?

17 A Yes, sir.

18 Q Was anyone present when you were interviewed by Mr.  
19 Farenthold of the Washington Post?

20 A Yes, Sergeant Fear.

21 Q What is his position?

22 A He's the press officer for the U.S. Park Police.

23 Q Did Mr. Fear raise any objection or concern with  
24 you during the interview that you were saying anything  
25 improper at that time?

1           A     No, not at all.

2           Q     What was your and Mr. Fear's reaction to that  
3 interview after it had taken place?

4           MR. L'HEUREUX:  Objection.

5           JUDGE BOGLE:  I'll permit it.

6           THE WITNESS:  We felt good about it, a lot of  
7 information was put forth.  We talked about many of the  
8 successes of the NAPA report.  I'm not even certain that was  
9 mentioned in the article, if it was, it didn't get a lot of  
10 attention.

11                    My role was basically to just support what had been  
12 provided to the Washington Post, and we waited to see what  
13 happened when the Post story was published.

14           BY MR. HARRISON:

15           Q     Moving back just for the moment to that detail of  
16 Pamela Blyth.  There was apparently another event in the  
17 sequence that occurred, and I didn't ask you about it, a  
18 meeting with Mr. Griles and a meeting of your superiors.

19                    Do you recall such a meeting?

20           A     Yes, sir.

21           Q     Did you attend at least part of that meeting?

22           A     I did, sir.

23           Q     About when did that meeting take place?

24           A     It was on August 28th.

25           Q     How did you come to be invited to that meeting?

1           A     That afternoon, I believe it was a Thursday,  
2 Director Mainella and I and others attended the first of what  
3 you heard described as weekly meetings, they were more like  
4 monthly meetings, but about our budget and mission.

5                     Director Mainella had gotten called out of the  
6 room, came back, and leaned over and whispered to me that she  
7 had been summoned to Mr. Griles' office at 3:00, and that I  
8 was to appear at 4:00, and not to enter, but to wait outside  
9 until I was invited in.

10          Q     Were you told what this meeting was about?

11          A     I had an idea, but I don't believe Director  
12 Mainella told me. She had talked with me the day before and  
13 said that Mr. Griles would want to bring us altogether. I  
14 think Mr. Griles had told me that as well when he spoke to me  
15 and cancelled Ms. Blyth's transfer.

16          Q     What happened when you first began to enter the  
17 meeting room?

18          A     I waited outside until 5:30. I could hear voices  
19 any time the door would open. At about 5:25, it seemed like  
20 one-half or two-thirds of the members left. I could be  
21 mistaken, but that's the voices I would hear going out the  
22 back door.

23                     Mr. Griles himself then came out to invite me into  
24 the meeting.

25          Q     Did you notice anyone who had left the meeting?

1           A     Yes. Mr. Parkinson had left. Assistant Secretary  
2 Scarlett had left. I believe Michael Rosetti, the chief  
3 counsel for the Secretary, was in there and had left, and  
4 perhaps another person or two.

5           Q     Who remained in the meeting as you entered?

6           A     When I first entered with Mr. Griles, Judge Manson  
7 was still there. Director Mainella, and Mr. Murphy was still  
8 there at that time.

9           Q     Did Mr. Murphy have an occasion to leave the  
10 meeting at some point?

11          A     He did; yes.

12          Q     How far into the meeting did he leave?

13          A     It couldn't have been more than about five minutes.

14          Q     Was any remark made by him upon leaving?

15          A     Yes. We were right in the middle of a  
16 conversation. I was in the middle of listening to something  
17 Mr. Griles was saying. Mr. Murphy pushed back from the  
18 table, made his apologies. He said I have a train to catch.  
19 He looked over at Mr. Griles and said and no, I am not mad,  
20 and walked out of the room.

21          Q     What was the substance of the meeting after Mr.  
22 Murphy left?

23          A     Mr. Griles walked me through actually a fairly  
24 intense conversation. He asked me specific details about the  
25 budget, about staffing the icons, and about where do we go

1 from here with the Park Police in the future, how we are  
2 going to staff and accomplish these things.

3 He asked me questions that he already knew the  
4 answer to, I learned later from him when he spoke to me a  
5 week later, that he did that intentionally, that he thought  
6 it was important for the Director and her supervisor, Judge  
7 Manson, to hear the answers in front of him.

8 Q Did Mr. Griles at any time during this meeting or  
9 its prelude or aftermath say anything to you either way as to  
10 whether you might expect something would happen to you  
11 because of either your participation in that meeting or  
12 because of the detail of Ms. Blyth?

13 A Actually, he allayed any fears I may have had.  
14 When he intervened earlier that week, common sense told me  
15 that my bosses weren't going to be happy, that I had  
16 continued to go up the chain of command until I got someone  
17 that could listen to my story, and that ultimately, the  
18 decision was reversed.

19 I expressed those concerns to Mr. Griles during a  
20 telephone call. He told me, as he had told me before, don't  
21 worry about it, I've called you, I need you to reach out when  
22 things are going awry.

23 When he came in the hallway to get me to come in  
24 the meeting, he actually blocked my path and said you need to  
25 listen to me before we go in, nothing bad is going to happen.

1 I said, okay. I appreciated that. He said no, I mean  
2 nothing bad is going to happen, and there is not going to be  
3 any retribution.

4 You have seen Mr. Griles. He towers over me. He's  
5 right up in front of my face, almost whispering down to me.  
6 He says I don't want you to think that you have done anything  
7 wrong, you have not. He said when we go in there, this  
8 meeting is about how to move forward, and let me worry about  
9 everything else. That is pretty much what he said, and he  
10 would be leading the meeting and conversation.

11 Q Do you know a Ms. Debbie Weatherly?

12 A Yes, sir.

13 Q Have you ever had occasion to speak with her?

14 A Many times; yes, sir.

15 Q What is her job, as you understand it?

16 A She is the lead staffer, for want of a better term,  
17 of the House Interior Appropriations Committee.

18 Q Have any of your superiors mentioned to you whether  
19 you should or should not get to know Ms. Weatherly?

20 A Especially when I was first hired, Mr. Murphy and  
21 the Director both encouraged that as often as possible, I  
22 should reach out to Ms. Weatherly, feel free to fill her in  
23 on what's going on, use her as a resource, those types of  
24 things.

25 Q Do you recall having an occasion to speak with Ms.



1 Weatherly in the time frame of early November of 2003?

2 A I do.

3 Q Can you tell us how you came to speak with her?

4 A Sure. I had been in the National Park Service  
5 headquarters earlier in the day on November 3rd. Mr. Murphy  
6 was in a hurry between meetings and he said, oh, while you  
7 are here, stop in and see my secretary, she has something for  
8 you. Fine.

9 When I got the document from her, I realized it was  
10 language from the appropriations bill. It must have been for  
11 2004. It talked about NAPA coming back in. Mr. Murphy and I  
12 had already talked about NAPA coming back in. I wasn't  
13 surprised about that, but this was the first time I had seen  
14 the actual language.

15 We had talked about it earlier in the day or the  
16 day before in one of those budget and mission meetings.

17 There was no specific direction at that time, but  
18 later in the day, his secretary either called me or sent an  
19 e-mail. I meant to look and be sure. She said Mr. Murphy  
20 would like you to give an account number with regard to who  
21 is paying for the NAPA report.

22 I thought, well, that's a good question. I wonder  
23 who is paying for the NAPA report. I reached out to my  
24 budget officer, Shelly Thomas, who apparently was away from  
25 her desk. It was getting late in the afternoon. Well, let

1 me ask Debbie, she'll know. I put a phone call into her and  
2 left a voice mail message for her.

3 Q Was an account number given to Mr. Murphy or his  
4 secretary as requested?

5 A Yes, sir. Before the day's end, I heard back from  
6 Shelly, actually before I talked to Ms. Weatherly. I had  
7 left a message but had not actually reached Ms. Weatherly.  
8 Shelly Thomas had written back and said yes, Chief, sorry to  
9 tell you, but yes, we have to pay for it, it happens often,  
10 and here's the account number. That was pretty easy. I  
11 forwarded it to Ms. Brooks, who is Mr. Murphy's secretary.

12 Q You forwarded the account number?

13 A Yes. I copied Mr. Murphy as well on that  
14 communication.

15 Q That all happened before Ms. Weatherly called you  
16 back?

17 A Yes, sir.

18 Q When Ms. Weatherly did call you back, what  
19 transpired?

20 A When she called, I felt kind of guilty that I  
21 didn't call her back to just cancel the message, but it was  
22 good to chat with her. We hadn't talked in a while.

23 I explained to her, Debbie, I just got the answer I  
24 was looking for, and I said, I'm still learning this process,  
25 call me naive perhaps, but I didn't understand it was us who

1 were going to pay for the NAPA report.

2 She goes, oh, I know, much as she said yesterday.  
3 We hear that all the time. I said I was hoping there would  
4 be some magic pot of money in Congress to pay for those types  
5 of things. She said, no, it never happens. That is what I  
6 heard from my budget officers.

7 Q Did the conversation end there?

8 A No, sir. She continued the conversation.

9 Q What did Ms. Weatherly say at that point?

10 A The tone changed and she asked a question similar  
11 to -- well, while I have you on the phone, what is going on  
12 over there.

13 Q Did you answer her question?

14 A I did by asking a question. I said what do you  
15 mean. I had no idea what topic she was talking about.

16 Q Then what did she say?

17 A She said, well, you are supposed to be the one  
18 straightening the place out, you are the one that is supposed  
19 to be getting the house in order.

20 I was surprised. Debbie, who says I'm not doing  
21 that, is what I asked.

22 Q Did she tell you?

23 A She did. She first said that Fran Mainella, Don  
24 Murphy and Larry Parkinson are the ones saying that. I said,  
25 wow, I'll be very disappointed -- especially Larry Parkinson

1 was a surprise to me. We did work fairly close on a number  
2 of the issues, things that the Director and Deputy Director  
3 didn't have day to day involvement in.

4 I'm surprised if you're telling me Larry Parkinson  
5 is not pleased with the progress we are making. She  
6 corrected herself. Maybe not Larry Parkinson, but Fran and  
7 Don for sure. Then she told me about some of the  
8 disappointments she had heard about the NAPA implementation.

9 I was floored. My bosses had never asked me,  
10 except for one written report, anything about how we were  
11 doing on the implementation of NAPA. No one had ever told me  
12 there was any urgency with NAPA, nonetheless, I told her at  
13 that time I thought it was 14 out of 20. I reviewed my notes  
14 last night, I found it was 16 out of 20 that were well on  
15 their way to completion, and I told her that.

16 Q If Ms. Weatherly had not continued that  
17 conversation, do you think it would have ended when you told  
18 her you already had your question ended?

19 A It definitely would have ended; yes, sir.

20 Q What do you understand to be your responsibility  
21 when a staff member from Congress asks you a direct question?

22 A To clearly give a direct answer. I also want to be  
23 clear that the way I just described my not having interaction  
24 with the Director and Deputy Director on NAPA was not shared  
25 by me with Debbie Weatherly. Just the opposite when she says

1 then why would they be saying that about your  
2 accomplishments.

3 I said, Debbie, because they don't know. I  
4 remember telling her -- I mean no disrespect. We never had  
5 those types of conversations. If you asked them on the spur  
6 of the moment what the status is, I don't know that I've ever  
7 armed them with the information to give you the answer.

8 Q Did Ms. Weatherly express any concern to you that  
9 she was offended in any way by what you told her?

10 A Not at all. I could hear surprise in her voice,  
11 but she certainly wasn't offended.

12 Q You mentioned some meetings that were happening  
13 that perhaps were intended to be weekly but maybe turned out  
14 to be more monthly. What again were the topics of those  
15 meetings?

16 A They initially started by Judge Manson as guidance  
17 through Larry Parkinson and him to help us figure out what to  
18 do about our \$12 million shortfall, that I had put together a  
19 number of recommendations on services that we could cut,  
20 places that I didn't think were as important as other things,  
21 taking the suggestions of NAPA and trying to push them  
22 through, and had little luck, because I don't have the  
23 authority to just stop providing services to the national  
24 parks.

25 Judge Manson and Mr. Parkinson's involvement was

1 supposed to be to help learn the information and guide the  
2 future of the Park Police, and also it morphed into this  
3 mission part, so they could comply with the NAPA  
4 recommendations.

5           The first recommendation is assigned to the  
6 Secretary of the Interior to work with the National Park  
7 Service in developing a mission. Not a lot of progress had  
8 been made for a lot of reasons. This was a place to perhaps  
9 start that.

10           Q     Who attended these meetings?

11           A     Mr. Parkinson always attended. Somewhere after  
12 about the first two or three, Mr. Hoffman started to attend.  
13 Mr. Murphy attended some, would come in between meetings, it  
14 wasn't a regular attendance. Bob Badoff from the Department  
15 of Interior's budget office, and if not Bruce Schaefer  
16 himself, often people from his office, the comptroller for  
17 the National Park Service.

18           Q     Did anyone share or facilitate these meetings?

19           A     It was clear to me that Mr. Parkinson was chairing  
20 them because he had a clear agenda. He would sometimes e-  
21 mail me and ask me what's up next. He wanted me to go  
22 through the organization one component at a time, talk about  
23 what it is we do, bring in dollar figures, talk about the  
24 implications, that if we were to stop a service, what would  
25 that mean.

1           I always brought in my budget folks, Ms. Blyth and  
2 Ms. Thomas.

3           Q     Was there ever a time to your knowledge when anyone  
4 in one of those meetings made a reference to an issue  
5 regarding the Park Police budget that said there might have  
6 been something illegal that had happened?

7           A     Yes, sir.

8           Q     Do you remember what that was?

9           A     That was Ms. Blyth that mentioned it. It was in  
10 one of our last meetings, it could have been December 1st, it  
11 may have been the one in November. I think the notes have  
12 the exact dates for those.

13                   There was a lively conversation about not only the  
14 \$12 million shortfall, but now that we had learned about the  
15 2005 budget, that without any input whatsoever from the Park  
16 Police, a certain amount had moved forward, that we were at  
17 some point going to be asked to defend, and yet, we hadn't  
18 had a chance to talk about what the repercussions would be.

19                   Pamela at one point voiced her objection that we  
20 had been removed from the process, cut out of any appeal  
21 process, and that if not illegal, perhaps certainly unethical  
22 a way to handle the budget process.

23           Q     Did she mention the phrase "if not illegal or  
24 potentially illegal?"

25           A     She did mention the word "illegal." It was not

1 well received.

2 Q Do you know whether Mr. Hoffman was present for  
3 that conversation?

4 A He was definitely present.

5 Q Do you happen to remember his reaction?

6 A I do, sir. He looked across the table at me and Ms.  
7 Blyth and he said something along the lines of now, that's  
8 strong language, that's strong language, we don't need to  
9 have that here, that shouldn't be said.

10 Frankly, he said that's what happens when you go  
11 over people's heads.

12 Q Mr. Hoffman said that?

13 A Mr. Hoffman.

14 Q What time period was that?

15 A It was either the December 1st meeting or whatever  
16 meeting was represented in my affidavit as the meeting that  
17 happened in November.

18 Q Could it have been prior to your being placed on  
19 administrative leave?

20 A Yes, sir.

21 Q Do you recall a time when you were placed on  
22 administrative leave?

23 A I do.

24 Q Do you remember the date?

25 A Very well.



1 Q What was it?

2 A December 5, 2003.

3 Q Can you tell us how you came to -- did you come to  
4 be present in a meeting in which you were given some notice  
5 of administrative leave?

6 A It was December 3rd. I had received an e-mail from  
7 Mr. Murphy directing that Ben Holmes, my assistant chief, and  
8 I appear on Friday afternoon at 4:00, and the only thing I  
9 was told in the e-mail is that the discussion would be about  
10 general USPP issues, I believe that is the quote from the e-  
11 mail.

12 Q Did you make any inquiry to find out more about  
13 what the meeting might entail or what you might do to prepare  
14 for it?

15 A I did. I certainly understood the urgency, being  
16 Mr. Murphy cancelled an appointment in Quantico with the  
17 Federal Bureau of Investigations that afternoon, and said  
18 this was a mandatory meeting. That was in that e-mail.

19 I wrote back, no problem, sir, I'll be there. By  
20 the way, what can I do to prepare. I don't walk into  
21 meetings unarmed. I received no response.

22 Q I take it you did go to the meeting?

23 A Yes, sir.

24 Q Tell us what transpired as you were on your way to  
25 the meeting.

1           A     Lieutenant Beck actually drove us over. There were  
2 a couple of things that occurred that day. We decided to go  
3 over together. When Chief Holmes and I walked down the  
4 headquarters hall, I tend to be very affable with the  
5 clerical staff, try to make folks feel comfortable.

6                     I went to hang up my jacket and a young lady who I  
7 had dealt with on a regular basis, Janice Grimes, looked up  
8 and said, hey, how are you, very bubbly. I said, hey, how  
9 are you. She had tears in her eyes. Well, maybe she's having  
10 a bad day.

11                    I hung up my coat. I went over to introduce myself  
12 to the person at the receptionist desk, asked her where the  
13 regular receptionist was. She looked around to make certain  
14 or to me, it looked like she was making certain nobody was  
15 listening, and she leaned forward and she said, are you the  
16 Chief. Yes, ma'am, I am.

17                    She got tears in her eyes. I'm so sorry for what  
18 is about to happen to you. Well, I thought, I'll say  
19 something ridiculous, because certainly nothing has gone on.  
20 What, am I losing my job.

21                    She said, God will be with you. I said, well, he  
22 always is. Is there something unusual about today. She  
23 didn't say anything else.

24                    It wasn't long after that that two armed guards  
25 came up and took a position on either side of Mr. Murphy's

1 door and the special agent in charge, whom I recognized,  
2 entered his office, as did the associate solicitor, Hugo  
3 Teufel.

4 Q Who was the special agent?

5 A Ms. Bucello.

6 Q What happened at that point? Did you and Mr.  
7 Holmes enter the meeting?

8 A Mr. Murphy came out at one point. His door was  
9 closed. That was unusual. All the signs that a police  
10 officer of 28 years would be looking for that there was  
11 something suspicious.

12 He opened his door momentarily and said I'll be  
13 with you soon. More people gathered in his office. At some  
14 point, he opened the door. Chief Holmes attempted to walk in  
15 with me, and he was refused access.

16 Q When you entered, who was present?

17 A Hugo Teufel was sitting on the coach. Ms. Bucello  
18 was standing on one side of Mr. Murphy. Another gentleman  
19 that until very recently I thought was a special agent, I  
20 came to learn that was Dave Davies, stood on the other side  
21 of Mr. Murphy, almost as two guards, and Mr. Murphy was there  
22 in his chair.

23 Q Mr. Davies, what is his job?

24 A Employee relations supervisor, special supervisor,  
25 something like that.

1 Q Mr. Teufel, what is his job, or what was his job?

2 A He was associate solicitor for the Department of  
3 Interior.

4 Q Who spoke first in the meeting?

5 A Mr. Murphy did.

6 Q What did he say?

7 A He handed me a piece of paper, and this is the best  
8 that I can remember. He told me I'm placing you on  
9 administrative leave for the efficiency of the Service, read  
10 this, and we will tell you what you need to turn in.

11 Q Did you look at the document?

12 A Well, as I was glancing at the document, he asked  
13 me to have a seat, and I did. I looked around the room and I  
14 noticed a person missing. That was Director Mainella, who  
15 the e-mail told me I would be meeting with.

16 Before I read it, I asked where is Director  
17 Mainella. He said she's not going to be here.

18 The e-mail said I would be meeting with Director  
19 Mainella. Well, you're not going to, was his response.  
20 Well, I'll make the request. I would like to meet with  
21 Director Mainella. That's not possible, you can't.

22 You're telling me I'm being refused the opportunity  
23 to talk to your supervisor. He said yes. Your e-mail said I  
24 was going to meet with her. No, it didn't. All right. I  
25 left that alone, and I started to read the letter.

1 Q What was said next in the meeting?

2 A Well, as I read the letter initially, and I'm  
3 glancing at it to see literally what in God's name could I  
4 have done. I've done nothing that I can think has provoked  
5 this.

6 I read it a second time and I still can find no  
7 reference to any alleged wrongdoing. I've handled lots of  
8 suspensions over my career and lots of internal matters.  
9 Common due process tells me I'm going to tell the employee at  
10 least what he's suspected of doing, even if I don't know it's  
11 happening.

12 When I didn't see it, I looked up at Mr. Murphy and  
13 I said when is somebody going to tell me what's going on.  
14 Earlier that week, I had received an order for no additional  
15 interviews, and then I was ignored like I had the plague the  
16 night before or two nights before at a social event, the  
17 night before the Pageant of Peace.

18 Obviously, I knew something was awry, but had no  
19 clue. When I asked him when was somebody going to tell me  
20 what was going on, he said, well, it's in the Washington  
21 Post. I said, I'm sorry, sir, I don't know what you are  
22 referring to.

23 It says in here something about an investigation,  
24 but an investigation into what. What is it that you believe  
25 I've done wrong. Well, you can read the Washington Post. I

1 said, all right. You have to tell me, I don't remember what  
2 it is that's in the Washington Post that you believe I've  
3 done wrong.

4 Hugo spoke up at that time, Teufel, and said, well,  
5 if we get to the point that there is enough to charge you,  
6 then you will be told what you have done wrong. So, you're  
7 not going to tell me now what I've alleged to have done  
8 wrong. No, we're not going to say anything more about that.

9 Both he and Mr. Murphy agreed with that statement.

10 I tried one more time. I said Hugo, if you were my  
11 attorney, you would be demanding right now that I at least be  
12 told in general what it is that I'm alleged to have done.  
13 The two of you are telling me you are refusing to give me any  
14 indication.

15 Hugo said again, if there's enough to charge you,  
16 then you will be notified at that time. I said, so, in the  
17 meantime, I'm suspended. No, you're not suspended. I said,  
18 well, in the law enforcement profession, yes, taking my badge  
19 and gun is a suspension, humiliation, change in my work  
20 status, and I just go home and sit in limbo how long.

21 Mr. Murphy said, oh, it will be over very soon.  
22 What will be over. What is it that I'm alleged to have done.

23 He looks at Hugo.

24 I picked up a pad of paper and I said for my  
25 attorneys, are the two of you right now refusing to tell me

1 what I'm alleged to have done. Hugo spoke up at that point  
2 and said attorney, well, if you have an attorney, I probably  
3 shouldn't be talking to you. I said, Hugo, if I hadn't been  
4 lured over here under false pretenses, I probably would have  
5 had an attorney.

6 Will the two of you tell me what I've done. Mr.  
7 Murphy looked at Hugo. Hugo gave him a nod and he said  
8 insubordination and violation of two Federal rules.

9 Q Were the two Federal rules stated for you?

10 A No, sir. I inquired further, that despite the  
11 anguish that was going on, I had to kind of chuckle when I  
12 heard the word "insubordination."

13 My peers and colleagues have teased me for 28  
14 years, if anything, I'm too compliant. Just because Mr.  
15 Murphy said to do it, it doesn't mean you have to do it  
16 tonight. Well, yes, it does. That's how I was brought up in  
17 an organization. You do what your boss says, you respect his  
18 position.

19 I had a little bit of a grin on my face. Sir, when  
20 did I -- no, first I asked for clarity. I said in police  
21 work, insubordination means fail to obey a direct order.  
22 Yet, sometimes the word is used much more loosely as perhaps  
23 an issue of respect or deference. Which way are you  
24 thinking.

25 He said, the first. I said, failed to obey a

1 direct order. He said, yes. That's when the almost  
2 uncontrollable chuckle came out. I said, sir, when did I  
3 fall on my head and not do what you told me to do. He told  
4 me, well, that's what we're looking at.

5           You are going to review two years of my past  
6 performance in the hope that you find something that I've  
7 done wrong, to then justify what you are doing tonight.

8           He said, oh, it's been much more recent than that.  
9 I asked what has been much more recent. He wouldn't answer.

10          Q     Did he ever tell you during that meeting what  
11 direct orders you were alleged not to have followed?

12          A     No, sir. He would not engage in any more  
13 conversation about that, so that's when I asked him about the  
14 Federal rules.

15          Q     What else transpired during this meeting?

16               MR. L'HEUREUX:  Objection, Your Honor.  We have had  
17 a series of narrative answers here.  It appears to me that's  
18 probably the way this witness has been prepared.  I am going  
19 to object to any future questions that call for a narrative  
20 answer.

21               MR. HARRISON:  Your Honor, the witness is giving  
22 precise answers to questions that are meant to be non-  
23 leading.

24               JUDGE BOGLE:  No, she's not giving precise answers.  
25 She is just giving us her version and it's taking 15 minutes



1 to answer each one of your questions. He's right about that.

2 I'm not going to restrict you. I'm not going to  
3 ask that you have a question and answer format, although you  
4 clearly know that's proper. You cannot let her go on for 15  
5 minutes in response to one question.

6 MR. HARRISON: I can ask questions more precise.

7 BY MR. HARRISON:

8 Q What additional actions were taken in regard to you  
9 by Mr. Murphy, other than giving you the administrative leave  
10 memo?

11 A We had some additional conversation first.

12 Q Hold that for a moment.

13 A And then he asked me to turn over my badge and my  
14 firearm to Ms. Bucello.

15 Q Did you note a protest to that?

16 A Only in that I would not give her a loaded firearm.

17 Q You unloaded your firearm?

18 A Yes, sir.

19 Q You turned over your badge and gun?

20 A Yes, sir.

21 Q Did Mr. Murphy say anything further prior to your  
22 turning in your badge and your gun?

23 A He said I could find what Federal rules I violated  
24 by reading the Washington Post, again.

25 Q Was any other information given to you about the

1 charges that you were accused of, the allegations against  
2 you, in that meeting?

3 A Not with regard to the charges per se. There was  
4 one more piece of information from Mr. Teufel.

5 Q What did Mr. Teufel say?

6 A I decided that the last thing I would ask was  
7 whether the two of them had seen the letter of complaint that  
8 I had written about Mr. Murphy on December 2nd.

9 Q Did you ask them about that?

10 A I did. I looked primarily at Mr. Teufel, and also  
11 looked over to Mr. Murphy. Almost in a perceptible nod,  
12 certainly no surprise on Mr. Murphy's face, but Mr. Teufel  
13 did answer me.

14 Q What did Mr. Teufel say in regard to your  
15 complaint?

16 A He said, yes, I've read it.

17 Q Was there any further comment about that complaint  
18 made in the meeting?

19 A My last comment was does the term "whistleblower"  
20 mean anything to you.

21 Q Does the term "whistleblower" mean anything?

22 A Yes, sir.

23 Q Did anyone respond to that?

24 A No, sir.

25 Q The complaint you are referring to, what exactly

1 was that?

2 A That actual complaint was a two page letter that I  
3 had delivered to Director Mainella on December 2nd. She and  
4 I had also spoken about one of the two issues in that  
5 complaint.

6 Q How was that complaint delivered to Director  
7 Mainella?

8 A In a sealed blue envelope by Lieutenant Beck.  
9 Also, by e-mail. No, I apologize. That was not by e-mail.  
10 That was only by Lieutenant Beck in a blue sealed envelope.

11 Q Had you communicated with Director Mainella about  
12 your complaint about Mr. Murphy prior to delivering that  
13 sealed envelope?

14 A Yes, sir.

15 Q When was that?

16 A On Friday, November 28th, the day after  
17 Thanksgiving.

18 Q Did you ever get a response to your complaint  
19 against Mr. Murphy?

20 A I had an initial verbal response from the Director  
21 on the 28th, but nothing after I submitted the formal  
22 complaint.

23 Q The initial response from Director Mainella was  
24 what?

25 A She confirmed what I had been told. She said, yes,

1 I know, I talked to Don after the conference call, told him  
2 it was inappropriate, what he had done. I said, well, I'm  
3 glad to hear you say that. I would really like to talk to  
4 you some more about it.

5 Q That was the substance?

6 A At that time, and we agreed to talk Monday morning  
7 about it.

8 Q Did you talk Monday morning?

9 A No, sir.

10 Q Was that because you missed that meeting?

11 A No, sir.

12 Q Why did you not talk with the Director on Monday  
13 morning?

14 A Director Mainella's secretary, Deb Smith, called me  
15 at home at 7:30 and said the meeting would be cancelled.

16 Q Was that meeting subsequently rescheduled?

17 A No. I had asked Deb about that. The Director  
18 wasn't sure that Monday was still going to be a go. We were  
19 supposed to have a regular monthly meeting, and it was often  
20 difficult to schedule. She did tell me that if anything  
21 happened, I should tell Deb to go ahead and schedule it later  
22 in the week, that she was available all week. I shared that  
23 with Ms. Smith.

24 Q Did you get that meeting scheduled later in the  
25 week?

1           MR. L'HEUREUX:  Objection, Your Honor.  I'm trying  
2  to be indulgent here.  I fail to see the relevance of a  
3  series of questions about meetings that were scheduled and  
4  cancelled and rescheduled.

5           MR. HARRISON:  The relevance is there.  If Your  
6  Honor needs to hear it, I'll be happy to state it.

7           JUDGE BOGLE:  Apparently, I do.

8           MR. HARRISON:  That we have had testimony from Mr.  
9  Murphy in his deposition and in this trial about when he  
10  first considered disciplinary actions regarding Ms. Chambers,  
11  and also of course, when she was first noticed of those  
12  actions, and the bases for them.

13           What we understand from Ms. Mainella's deposition  
14  is that she cancelled this meeting on the 1st of December, I  
15  guess it would have been, and also directed her staff not to  
16  have any further meetings with the staff during that week  
17  because she understood disciplinary action was pending  
18  against Chief Chambers at that time.

19           JUDGE BOGLE:  I don't think any of this is in  
20  dispute in the record.  I'll sustain the objection.  Let's  
21  move on.

22           MR. HARRISON:  Very well.  I note my objection.

23           BY MR. HARRISON:

24           Q     Moving back from the December 5th meeting just for  
25  the moment, do you remember the day when the Washington Post

1 article actually was published?

2 A Yes, sir.

3 Q Do you remember what day that was?

4 A Yes, sir. It was Tuesday, December 2nd.

5 Q Which would have been three days before your being  
6 placed on administrative leave?

7 A Yes, sir.

8 Q Did you talk with any media on December 2, 2003?

9 A Yes, sir; many times.

10 Q About how many interviews do you think you had?

11 A At least seven more.

12 Q Were these all newspapers?

13 A No, sir. One was radio and the rest were film.

14 Q Television?

15 A Yes, sir.

16 Q When was your first television interview on the  
17 2nd?

18 A 9:30.

19 Q 9:30 in the morning?

20 A Yes, sir.

21 Q Are you sure it was on the 2nd?

22 A Yes, sir.

23 Q Would there have been any way for you to have  
24 appeared on television on the 2nd prior to 9:30?

25 A Not on this topic; no, sir.

1 Q Did you have any other interviews on the 2nd of  
2 December with television?

3 A Yes, sir. There was a bank of cameras at  
4 headquarters when I got there, and at the 9:30 mark, I did a  
5 live talk back with Channel 9, and either right before that  
6 or right after that, I did a roof interview, and then at  
7 9:55, I did a talk back with the studio of Channel 4. Later  
8 in the evening, I did two more film interviews.

9 Q What were the earliest television interviews you  
10 did on that day for any purpose?

11 A In the area of 9:25 or it was at 9:30. 9:30 is  
12 when I was live with USA TV 9.

13 Q Did you hear Director Mainella testify in this  
14 proceeding that she reviewed a television interview where you  
15 appeared before she came to work on December 2nd?

16 A I did.

17 Q Do you remember her saying it was in the early  
18 morning hours?

19 A Yes, sir.

20 Q Could that have been true?

21 A Impossible, sir.

22 Q Did you receive any communication from Mr. Murphy  
23 regarding your communications with the media on December 2nd?

24 A I did.

25 Q What was that?

1           A     At 9:00 or so as I was leaving a squad meeting or  
2 roll call type meeting at our district station off of the  
3 Baltimore-Washington Parkway in Greenbelt, it's bad cell  
4 phone coverage, so as I got into coverage, both my Blackberry  
5 started and my cell phone.

6                     Mr. Murphy had left two voice mails and one e-mail  
7 for me.

8           Q     Do you know the time of the voice mails?

9           A     Yes. They were logged in just after 6:00 and they  
10 were probably two to five minutes apart.

11          Q     6:00 p.m.?

12          A     Yes, sir.

13          Q     The e-mails came about?

14          A     Within ten minutes of his last phone message or  
15 thereabouts, he e-mailed me as well. I understand his  
16 urgency. It was unlike me not to respond immediately. I  
17 just simply hadn't received his message because I was in a  
18 dead zone.

19          Q     Did you respond when you saw those messages?

20          A     Yes. The minute I got his phone message, I called  
21 him at home. I didn't even know the e-mail message existed  
22 at that time, but I did call him.

23          Q     What was the gist of the phone message Mr. Murphy  
24 had left for you?

25          A     His phone messages said he had just gotten off the



1 telephone with Director Mainella, and that she and he agreed  
2 that I was to do no more stand up's, I believe is the term he  
3 used, until they had a chance to talk with me, that the  
4 message that I was sending out was different than that which  
5 the Department wanted to send out, and I was to do no more  
6 until they talked to me.

7 Q What was the gist of the e-mail that you received  
8 from Mr. Murphy?

9 A The e-mail had a new term in it, as did my phone  
10 conversation with him. He said again -- he probably  
11 referenced the Director or copied her on the e-mail, they  
12 didn't want me to do any more interviews. He didn't say  
13 specifically what.

14 Then he said you're not to reference the  
15 President's budget. The same term he used in the telephone  
16 conversation.

17 Q Did you know what the "President's budget" meant in  
18 the manner he was using it?

19 A I had never heard the term.

20 Q Had you not been trained on what the "President's  
21 budget" meant?

22 A No, sir.

23 Q What training were you given when you were hired  
24 for the U.S. Park Police?

25 A I was given an ethics book to read the first month.

1 That was it.

2 Q Did anyone train you on Federal regulations?

3 A No, sir.

4 Q Did Mr. Fogarty ever give you any training?

5 A None.

6 Q Did you make an effort to inquire into what the  
7 "President's budget" meant?

8 A I did. When Mr. Murphy and I spoke, I listened. I  
9 was concerned that he was concerned.

10 Scott Fear and I had spent a lot of time talking  
11 that morning. Generally, he and I would mail it, with regard  
12 to what the Department's expectations were, as well as the  
13 National Park Service.

14 One of the first things I did was to call Scott and  
15 say, wow, somewhere along the way, we misstepped, buddy, I  
16 don't know exactly what, but don't set me up for any more  
17 interviews until I find out what's going on.

18 Mr. Murphy had promised that he and I and the  
19 Director would meet the next morning, so that I could learn  
20 where I had misstepped, if they believed I had.

21 I went home and re-read the Washington Post,  
22 because he said it was in that article that I had talked  
23 about the President's budget.

24 Q Did you find a reference in the article to the  
25 President's budget as you would understand that term?

1           A     No. I read it twice and couldn't find it, and  
2 called Scott and asked him do you see any reference to the  
3 President's budget, and he couldn't find it either.

4           Q     Did you intend to talk about the President's budget  
5 in any sense when you gave that interview?

6           A     No, sir. I didn't even know what the President's  
7 budget was.

8           Q     Did you ever come to understand from Mr. Murphy  
9 what he meant by that term?

10          A     He wrote back an e-mail to me when I inquired that  
11 night, and I told him with all sincerity, I had looked for  
12 the President's budget and I couldn't find it. He wrote back  
13 and said it had something to do with the \$8 million figure  
14 and the \$12 million figure, and that because the OMB pass  
15 back had been reduced, that somehow my reference was  
16 inappropriate.

17          Q     Do you know what is meant by the "OMB pass back?"

18          A     Yes. It's the final budget that comes back after  
19 it has worked its way through, in our case, the Department of  
20 Interior. They consider everything and then they make the  
21 cuts they want to, and then pass the budget back to the  
22 Department of Interior and down on throughout the  
23 organization.

24          Q     Do you know what amount of money was included in  
25 the OMB pass back to the Department of Interior for

1 specifically the U.S. Park Police increase for fiscal year  
2 2005?

3 A Yes, sir. It was 3 or \$3.3 million. I've seen it  
4 two different ways in documents.

5 Q When did you first learn that amount was in the OMB  
6 pass back?

7 A I learned that on November 26th. It was a day off,  
8 but I got a phone call on my cell home from Ben Holmes and  
9 Larry Parkinson.

10 Q You wouldn't have known that at the time of the  
11 Post interview?

12 A No, sir. The interview was six days earlier.

13 Q Did you then meet with Mr. Murphy after the 2nd and  
14 talk with him what he meant by the "President's budget?"

15 A No, there was never an opportunity to meet.

16 Q When did you first come to know that Mr. Murphy was  
17 considering disciplinary action with regard to you?

18 A When I was handed the administrative leave  
19 document.

20 Q On December 5th?

21 A Yes, sir.

22 Q After you replaced -- I assume, correct me if I'm  
23 wrong -- after you turned in your badge and your gun, you  
24 eventually went home on December 5th, did you not?

25 A I did. I found a ride.

1 Q Were you still in uniform?

2 A Yes, sir.

3 Q No weapon?

4 A No weapon.

5 Q Was any other property taken from you on December  
6 5th before you departed?

7 A Secondary badge, i.d. cards, keys, all my  
8 electronic equipment.

9 Q Electronic equipment?

10 A Blackberry, laptop computer, cell phone, Nextel  
11 phone, satellite phone, my Washington, D.C. metro phone. I  
12 think I had five cell phones.

13 Q Did you have personal information on your  
14 Blackberry?

15 A Yes, sir. Lots of it.

16 Q Were you allowed to take that off at the time?

17 A No, sir.

18 Q How did you feel at the time on December 5th when  
19 these events happened?

20 A Like the earth had moved and dropped me in a hole.

21 Q How would you describe your emotional reaction, at  
22 least after going home?

23 MR. L'HEUREUX: Objection, Your Honor. There is no  
24 claim for compensatory damages, and there is also no claim  
25 for consequential damages.

1 MR. HARRISON: There is a claim for damages, Your  
2 Honor.

3 JUDGE BOGLE: Any damages will be adjudicated in an  
4 addendum proceeding.

5 MR. HARRISON: I appreciate that, Your Honor. I'm  
6 assuming Your Honor would do that if there is a finding that  
7 any part of the action of the Agency has to be reversed.

8 JUDGE BOGLE: Correct. Let me be clear.  
9 Compensatory damages are available for prevailing in a claim  
10 of discrimination, Title VII discrimination. I don't think  
11 there is one in this case.

12 Consequential damages would be available if I  
13 conclude that the Agency took reprisal for whistleblowing  
14 activity, and that would be adjudicated in an addendum  
15 proceeding.

16 MR. HARRISON: I appreciate that, Your Honor. I  
17 believe that back pay is available if the removal charge is  
18 reversed.

19 JUDGE BOGLE: Certainly.

20 MR. HARRISON: Would that be part of the addendum  
21 proceeding?

22 JUDGE BOGLE: No. If I reverse the action, back  
23 pay would be ordered in the decision.

24 MR. HARRISON: Thank you.

25 On Your Honor's instruction, I won't go into any

1 questions as to damages.

2 BY MR. HARRISON:

3 Q You at some point were given a proposed removal  
4 notice. Do you recall when you would have received that?

5 A I received the official version on December 18th.

6 Q Who provided it to you?

7 A The attorneys that I had retained at that time  
8 faxed it to me.

9 Q It had been sent to your attorneys?

10 A Yes, sir.

11 Q Did you have any occasion to communicate with Mr.  
12 Murphy or any officials of the Department of Interior about  
13 your case, meaning your administrative leave and what might  
14 happen subsequent, prior to receiving that proposed removal  
15 action?

16 A There was an one way communication initially from  
17 me to Director Mainella, and from me to Mr. Parkinson and  
18 Judge Manson, and then there was a meeting that the  
19 Department called on Friday, December 12th, to discuss my  
20 return to work.

21 Q Did you attend that meeting?

22 A Yes, sir; I did.

23 Q Was there any of your superiors present at that  
24 meeting?

25 A Mr. Murphy was there. Three members from the

1 Solicitor's Office, as well as my attorneys.

2 Q What was said about the potential for your return  
3 in that meeting?

4 MR. L'HEUREUX: Objection, Your Honor. The  
5 question calls for discussions of offers of compromise, which  
6 are excluded under the Federal Rules of Evidence.

7 MR. HARRISON: Your Honor, the Agency has waived  
8 that objection in a deposition where they stated on the  
9 record that they did not take that position in regard to this  
10 particular meeting, that it was not an offer and compromise.

11 JUDGE BOGLE: Separate and apart from that  
12 objection, it simply isn't relevant testimony.

13 MR. HARRISON: I could make a proffer on the  
14 relevance, Your Honor. It at least goes to the penalty issue  
15 at a minimum. The deciding official, Mr. Hoffman, has  
16 testified here today that he believed there was no lesser  
17 penalty that might have been appropriate, that removal was  
18 required because of a breakdown in relationships and other  
19 reasons he gave.

20 I believe the testimony would show, if allowed,  
21 that it was clear that Mr. Murphy was prepared to accept the  
22 reinstatement of the Appellant on December 12th if certain  
23 conditions had been met.

24 JUDGE BOGLE: Thank you for the proffer. The  
25 testimony is not relevant.



1           MR. HARRISON: I'll note my exception to your  
2 ruling, Your Honor.

3           If I understand your ruling, I'm not allowed to  
4 inquire into any events or statements made at the December  
5 12th meeting?

6           JUDGE BOGLE: Correct.

7           MR. HARRISON: Your Honor, if I could note, as an  
8 additional proffer, I believe the conditions imposed at that  
9 time included what we have informally called a gag order --

10          MR. L'HEUREUX: Your Honor --

11          MR. HARRISON: I need to be able to finish my  
12 proffer. I don't mind the objection coming.

13          JUDGE BOGLE: Finish your sentence.

14          MR. HARRISON: I believe the testimony would show  
15 that the conditions imposed would be a gag order and the  
16 detail of Ms. Blyth, and I believe because those conditions  
17 would evidence retaliatory motive and illegal reasons, that  
18 they would be admissible.

19          JUDGE BOGLE: Thank you. Proceed, please.

20          MR. HARRISON: Could I inquire as to whether we  
21 might take a lunch break at some point, for my own comfort?

22          JUDGE BOGLE: Any time.

23          MR. HARRISON: This would be convenient for me.

24          JUDGE BOGLE: All right. How much more testimony  
25 on direct do you think you have?

1                   MR. HARRISON: No more than an hour, I would say.

2                   JUDGE BOGLE: Let's take 45 minutes for lunch and  
3 we will return at 1:15.

4                   MR. HARRISON: Thank you, Your Honor.

5                   (Whereupon, a luncheon recess was taken.)

6

1                   A F T E R N O O N   S E S S I O N

2                   JUDGE BOGLE:  Back on the record.  Mr. Harrison,  
3 would you continue, please?

4                   MR. HARRISON:  I will.  Thank you.

5                   BY MR. HARRISON:

6                   Q     Ms. Chambers, when you were given the reprimand  
7 from Mr. Murphy back in March of 2003 regarding the property  
8 issue, do you recall Mr. Murphy giving you any assurances  
9 before you signed that document?

10                  A     Yes, sir.

11                  Q     What were those?

12                  A     That he would keep these documents for perhaps a  
13 few weeks, perhaps as long as a few months in his desk, and  
14 that he would destroy it, but he just felt compelled to put  
15 something in my file because folks were watching to see how  
16 he handled this incident.

17                  Q     The ethics training that you received or the ethics  
18 information you received from the Agency, did it address  
19 "lobbying?"

20                  A     I saw it, there's a passage in the book that talks  
21 about it, but I could find nothing that provided any notes  
22 from that meeting, and I don't remember them talking about  
23 lobbying, per se, when we had a classroom instruction on  
24 ethics about a year and a half into my job.

25                  Q     Do you recall anyone ever instructing you that you

1 might be charged with prohibitive lobbying by talking with  
2 the newspapers?

3 A No, sir; never.

4 Q Did you ever refuse to detail Pamela Blyth?

5 A No, sir.

6 Q Were you ever specifically ordered or specifically  
7 requested to cut papers for Ms. Blyth's detail?

8 A No, sir.

9 Q Did you ever refuse to require Deputies Beam and  
10 Pettiford to take the psychological or physical exams that  
11 were recommended for them?

12 A Never. In fact, I insisted they did do that once I  
13 knew that was the decision.

14 Q Do you recall an issue coming up about a proposed  
15 meeting with the Solicitor's Office regarding the "tractor  
16 man" incident?

17 A I remember meetings that the Solicitor's Office was  
18 invited to with regard to an after action critique of  
19 "tractor man."

20 Q Do you remember any issue coming up with the  
21 Solicitor's Office about an alleged complaint with the  
22 Organization of American States?

23 A I do, but only after receiving the memo from Randy  
24 Myers.

25 Q Have you ever seen a complaint from the

1 Organization of American States?

2 A No, sir.

3 Q Was there any effort, to your knowledge, made to  
4 set up a meeting with Mr. Myers regarding the Organization of  
5 American States?

6 A Yes.

7 Q Can you tell the Court what happened in that  
8 regard?

9 A I know that Lieutenant Beck handled my calendar for  
10 at least the bulk of the more urgent matters, not the routine  
11 matters, had calendared Mr. Myers, and it made reference to  
12 the Organization of American States, and we didn't know  
13 exactly why Mr. Myers had wanted to meet, he had not said,  
14 just that he needed to talk with me.

15 I expected that it was to be an opportunity for him  
16 to go over a document that I had my planning unit provide  
17 him, to make certain that it didn't conflict with any other  
18 agreements that we had, some legal agreement between what  
19 would be the U.S. Park Police officers and the members of the  
20 Organization of American States.

21 Q Do you know, was anyone designated to make  
22 arrangements to set up any requested meetings with Mr. Myers?

23 A Lieutenant Beck was the point person for me on  
24 that, and had in fact had Mr. Myers on the calendar one time  
25 that I know of with certainty.

1 Q Do you know whether that meeting didn't take place  
2 for some reason?

3 A It did not take place.

4 Q Is that because you refused to hold it?

5 A No, absolutely not. It was cancelled.

6 Q Did you ever intend to not cooperate with Mr. Myers  
7 in any inquiry he was making?

8 A No.

9 Q Did you ever get a direct order from Mr. Murphy to  
10 meet with Mr. Myers?

11 A Not on that issue, and actually never with Mr.  
12 Myers on any issue.

13 Q What is your understanding of "law enforcement  
14 sensitive" as it relates to information processed by  
15 government agencies?

16 A The best I have is a working definition, not in my  
17 research and even preparing myself nine months ago for  
18 defending this case.

19 I had used it as something as I had mentioned  
20 earlier to be a warning to us not to let documents sit  
21 around, or not to release them in the typical FOIA fashion,  
22 by having someone go through the document and see what needs  
23 to be redacted before it goes out in the public domain.

24 Q What about a more general term that is referenced  
25 in charge two, I believe. Let me see, how was it phrased.

1 Remarks about the scope of security present.

2 Are you familiar with any term or procedure for  
3 classified information that may be security sensitive and  
4 prohibited from release?

5 A No, I don't believe such a system exists.

6 Q Did you ever receive training on how to classify or  
7 prohibit or restrict the release of certain security  
8 information?

9 A Classified documents, yes, sir.

10 Q Meaning national security classified?

11 A Yes, sir.

12 Q And not otherwise?

13 A Not otherwise.

14 Q Was the information that you shared with the  
15 Washington Post in your view by any definition with which you  
16 are familiar, law enforcement sensitive or security  
17 sensitive?

18 A No, it certainly was not.

19 Q To the best of your knowledge, were any of these  
20 specific budget numbers you discussed with the Washington  
21 Post that are reflected in the Post article, or the purposes  
22 for which you gave those numbers, to be found in any budget  
23 submission of the Department of Interior or the Office of  
24 Management and Budget or the President of the United States?

25 A Not in the manner in which I used those numbers;

1 no, sir.

2 Q Did you ever receive a performance evaluation or  
3 appraisal from Mr. Murphy?

4 A No, never.

5 Q Did you know that -- did he ever tell you he had  
6 one prepared?

7 A He told me he was working on one at one point, and  
8 that at some point, Janice, his secretary, would be  
9 contacting me.

10 Q You never saw it?

11 A No, sir.

12 Q Did you ever get a job or position description  
13 during your tenure?

14 A Never, not until documents from the Agency were  
15 turned over to us.

16 Q In discovery?

17 A Yes, sir.

18 Q Did you see something that purported to be a  
19 position description for you in those materials?

20 A I did.

21 Q Did you notice anything unusual about it?

22 A It was a typewritten form where it looked like  
23 wite-out had been used to take out whatever name had been in  
24 there for Chief of Police, and my name had been handwritten  
25 in, and the document was dated 1988 and signed by Director



1 Stanton.

2 Q You began your tenure in 2002?

3 A Yes, sir.

4 Q Do you understand the distinction of terms of art  
5 that may be used in human resources between a "performance  
6 appraisal" on the one hand and something called "performance  
7 standards" on the other?

8 A Yes, I do.

9 Q What is the distinction?

10 A A performance appraisal would be almost like a  
11 report card at a particular juncture, quarterly or annually,  
12 depending on the organization one is working for.

13 Performance standards, I consider benchmarks. They  
14 are the expectations that I as a supervisor would have of a  
15 particular employee, so that he or she knows ahead of time  
16 precisely what good behavior, good conduct and performance  
17 looks like, and what the minimal level of acceptance is on  
18 any particular performance item.

19 Q Were you given performance standards by that  
20 definition?

21 A No.

22 MR. L'HEUREUX: Objection, Your Honor.

23 JUDGE BOGLE: I'll permit it. She can answer.

24 BY MR. HARRISON:

25 Q Mr. Murphy has testified in this proceeding that he

1 recalls sending you an e-mail, a question, as I remember,  
2 asking you what you had told the Washington Post reporter.  
3 Do you recall him saying that?

4 A I do recall him saying that; yes.

5 Q Did you receive any such e-mail or communication  
6 from Mr. Murphy?

7 A Never.

8 Q What would be your normal role, if any, in speaking  
9 to the press in your job as Chief of the U.S. Park Police?

10 A On routine matters of interest with regard to law  
11 enforcement or even with regard to being a spokesperson or  
12 ambassador, if you will, for large events in the nation's  
13 capitol, especially, I spoke to the press on a regular basis.

14 That was my primary function in regard to dealing with the  
15 press, giving information out, especially with security  
16 events, getting folks comfortable coming to those events.

17 Q The interview you had with the Post, would that fit  
18 into that same category?

19 A Not as the interview proceeded; no, sir. It  
20 changed.

21 Q How would it be different?

22 A The conversation moved to areas that in my mind  
23 were the type of information that our public needed to know  
24 about, things that could impact their safety, things that  
25 frankly we needed their assistance on, be the eyes and ears

1 to fill in the blanks where officers could no longer be  
2 expected to be there, for the proactive type of patrol and  
3 enforcement they may have expected in the past.

4 Q Did you express a concern to the Washington Post in  
5 that interview that there might be impacts on public safety  
6 from staffing and funding shortages?

7 A I did. It wasn't the first time he had heard it,  
8 but yes, I did.

9 Q Did you have occasion to express that or a similar  
10 concern to your superiors in the Department of Interior?

11 A Oh, yes.

12 Q Do you recall when you might have done that?

13 A The first time was in the middle of July, as  
14 reality of the 2004 budget was upon us. Remember, the 2004  
15 budget is the first one that I got to watch from beginning to  
16 end. Now I understand that on October 1, I have a problem on  
17 my hands, and I began alerting folks, first in an informal  
18 fashion, and then in a more formal fashion.

19 Q Did you ever submit in writing anything that  
20 expressed this type of concern, danger to the public from the  
21 staffing and funding shortages?

22 A I did; yes, sir.

23 Q Do you recall any particular document you would  
24 have submitted in that regard?

25 A Yes, a memo or letter, I'm not sure which, to

1 Director Mainella on November 28th, that explicitly laid out  
2 my professional opinion as to the dangers I had if we didn't  
3 have some modifications.

4 Q Do you recall how you came to send that November  
5 28th memo to Director Mainella?

6 A I do. That was the day after Thanksgiving. There  
7 was a skeleton crew around. Mr. Parkinson, the Deputy  
8 Assistant Secretary for Law Enforcement and Security, had  
9 called me and asked if I knew if Director Mainella was going  
10 to give to him by noon that day any information so that he  
11 could ask the Secretary to appeal the law enforcement budget.

12 I didn't know. The Director wasn't working that  
13 day. I called her at home. We talked a little bit about  
14 what the significance of the OMB reduction and the pass back  
15 of \$3.3 million meant, and she asked me to go ahead and  
16 submit something to her, to fax it to her home and to e-mail  
17 it to her office, that would give her some justification for  
18 why she might want to consider moving forward with an appeal  
19 of our OMB pass back.

20 Q Did you ever express any concern of this nature to  
21 congressional staffer Weatherly?

22 A I did; yes.

23 Q Do you recall when you might have done that?

24 A That was December 2nd, so I guess that was the  
25 following week.

1           Q     These documents are in the record, I don't want to  
2 belabor the quotations. The gist of your communications was  
3 that you felt there was a crisis. You used the word  
4 "crisis."

5                     Do you recall that?

6           A     I do.

7           Q     Because of some staffing and funding shortages, and  
8 the consequence was an inability to protect the public in  
9 terms of safety on the parks and highways.

10                    Do you recall saying something to that effect?

11          A     I do.

12          Q     What was your basis for having that concern?

13          A     The background of 28 years of policing was the most  
14 solid basis, but I also believed as I looked at the different  
15 reports that existed, the Booz-Allen report, the IACP report,  
16 the Inspector General's reports, and our failed inspections,  
17 that there was much more that needed to be done and we were  
18 obligated to do it.

19                    I thought I understood the process enough that I  
20 would be derelict in my duties if I found myself one day  
21 standing in front of a congressional hearing or a camera  
22 saying Chief, why didn't you tell them that you needed more  
23 before the Washington Monument fell, why didn't you tell  
24 somebody that the Statute of Liberty was in jeopardy.

25                    I believed I was doing what needed to be done so

1 that those areas and others could be protected.

2 Q Was there any doubt in your mind based on the  
3 studies you referenced and your police experience that the  
4 threat to the monuments was a real threat?

5 A It was and is a real threat; yes.

6 Q You also made reference to traffic safety on the  
7 parkways and so forth. What was that about?

8 A My recollection is that initially, David Farenthold  
9 from the Post, had some basic information about staffing and  
10 about the safety of pedestrians and motorists out there,  
11 particularly in light of Officer Hakim Farthing, who we had  
12 lost in a pedestrian accident on the Baltimore-Washington  
13 Parkway, caused perhaps in part because of the inability to  
14 secure that scene, and it left him vulnerable. He was hit by  
15 a drunk driver and killed instantly.

16 Q Was he accompanied by another officer?

17 A There was another officer investigating an  
18 accident. Hakim was trying to set up flares and didn't have  
19 the cover of sufficient vehicles. Subsequently, he was  
20 killed.

21 Q Is there any relationship in your view between  
22 adequate staffing of the parkways and adequate staffing of  
23 the monuments?

24 A Well, there is a relationship in that there is a  
25 priority, obligations, that I had as Chief of Police, not

1 unlike what I've had in other areas, where I've had to figure  
2 what is the most important thing we need to do today. Even  
3 in post-9/11, even absent those reports, any American citizen  
4 would understand the importance was to protect those icons at  
5 all costs.

6 To do that, without additional funding or without  
7 additional overtime dollars, there really was only one  
8 option, and that was to pull officers from the areas, from  
9 the parkways, from the parks that we patrolled, and move them  
10 into the center of the city so that we could have adequate  
11 protection at least to the degree that we were able to  
12 provide.

13 Q I want to show you a document that's been marked  
14 Exhibit K. Take a moment, if you would, and see if you  
15 recognize it.

16 (Witness reviewing document.)

17 THE WITNESS: Yes, sir; I recognize this.

18 BY MR. HARRISON:

19 Q What is it?

20 A It's an e-mail at the bottom from Don Murphy to me  
21 dated 12/02/03, subject, interviews, where he is telling me  
22 you are not to grant any more interviews without clearing  
23 them with me or the Director, and then one final sentence,  
24 "You may not reference the President's 2005 budget under any  
25 circumstances."





1 Q What was it?

2 A She told me that when she was asking Mr. Murphy  
3 about the reason for putting in the detail or the transfer  
4 and what he was attempting to accomplish, that she was  
5 surprised when he told her that Teresa is doing some things  
6 that are making some officials uncomfortable and she is going  
7 to get herself into trouble, or words to that effect.

8 Q Do you remember after you were placed on  
9 administrative leave, and there was a proposal to remove you,  
10 the Agency gave you notice that you could inquire and request  
11 to see the documents the Agency relied on for that proposal?

12 A Yes. In fact, I believe my attorneys did that the  
13 same week we had the proposed removal faxed.

14 Q Do you recall receiving documents from the Agency  
15 that were purported to be those that the Agency relied on for  
16 their proposal?

17 A I do.

18 Q Do you recall what they were?

19 A Yes, sir; I do.

20 Q What were they?

21 A There were two documents that pertained to rules or  
22 procedures or manuals. One was an one page one that had some  
23 language about lobbying, as I recall. That was from a  
24 departmental manual.

25 The other one was four pages from an A-11 Circular

1 from OMB, the Office of Management and Budget.

2 There may have been a copy of the Washington Post  
3 article from 12/2. There are so many copies of that in my  
4 files that I can't be certain.

5 I know of only two other documents. One was the  
6 draft memo, the memo I heard Mr. Murphy testifying to  
7 yesterday, that seems to speak about Pamela Blyth's transfer.

8 It never had an effective date in it. It didn't come to me  
9 and there was no indication that it had.

10 The last was a narrative with the initials "OSC"  
11 that someone had handwritten across the top, it was three or  
12 four paragraphs that talks about the deputy chiefs'  
13 psychological exams that had not been waived when they came  
14 in, and that was signed by Don Murphy on 12/04/03.

15 Q I want to show you a document that is in the record  
16 in the Agency's response at Tab 4S, I believe. Tell us if  
17 you recognize that, please.

18 (Witness reviewing document.)

19 THE WITNESS: Yes, sir; I do.

20 BY MR. HARRISON:

21 Q What is it?

22 A These are actually either what I received in my own  
23 fax machine or a copy of it from my attorneys. It is four  
24 pages. It is the four pages from Circular A-11 that we  
25 received from the Agency as some of their supporting

1 documentation, supporting material, in my case.

2 Q This is one of the documents you mentioned?

3 A Yes, sir.

4 Q Let me show you a document that is in the record at  
5 Agency's Tab 4K.

6 A I recognize it, but page two is missing.

7 Q There might be a reason for that.

8 A Thanks.

9 Q Is that --

10 A That is the document to which I was referring when  
11 I said a memo or a draft memo that talks about Pamela's  
12 detail but has no effective date and on which I am not  
13 copied.

14 Q That is one of those documents provided by the  
15 Agency in response to your inquiry?

16 A Yes, sir.

17 Q Let me show you another document available at Tab  
18 4C in the Agency's response. What is that?

19 A That is a document I described that has the  
20 initials "OSC" written at the top and signed by Donald W.  
21 Murphy on 12/04/03, and has four typewritten paragraphs that  
22 talk about the issue of Barry Beam and Dwight Pettiford, the  
23 two deputies, and their psychological exams.

24 Q Let me show you one more document that is available  
25 at Agency's response at 4T. What is that?

1           A     That is one of the four documents I described as  
2     having come from the Agency on its material on which it  
3     relied.

4           Q     If you could take those documents I just showed you  
5     and hold them together in a stack, is that the extent of what  
6     you were given that the Agency relied on for their proposal?

7           A     That's it; yes, sir. Perhaps the Washington Post  
8     article, but other than that, this is it.

9           Q     I've asked you previously about this document,  
10    Agency Hearing Exhibit 4, from you to Mr. Parkinson, that had  
11    a label "law enforcement sensitive" on it. Was this given to  
12    you by the Agency in response to your inquiry?

13          A     No, sir; it was not.

14                MR. HARRISON: Your Honor, I have some documents,  
15    exhibit offerings. I can show each one to the witness as a  
16    formality and have her identify them, or we can do them in a  
17    group or at another time, whatever you think is most  
18    efficient.

19                JUDGE BOGLE: Why don't you hand them to Mr.  
20    L'Heureux and see if he has any objection. If he doesn't, we  
21    will receive them. If he does, we can discuss it.

22                MR. HARRISON: That seems fine.

23                MR. L'HEUREUX: What is the first one?

24                MR. HARRISON: A. Your Honor, some of them may be  
25    moot because they may be in the record. I'm unclear as to

1 Your Honor's policy on documents submitted on a discovery  
2 motion or other filings in the record. We have a motion to  
3 compel or two that had attachments. Some of these were  
4 attachments to those motions.

5 Would those be deemed already in the record?

6 JUDGE BOGLE: They would already be in the record;  
7 yes.

8 MR. HARRISON: That will save us some time. I'll  
9 slip past A, which is our interrogatories. B is the Agency's  
10 responses to interrogatories. C was document requests. D  
11 was responses to document requests. E was a supplemental  
12 response. F and G. H is in.

13 Let's move to X. The other one is W.

14 With your permission, I will respond to the others.

15 JUDGE BOGLE: Yes.

16 MR. HARRISON: On Exhibit W, this is a publication  
17 of the Department of Interior that gives guidance on how  
18 employees are to deal with credit inquiries, and it has Mr.  
19 David Bonner's name on it as one of the press officers for  
20 the Department.

21 It gives not too surprising advice that when asked  
22 by media a question, an official is to tell the truth, that  
23 lies are trouble, and that one shouldn't keep secrets.

24 JUDGE BOGLE: I've read the document. It is  
25 written from the standpoint of how to be helpful to the

1 person that is being interviewed. I'm not sure it's  
2 particularly relevant to this situation, but I will accept  
3 the document and take a look at it.

4 MR. HARRISON: I appreciate it.

5 JUDGE BOGLE: As to the others, X is?

6 MR. HARRISON: X is a report from the Office of the  
7 Inspector General, Review of National Park Security. It is  
8 not marked "law enforcement sensitive" or otherwise  
9 classified. Its contents are considerably more detailed.

10 From a lay person's point of view, including  
11 counsel's --

12 JUDGE BOGLE: Let me ask you this question and see  
13 if we can short circuit all this. None of these documents  
14 are directly relevant. Are you offering them for the purpose  
15 of attempting to show that in these documents, things were  
16 revealed or released that you would argue are the same or  
17 more egregious than what the Appellant is charged with  
18 revealing or releasing?

19 Are they being offered for comparison purposes?

20 MR. HARRISON: In part, but more precisely, Your  
21 Honor, the proposing official has relied on a document that  
22 has been identified, Hearing Exhibit 4 for the Agency, that  
23 is not a policy statement or a classification order or rule,  
24 but is simply a document that itself was classified by  
25 someone, we now know by Mr. Beck, as "law enforcement

1 sensitive."

2 That was the only documentary basis for Mr.  
3 Murphy's decision about the statements to the Post being  
4 security sensitive.

5 We have seen a number of documents that have all  
6 came from the Agency in discovery. They contain more detailed  
7 information about security. They were not classified. It  
8 shows there certainly is no practice in place at the Agency  
9 to so classify that category of information.

10 JUDGE BOGLE: There are slide presentations. Who  
11 were the slide presentations made to?

12 MR. HARRISON: Actually, X, was not a slide  
13 presentation but a public report of the Office of Inspector  
14 General, apparently filed with the Department.

15 JUDGE BOGLE: AA through DD are all slide  
16 presentations.

17 MR. HARRISON: I believe they are, Your Honor.

18 JUDGE BOGLE: Were they given to the public or were  
19 they given internally?

20 MR. HARRISON: I don't know that they have been  
21 released, but they are subject to FOIA, and they are not  
22 classified.

23 JUDGE BOGLE: Do you know, Mr. L'Heureux.

24 MR. L'HEUREUX: I do not know.

25 JUDGE BOGLE: I will accept W and X.

1 (Appellant's Exhibits W and X  
2 were received in evidence.)

3 JUDGE BOGLE: The slide presentations, I don't  
4 understand who received them. I think they are too remote.  
5 For that reason, I will not accept those.

6 MR. HARRISON: I understand Your Honor's ruling. I  
7 just want to note that I believe the report that the Agency  
8 relied on was also an internal document, and it was  
9 classified nonetheless because it might be subject to outside  
10 inquiry, that's the only purpose we are offering the other  
11 documents, just for the record.

12 JUDGE BOGLE: Thank you. Let's move on.

13 MR. L'HEUREUX: I'll object to Z on the grounds  
14 that I objected before previously, on the grounds of lack of  
15 foundation. If foundation can be established, I won't  
16 object.

17 JUDGE BOGLE: Did we have anybody testify about  
18 this?

19 MR. HARRISON: No, I was going to ask Ms. Chambers  
20 about it. I will note this is a document the Agency gave to  
21 us in response to our discovery requests for Park Police  
22 budget documents. If it wasn't a Park Police budget  
23 document, it wouldn't have been provided.

24 JUDGE BOGLE: Let's see what she can tell us about  
25 it. It appears to have been a document created by a computer



1 search. Let's see if she can tell us.

2 BY MR. HARRISON:

3 Q Ms. Chambers, can you determine what that document  
4 is and how it might have been prepared or produced?

5 A I can tell you what it is. I don't know whether  
6 this did come from a search engine. I've seen a copy that  
7 looks if not exactly like this, very, very similar.

8 Q What was the document that you saw and what was its  
9 purpose?

10 A It's a face sheet that is our budget submission,  
11 referred to as the budget call, to the National Park  
12 Service's comptroller's office. My recollection is that  
13 happens in March of each year with fiscal years two years  
14 out.

15 This one is the top of the sheet, there was one or  
16 more pieces of paper for each of the items you see listed on  
17 the priority code here. It was our job to prioritize what  
18 things we needed funded first, second, third, fourth, and so  
19 on.

20 This was the cover sheet that went on top. Anyone  
21 that picked it up could see that the overall budget request  
22 for the U.S. Park Police in 2005 was \$41.926 million.

23 Q Do you remember a submission for the Park Police in  
24 an amount in that range?

25 A Oh, yes, sir.

1           MR. HARRISON: Your Honor, I would offer the  
2 document.

3           JUDGE BOGLE: Mr. L'Heureux?

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

5           JUDGE BOGLE: I will receive Z.

6   (Appellant's Exhibit Z was  
7   received in evidence.)

8           BY MR. HARRISON:

9           Q     Ms. Chambers, I want to show you a document marked  
10 as Appellant's Pre-Trial Exhibit MM. Tell me if you  
11 recognize that.

12          A     I do, sir.

13          Q     And what is it?

14          A     It's a document I located among three boxes of  
15 materials sent by the Department of Interior in response to  
16 your request for production of documents.

17          Q     How would you describe this document?

18          A     It looks to be a position description form. I  
19 don't know if it's a Federal form or one that's just for the  
20 National Park Service, although it does say "OPM." It is  
21 dated 1985. It has my name handwritten on it, and everything  
22 else typed, and signed by a former Director of the National  
23 Park Service. I'm sorry, Regional Director of the National  
24 Capitol Region. Apparently, the Park Police served under  
25 them at that point in time. It is dated 12/20/88.

1 Q Is this the document you referenced earlier?

2 A Yes, sir.

3 MR. HARRISON: Your Honor, I would move the  
4 admission of MM.

5 JUDGE BOGLE: Any objection?

6 MR. L'HEUREUX: No objection.

7 JUDGE BOGLE: It is received.

8 (Appellant's Exhibit MM was  
9 received in evidence.)

10 MR. HARRISON: Thank you.

11 BY MR. HARRISON:

12 Q Ms. Chambers, you mentioned in your earlier  
13 testimony an event, and I believe you called it the Pageant  
14 of Peace.

15 A Yes, sir.

16 Q Was there such an event around held on December 4,  
17 2003?

18 A It was on December 4th; yes, sir.

19 Q Do you recall encountering Mr. Griles, the Deputy  
20 Secretary, at the Pageant of Peace event on December 4th, the  
21 day before you were placed on administrative leave?

22 A I do recall.

23 Q Did you discuss any matters with him?

24 A We exchanged a handshake and hello's, and I asked  
25 him a question about what he thought was going on with me.

1 It was very clear people were avoiding me that night.

2 Q Did Mr. Griles respond and say anything?

3 A Yes, sir. My question to him was I asked am I  
4 going to survive whatever is going on. He turned to me and  
5 his eyes filled with tears, and he said, I don't know. I  
6 said, what's going on. He told me I had to get to Fran,  
7 which I took to mean Fran Mainella.

8 Q Had you received any notice of disciplinary action  
9 against you at that time?

10 A No, sir.

11 Q Have you had occasion since the Agency filed its  
12 record in this proceeding to review the depositions taken by  
13 Mr. Hoffman and the documents presented to him that according  
14 to his testimony constitute his inquiry into his decision on  
15 your removal?

16 A Yes, sir.

17 Q Have you noticed in that information provided to  
18 Mr. Hoffman in his inquiry the reasons presented to Mr.  
19 Hoffman that would have or could have supported your removal  
20 that were not presented to you at the time you responded to  
21 the proposed removal?

22 MR. L'HEUREUX: Objection, Your Honor. He's trying  
23 to review the case; relevance.

24 MR. HARRISON: You are her counsel. If you think  
25 there were other reasons, you can tell me in your closing

1 comments.

2 MR. HARRISON: I appreciate that. I'm just trying  
3 to lay the foundation to put the reasons in the record, what  
4 she observed in the record.

5 JUDGE BOGLE: It doesn't matter what she observed.  
6 You tell me what additional reasons you think there were in  
7 your closing comments.

8 MR. HARRISON: I thought I could ask her if she had  
9 seen X prior to reading it in this record. I need to ask her  
10 a question.

11 BY MR. HARRISON:

12 Q Ms. Chambers, did you notice whether or not in Mr.  
13 Hoffman's record and in his inquiry there was a reference to  
14 a December 4th e-mail from Ms. Debbie Weatherly?

15 A Yes, sir; there was.

16 Q Had you been provided that to respond to when you  
17 asked the Agency for what they relied upon for your proposed  
18 removal?

19 MR. L'HEUREUX: Objection. Same objection;  
20 relevance.

21 JUDGE BOGLE: I'm completely baffled by what you  
22 are getting at here. Ms. Weatherly's communication was one  
23 of the charges. You are not arguing it's an additional  
24 reason, you are arguing this is evidence that wasn't  
25 appropriately given?

1 MR. HARRISON: That's one.

2 JUDGE BOGLE: And the other?

3 MR. HARRISON: The other is that this e-mail refers  
4 to and was accompanied by in communication with Mr. Murphy,  
5 which were then relayed to Mr. Hoffman, a December 2nd e-mail  
6 from Ms. Chambers to Debbie Weatherly, which is, I'll argue,  
7 protected activity, that was considered by Mr. Hoffman along  
8 with the December 4th e-mail in his decision, and Ms.  
9 Chambers had no opportunity to respond to that in her  
10 response to the proposed removal.

11 JUDGE BOGLE: I'll take the argument under  
12 consideration. We don't need testimony.

13 MR. HARRISON: Thank you.

14 BY MR. HARRISON:

15 Q Let me show you, Ms. Chambers, a document marked as  
16 Appellant's Pre-Trial Exhibit L. Do you recognize that?

17 A Yes, sir; I do.

18 Q What is it?

19 A It's a string of e-mails, the first of which I  
20 referenced earlier, that gives me the direction to grant no  
21 more interviews, and there is a subsequent e-mail from me to  
22 Mr. Murphy asking -- giving him some information and asking a  
23 follow up question, and getting an e-mail back from Mr.  
24 Murphy to me, copied to Fran Mainella, explaining his  
25 reasoning.



1 Q Were you the personal author of the language in  
2 that conclusion?

3 A No, I was not, sir.

4 Q Who might have authored that?

5 A That initially was authored by Mr. William Rudman,  
6 and probably edited by Peter Noone. They were co-counsel on  
7 the counsel.

8 Q Your attorneys in the case?

9 A Yes, sir.

10 Q Did you mean in your reply to express any overt  
11 hostility toward your supervisors?

12 A Absolutely not, sir.

13 Q Do you believe that if you were to be reinstated,  
14 your relationship with your superiors would be so irreparably  
15 harmed that you could not function?

16 A Not from my point of view, sir.

17 Q Has anyone ever brought to your attention a concern  
18 that you had not or could not effectively interact with  
19 members of the law enforcement community in Washington, D.C.?

20 A Never, just the opposite.

21 Q What has been your feedback in terms of your  
22 interaction with the law enforcement community?

23 A In the beginning, I was told that was one of the  
24 reasons I was brought in, because I did have a network of  
25 positive working relationships across the country with other



1 chiefs, and in this area. I think it is shown both through  
2 the media and in internal communications on some of the large  
3 events in the Washington, D.C. area.

4 Q What was your immediate job prior to becoming Chief  
5 of the U.S. Park Police?

6 A I was Chief of the Durham, North Carolina Police  
7 Department for four years.

8 Q And prior to that position, what was your  
9 professional position?

10 A I served 21 years with the Prince George's County,  
11 Maryland Police Department. I retired at the rank of major  
12 in December 1997.

13 Q Did anyone ever bring to your attention prior to  
14 your being placed on administrative leave that you were  
15 perceived to have problems with your ability to get along  
16 with others?

17 A I had never heard that until reading it in Mr.  
18 Hoffman's final letter.

19 Q Are you aware of any chief of the U.S. Park Police  
20 in the recent history of the U.S. Park Police that may have  
21 engaged in conduct similar to what you have been charged  
22 with?

23 A Yes, I am.

24 Q Who might that be?

25 A Chief Bob Langston.

1           Q     What do you understand Mr. Langston would have done  
2 that would be similar to what you have been accused of doing?

3           A     Chief Langston was frequently in the news, both  
4 film and print media, talking about the needs of his  
5 organization, talking about funding shortages, talking about  
6 staffing.

7                     Likewise, I learned after I got my job because of  
8 the large amount of paperwork Chief Langston left behind,  
9 that he frequented the Hill on a regular basis, had open  
10 communications with Congress members and their staff, asking  
11 for specific appropriations, by numbers and dollar figures,  
12 certain types of equipment, those kinds of things.

13          Q     Did you have occasion to review any of the  
14 documents reflecting Mr. Langston's communications with  
15 Congress?

16          A     I did; yes.

17                     MR. HARRISON: I recall that in our pre-hearing  
18 conference, I told you that the case law required that a  
19 comparison employee be substantially similar in many ways,  
20 and in my conference summary, I listed some of the case cites  
21 that were normally relied on for that proposition.

22                     As I told you then, the charges in this case are so  
23 distinct that I can't imagine that you could come up with  
24 someone who was disciplined for similar reasons so that we  
25 could compare the penalty.

1           You did not agree with my assessment of the case  
2 law, which is why I provided it.

3           It remains, however, that is the existing case law,  
4 unless you have evidence that Chief Langston was disciplined  
5 for similar reasons, there is no point in going forward with  
6 this testimony.

7           MR. HARRISON: Your Honor, the point is he was not  
8 disciplined for doing similar things.

9           JUDGE BOGLE: Unless it was investigated, unless  
10 there is some evidence that he was at least accused or  
11 investigated on similar things, there is no way to compare  
12 how the Agency handled his situation and how they handled the  
13 Appellant's.

14           MR. HARRISON: I think I understand your point,  
15 Your Honor. Is that because Your Honor sees my issue to  
16 relate to disparity in the penalty?

17           JUDGE BOGLE: Yes.

18           MR. HARRISON: I understand Your Honor's point. My  
19 purpose at the moment is to show disparity in whether or not  
20 an employee is charged with an offense, not to the penalty  
21 applied. Disparate treatment in that regard --

22           JUDGE BOGLE: There is no conceivable way you can  
23 do that. Where are you going to get the evidence to show  
24 that former Chief Langston was investigated for the same  
25 offenses and not charged?

1           MR. HARRISON:  What I am asserting is the absence  
2 of such a charge.

3           JUDGE BOGLE:  He has to have committed the same  
4 offenses before he conceivably could have been charged;  
5 correct?

6           MR. HARRISON:  I guess I'm not making myself clear,  
7 Your Honor.  I'm not talking about whether the Agency treats  
8 employees disparately in the penalty applied once a charge  
9 has been made for the same offense.

10           What I am saying is Ms. Chambers was charged with  
11 conduct being an offense that for other persons doing the  
12 same behavior was not even considered an offense, and it was  
13 because she was a whistleblower.  She was treated  
14 disparately.

15           JUDGE BOGLE:  You don't have the evidence that  
16 other people committed the same behavior.

17           MR. HARRISON:  We are about to elicit that.

18           JUDGE BOGLE:  No, we're not.

19           MR. HARRISON:  We did elicit some.

20           JUDGE BOGLE:  The behavior in this case is so  
21 unique, you could never persuade me that you could come up  
22 with that evidence if we held four more days of hearing.

23           No, you may not inquire into that area.

24           MR. HARRISON:  Not even as a proffer?

25           JUDGE BOGLE:  You can make the proffer, and then we

1 will move on.

2 MR. HARRISON: Thank you. The proffer is that  
3 Chief Langston had frequent communications with the  
4 Washington Post. He often requested of Congress additional  
5 funding for additional staffing and other purposes similar to  
6 what Ms. Chambers did, that Mr. Langston made comments in the  
7 Post very similar, perhaps more so than Ms. Chambers is  
8 accused of making, both in terms of funding needs, budget  
9 information, and staffing information.

10 Mr. Langston received no discipline from the  
11 National Park Service for his remarks, either to the press or  
12 to Congress, and the Appellant believes that his conduct was  
13 as specific as that alleged of Ms. Chambers, and in the same  
14 area, or more extreme.

15 That would be our proffer.

16 JUDGE BOGLE: Thank you. Move on.

17 MR. HARRISON: Let me just note my exception to  
18 your ruling.

19 BY MR. HARRISON:

20 Q Ms. Chambers, have you reviewed the media coverage  
21 of either your offense or the actions taken by the Agency  
22 against you?

23 A Yes, sir; I have.

24 Q How extensive would the media coverage be that you  
25 reviewed on those issues?

1           A     Very extensive.

2           Q     How many of those articles have you read?

3           A     Several hundred.

4           Q     Of those articles, how many of those articles speak  
5 of your offense without speaking of the actions taken by the  
6 Agency against you?

7                   MR. L'HEUREUX:  Objection; relevancy.

8                   JUDGE BOGLE:  I didn't even understand the  
9 question.  The objection is sustained.

10                  MR. HARRISON:  On what ground, Your Honor?

11                  JUDGE BOGLE:  How can media coverage of this matter  
12 possibly be relevant to the evidence?

13                  MR. HARRISON:  Your Honor, I would hope you would  
14 remember Mr. Hoffman's testimony today under Douglas Factor  
15 number eight on page six of the final decision.

16                  JUDGE BOGLE:  I remember his testimony.  It's still  
17 not relevant.

18                  MR. HARRISON:  The document itself on its face  
19 talks of the --

20                  JUDGE BOGLE:  Mr. Harrison, please don't continue.

21                  MR. HARRISON:  Can I make a proffer then?

22                  JUDGE BOGLE:  No, you may not.  Let's move on.

23                  MR. HARRISON:  I object in not being able to make a  
24 record.

25                  JUDGE BOGLE:  Noted.

1 BY MS. CHAMBERS:

2 Q Were you ever given, Ms. Chambers, any information  
3 that would put you clearly on notice that the comments you  
4 made to the Washington Post would be seen by the Agency as a  
5 prohibitive release of confidential security information?

6 A Never.

7 Q Were you ever given written notice sufficient to  
8 let you know that your comments to the Washington Post about  
9 the budget figures that you in fact referred to, the \$12  
10 million and the \$7 million and the \$8 million and the total,  
11 were considered a breach of a policy on non-disclosure of the  
12 presidential budget information?

13 A But for Mr. Murphy's reference to the President's  
14 budget in the one e-mail, which still isn't clear to me, no.

15 Q That reference came after the fact?

16 A Yes.

17 Q Did you ever receive any information from Mr.  
18 Griles, the Deputy Secretary, that would impact on the  
19 question of whether or not it was prohibited for you to talk  
20 to him or some other official above your immediate supervisor  
21 in the chain of command?

22 A No, he encouraged me to do so.

23 Q He never prohibited you from doing so?

24 A No, sir; he did not.

25 Q When you stated in your reply to the Agency's

1 proposal to remove that your conduct was not wrongful in your  
2 view, and you tried to explain why, did you mean to say there  
3 that if reinstated, you would not attempt to comply with any  
4 directions given to you?

5 A No, that was not my intent to say that at all.

6 Q If you were given a specific rule or requirement or  
7 procedure and asked to comply with it, do you believe you can  
8 do that?

9 A Every time; yes, sir.

10 MR. HARRISON: Your Honor, I believe I can close on  
11 direct. I need a few moments to examine my exhibit list to  
12 make sure I haven't omitted something, if we could have a  
13 five minute break for that purpose, I can close on my direct.

14 JUDGE BOGLE: Why don't we move to cross and then  
15 take the break. Is that all right?

16 MR. HARRISON: That will be fine.

17 JUDGE BOGLE: Mr. L'Heureux, any cross?

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

19 CROSS EXAMINATION

20 BY MR. L'HEUREUX:

21 Q Good afternoon, Ms. Chambers. Let me introduce  
22 myself again. I'm Robert L'Heureux. I represent the  
23 Department of the Interior in this proceeding.

24 Let us begin, as our English professors say, by  
25 seeing if we can't find some things about which we agree.



1                   First of all, you received training in ethics from  
2 the Agency, did you not?

3           A     Not on the front end, no, sir, but yes, eventually.

4           Q     Have you had an occasion to examine Agency Hearing  
5 Exhibit 6 that has been admitted into evidence?

6           A     Describe it for me, and I can answer.

7           Q     Don't you have it before you?

8           A     Yes, sir; I do.

9           Q     Would you look at that, please, for a moment?

10          A     Yes, sir. I'm familiar with this.

11          Q     Is that your signature in Hearing Exhibit 6?

12          A     It is, sir.

13          Q     That signature indicates that you received the  
14 training contained in what follows; is that correct?

15          A     Sir, it says that I read the ethics guideline  
16 manual, which I did.

17          Q     You did read that?

18          A     Yes, sir. There was no --

19          Q     If you look at --

20                   MR. HARRISON: Excuse me, Your Honor. The witness  
21 was trying to finish her answer.

22                   MR. L'HEUREUX: I beg your pardon.

23                   THE WITNESS: There was no formal training  
24 whatsoever, sir. It was just a book that we were handed,  
25 directed to read it, my own staff directed me to read it.

1 They said it was the policy that each new employee had to  
2 read it. I read it and I signed the certificate.

3 BY MR. L'HEUREUX:

4 Q On page three of that document, there are some  
5 remarks about lobbying; is that correct?

6 A Page four; yes, sir.

7 Q When you read the document, did you read that?

8 A Yes, sir. I read every page.

9 Q Thank you.

10 When you spoke to Ms. Weatherly, and I want to  
11 bring your attention to your conversation with Ms. Weatherly,  
12 you were speaking on duty; were you not?

13 A Yes, sir.

14 Q You were speaking as an official of the National  
15 Park Service, is that so?

16 A Certainly.

17 Q When you spoke to Ms. Weatherly, you did not have  
18 approval from the Department to ask Ms. Weatherly for more  
19 funding, did you?

20 A No, sir, and I didn't ask her for more funding.

21 Q Your answer is no then?

22 A That's correct.

23 Q Thank you.

24 Major Fogarty, Mr. Fogarty, as he has been referred  
25 to, is actually Major Fogarty of the U.S. Park Police; is he

1 not?

2 A That's correct, sir.

3 Q Major Fogarty was a person under your supervision,  
4 wasn't he?

5 A Not direct supervision, but ultimately; yes, sir.

6 Q Do I understand your testimony correctly that Major  
7 Fogarty was obliged to give you some training at some point?

8 A I learned that from a document you submitted, sir.  
9 I had no idea until then.

10 Q Did you ever ask Major Fogarty to give you any  
11 training?

12 A No, sir.

13 Q Did Major Fogarty ever offer to give you any  
14 training?

15 A No, he did not.

16 Q Let me skip around a little bit here. It's true,  
17 isn't it, Ms. Chambers, that you never gave an order -- you  
18 never gave an order to Pamela Blyth to report for a detail to  
19 Mr. Michael Brown? Is that true?

20 A It's true. I didn't have the information to give  
21 her. Yes, it's true. It was impossible.

22 Q It's also true, isn't it, that you never directly  
23 -- that is you yourself never directly ordered Deputy Chief  
24 Beam to take any psychological or medical tests?

25 A That statement is in error that you just said.

1 Q Let me ask it again. Did you directly order Deputy  
2 Chief Beam to take a psychological test?

3 A Yes, sir; I did.

4 Q Did you directly order Deputy Chief Pettiford to  
5 take a psychological test?

6 A Yes, sir; I did.

7 Q Is your answer that you directly ordered them to do  
8 so after they received a written instruction to do this from  
9 Mr. Murphy?

10 A Probably. It all was within a few days, but yes,  
11 sir. I think it was.

12 Q Had you given either of those two officers an order  
13 to report for psychological and medical tests before Mr.  
14 Murphy gave them -- before they received a written  
15 instruction from Mr. Murphy to that effect?

16 A No. In fact, he had asked me to hold off, so it  
17 would have been improper to do that.

18 Q Let's move -- what I'd like to move to now is some  
19 questions about the letters that you got from Mr. Myers. If  
20 you will look at the Agency file, Volume 1, Tab 4K. Unless I  
21 have it very wrong, that should be some documents created by  
22 Mr. Myers.

23 A Yes, sir; it is.

24 Q Would you look at -- there are two letters attached  
25 to Tab 4K. Would you look at those two letters?

1 (Witness reviewing documents.)

2 THE WITNESS: I'm familiar with them. Is there one  
3 you want to start with?

4 BY MR. L'HEUREUX:

5 Q Did you receive those letters?

6 A I have a vivid recollection of the one dated August  
7 13th. I have a remote recollection of the one dated  
8 September 15th.

9 Q But you received both letters; is that correct?

10 A I believe I received both; yes, sir.

11 Q Did you yourself ever initiate a telephone call to  
12 Mr. Myers in answer to those letters?

13 A No, sir; I did not.

14 Q And you didn't make a telephone call to Mr. Myers  
15 in answer to those letters either, did you?

16 A No, sir. I didn't see a request for one, so no, I  
17 did not call him.

18 Q In reaction to those letters, you really didn't do  
19 anything yourself to communicate with Mr. Myers, did you?

20 A Yes, sir. I directed Phil Beck to reach out and  
21 see what in the world Mr. Myers could be talking about when  
22 for the first time, he uses the word "complaint" regarding  
23 the OAS, Organization of American States.

24 Q Mr. Beck didn't report back to you what that was  
25 about, did he?

1           A     He reported back that there was no complaint.

2           Q     Mr. Beck didn't report back to you that Mr. Myers  
3 no longer wanted to talk about this thing; isn't that so?

4           A     I don't remember. He may not have. I don't  
5 remember. I know the meeting never occurred after that.

6           Q     Turning your attention to your written response.  
7 Do you have a recollection of that written response in your  
8 mind?

9           A     I have a recollection, perhaps not word for word.

10          Q     It's the one you testified to just a few minutes  
11 ago, isn't that right?

12          A     You are talking about the 56 page response?

13          Q     Yes.

14          A     Yes, sir.

15          Q     When your attorneys filed that written response  
16 with the Agency, had you read it before they filed it with  
17 the Agency?

18          A     Yes, I did.

19          Q     Had you read every part of it?

20          A     Yes, sir.

21          Q     Did you disagree with any part of it?

22          A     I didn't disagree with any of the facts. Those  
23 were all facts I had provided.

24          Q     Did you object to any remarks they made in there?

25          A     I didn't think that would be appropriate.

1           Q     My question is did you object to any of the remarks  
2 that your attorneys made in that written response on your  
3 behalf?

4           A     No, I didn't.

5           Q     And you didn't specifically object to any remarks  
6 they made in the conclusion either, did you?

7           A     No, sir. It was their opinion. I thought they  
8 were entitled to it.

9           Q     You understood they were filing this on your  
10 behalf, did you not?

11          A     The conclusion was signed by an attorney, and he  
12 concluded that perhaps Mr. Murphy wasn't believable. Those  
13 were not my words.

14          Q     When your attorney concluded that Mr. Murphy wasn't  
15 believable, you didn't share that belief? Is that what you  
16 are telling us?

17          A     I knew what the facts were. I would never tell a  
18 person outside of a proceeding like this where I'm being  
19 asked direct questions, I would never tell another person Mr.  
20 Murphy is not believable, not while he was still my  
21 supervisor anyway.

22          Q     When your attorneys said that Mr. Murphy's reaction  
23 to your going to Mr. Griles was puerile, did you object to  
24 that?

25          A     No, sir. I am not even sure I knew what "puerile"

1 meant. It is not my word.

2 Q It means infantile, juvenile. With that  
3 understanding, did you object to what they said at that time?

4 A I didn't object. It wasn't my place to object.

5 Q Do you object to it now?

6 A It's not a word I would use; no, sir.

7 Q Is it your testimony here today that was your  
8 lawyers' language that you didn't necessarily adopt; is that  
9 correct?

10 A That's correct, sir.

11 Q Isn't it true that you have never affirmatively  
12 repudiated that language until just now?

13 A I would say it's inappropriate, sir. They have a  
14 right to their opinion.

15 Q You testified on direct that if you were  
16 reinstated, you wouldn't have any difficulty in cooperating  
17 with and obeying the instructions of your supervisors. Do I  
18 have that substantially right?

19 A You've got it, sir.

20 Q Isn't it true that on August 28th, the meeting that  
21 Mr. Griles called, following his having rescinded the detail  
22 of Ms. Blyth, that you told Mr. Griles at that meeting that  
23 you wanted to be placed under the supervision of someone else  
24 then Mr. Murphy and Director Mainella; isn't that true?

25 A I believe it happened in a phone conversation, but



1 if he remembers it was in the meeting -- one of the two  
2 places it did come up; yes.

3 Q You did say that?

4 A I did; yes, sir. I was concerned for any  
5 retaliation that might happen for my going up the chain of  
6 command to get this detail reversed.

7 Q I'm skipping around because we have a lot of  
8 testimony and we need to cover all of it.

9 Let's turn our attention to this, if we may. Do  
10 you recall -- I'll have you turn to it in a moment -- the e-  
11 mail that you sent to Mr. Murphy on August 21st?

12 The subject of that e-mail or the body of that e-  
13 mail was a long list of some 20 projects that Ms. Pamela  
14 Blyth was involved in.

15 A I do; yes, sir.

16 Q You testified, did you not -- that e-mail was on  
17 August 21st. You testified on direct, and you have testified  
18 in other places, that the first time that you yourself  
19 discovered that Pamela Blyth was not going to work directly  
20 for Mr. Murphy but rather was going to work for a Mr. Brown  
21 was on Saturday, August 23rd, when Ms. Blyth told you that.

22 Was that your testimony? Have I got your testimony  
23 correct?

24 A I don't recall that being my testimony. I recall  
25 that I learned it on August 21st when Pamela Blyth came back

1 from a meeting in which Mr. Brown was present. She came back  
2 and told me that this person was there and what she had  
3 learned.

4 That is my recollection of what I testified to and  
5 my recollection to when I heard for the first time that she  
6 would be working for Michael Brown.

7 Q Isn't it true that in your own words in your  
8 affidavit, you said that the first time that you learned that  
9 Ms. Blyth was going to work for Mr. Brown was on that  
10 Saturday morning, the 21st. Is that not correct now?

11 A I don't know, sir. I'd have to see it or take your  
12 word for it. I don't know.

13 Q I don't think we need to take my word for anything  
14 here. I'm not sure that Your Honor would consider my word to  
15 be worth very much in this proceeding.

16 Let me ask you to turn to the Agency file  
17 concerning removal, Volume 1, Tab 4M, page 120.

18 A Okay.

19 Q Would you look it over briefly, particularly the  
20 first part, the part that has some narrative text?

21 (Witness reviewing document.)

22 JUDGE BOGLE: I'm sure she has read this many  
23 times, Mr. L'Heureux. What is the question?

24 THE WITNESS: I've finished the narrative.

25 BY MR. L'HEUREUX:

1 Q Thank you. Again, the date of this is August 21st;  
2 isn't that correct?

3 A That's correct, sir.

4 Q As of August 21st, it says here that Pamela, and  
5 that means Pamela Blyth, does it not?

6 A Yes, sir; it does.

7 Q Briefed you on her meeting with Mr. Murphy and  
8 Michael Brown, presumably the meeting occurred that same day;  
9 is that correct?

10 A Yes, sir.

11 Q The following paragraph, the first sentence, says  
12 "Pamela assured me that you were aware of her need to balance  
13 her time so that she can continue the momentum of positive  
14 change we have begun here in the Park Police." Isn't that  
15 correct?

16 A Yes, sir.

17 Q That information that you got from Ms. Blyth was  
18 substantially what Mr. Murphy had said to you before August  
19 21st about accommodating Ms. Blyth's availability to you;  
20 isn't that correct?

21 A That's correct. It's what he had shared with me as  
22 well; yes.

23 Q Let's turn to Sunday, the following Sunday, which I  
24 believe is the 24th of August, and your telephone  
25 conversation with Mr. Griles.

1           In your telephone conversation with Mr. Griles, did  
2 you tell Mr. Griles -- I'm sorry. You didn't tell Mr.  
3 Griles, did you, that Mr. Murphy had offered to accommodate  
4 Ms. Blyth during the time she was on detail?

5           A     I had told him Mr. Murphy had initially offered to  
6 accommodate Ms. Blyth while she was on detail; yes.

7           Q     Is it your testimony that you came to believe at  
8 some point between August 21st and August 24th, the Sunday,  
9 August 21st to August 24th, some time during there, it's your  
10 testimony, is it not, that you had come to believe that Mr.  
11 Murphy no longer meant to do that accommodation?

12          A     That's correct.

13          Q     Isn't it true, Ms. Chambers, that at no time  
14 between August 21st and August 24th, when you called Mr.  
15 Griles, did you call Mr. Murphy to ask him if it was so, that  
16 he was no longer going to accommodate Ms. Blyth's presence to  
17 you?

18          A     That's right. I did not go back through the same  
19 chain I had already been through; no.

20          Q     Isn't it also true that at no time between August  
21 21st and August 24th, did you go to Ms. Mainella and tell her  
22 that Mr. Murphy had rescinded whatever agreement he had with  
23 you about the availability of Ms. Blyth?

24          A     I did not go to her. She told me she would defer  
25 to Mr. Murphy in all matters on this. So, no, I did not.

1 Q It's true that you did not go to Ms. Mainella?

2 A Not at that time, sir; no, I didn't.

3 Q Did you say anything -- isn't it true that you  
4 didn't say anything to Mr. Griles about Mr. Murphy's  
5 discussions with you or Ms. Blyth about accommodating her  
6 availability during this period?

7 MR. HARRISON: Objection; asked and answered.

8 JUDGE BOGLE: I'll permit it.

9 THE WITNESS: I think you had a double negative in  
10 there, if I heard it right. It's true that I told Mr.  
11 Griles what Mr. Murphy had told me with regard to his  
12 willingness to accommodate Ms. Blyth. Initially, that is  
13 what he had promised both she and I, and it changed.

14 BY MR. L'HEUREUX:

15 Q It's your testimony that you told Mr. Griles that  
16 in your telephone call with him on Sunday evening, the 24th?

17 A I did tell Mr. Griles that; yes, sir.

18 Q I notice you put the tab away. I'd like you to  
19 bring it back out, if you would.

20 A I'm sorry. Go ahead.

21 Q This was written on August 21st. I want to remind  
22 you of that. Beneath this are 20 or so projects that Ms.  
23 Blyth was involved in. One of those projects is number  
24 three.

25 Number three reads "Judge Manson's budget request,

1 completion of and review of budget presentation by geography  
2 or function, the draft of which must be presented to Judge  
3 Manson and Mr. Parkinson by close of business on Monday,  
4 August 25th."

5           Isn't it true that Monday, August 25th, is the day  
6 Pamela Blyth was supposed to begin her detail? Isn't that  
7 true?

8           A     That's what Mr. Murphy told Pamela; yes.

9           Q     That was the day that you called Mr. Griles to have  
10 that detail not occur; isn't that true? That is the date you  
11 didn't want the detail to start; isn't that right?

12          A     That is the day I didn't want it to start; yes,  
13 sir.

14          Q     Why was this project not already ready? It was due  
15 Monday morning. Wasn't it done by Sunday night?

16          A     Sir, we got it Thursday of that week. It's a  
17 monumental project. We have never captured budget  
18 information by geography ever in our history. As it turned  
19 out, it couldn't be done by Monday. Judge Manson and Mr.  
20 Parkinson had given us an extension I think until Thursday or  
21 Friday of that week.

22          Q     Was it produced on Thursday or Friday of that week?

23          A     Yes, sir; it was. Everything that we could. There  
24 were some things that just were not retrievable because it's  
25 never been captured that way in the past.

1           Q     That's all my questions about that particular  
2 exhibit.

3                     You testified on direct that on the day you were  
4 placed on administrative leave, some items were recovered  
5 from you; isn't that correct?

6           A     Yes, sir.

7           Q     Among the items that were recovered from you were  
8 some electronic items; that's correct, isn't it?

9           A     Yes, sir.

10          Q     One of the items that was recovered from you was a  
11 Blackberry; is that correct?

12          A     That's correct.

13          Q     Would you describe what a Blackberry is?

14          A     It's a hand held device that can store a myriad of  
15 data on a database with phone numbers. It can be used as a  
16 telephone. It can be used to access one's e-mail.

17          Q     You were reprimanded in about March of 2003; isn't  
18 that correct?

19          A     Yes, sir.

20          Q     You were reprimanded for misusing a government  
21 vehicle; isn't that correct?

22          A     That's correct, sir.

23          Q     You were reprimanded for misusing a government  
24 vehicle by driving it from Washington, D.C. to North  
25 Carolina; isn't that correct?

1           A     That's correct, sir.

2           Q     Among other things.  You received certain  
3 instructions in that reprimand to make yourself familiar with  
4 policies and procedures; isn't that true?

5           A     That phrase was in there; yes, sir.

6           Q     Who owned the Blackberry that --

7           MR. HARRISON:  Objection; relevance.

8           JUDGE BOGLE:  Sustained.

9           MR. L'HEUREUX:  I have no further questions, Your  
10 Honor.

11          JUDGE BOGLE:  Anything?

12          MR. HARRISON:  Just a few.

13                 Your Honor, I believe I have offered this into  
14 evidence, and I just don't have it in my notes at the moment,  
15 Exhibit GG from our pre-trial filing for Appellant.  If it  
16 hasn't been offered, I'd like to offer it now.

17          BY MR. HARRISON:

18          Q     If you would just identify it, Ms. Chambers.

19          A     Yes.  This is an e-mail dated 1/15/02 that I found  
20 among the three boxes of materials submitted by the Agency in  
21 response to our request for documents.

22          Q     You referenced that in your testimony?

23          A     I did.  It appears to be an assignment list to a  
24 number of folks within the Park Service to get me ready  
25 coming in as the new Chief, to make certain that I had all



1 the background that I needed to be eligible for the  
2 retirement system, to be trained, to have certain tests,  
3 psychological.

4 Q Do you see a section for training requirements?

5 A Yes, sir.

6 Q Is Mr. Fogarty's name mentioned there, or Major  
7 Fogarty?

8 A Yes, Major Fogarty is the one responsible for  
9 providing the curriculum for FLETC with regard to Federal  
10 regulations, D.C. code and departmental policies.

11 MR. HARRISON: Your Honor, I hope I'm not being  
12 redundant, but I move the admission of GG.

13 JUDGE BOGLE: You are. It's already in.

14 MR. HARRISON: Sorry. Thank you.

15 BY MR. HARRISON:

16 Q Ms. Chambers, I want to show you a document that's  
17 been marked as Appellant's pre-trial submission JJ. Do you  
18 recognize that?

19 A I do, sir.

20 Q And what is it, please?

21 A It's an e-mail from me on October 23, 2003 to both  
22 Fran Mainella and Don Murphy. It's copied to Larry  
23 Parkinson, Paul Hoffman, Craig Manson, and the Inspector  
24 about an incident that was perpetrated against one of our  
25 deputy chiefs during working hours.

1 Q And you said this was October 23, 2003?

2 A Yes, sir.

3 Q Mr. Hoffman was one of the parties copied?

4 A Yes, sir.

5 Q And you see the contents summarizes the history of  
6 the harassment incidents and notices the most recent?

7 A Yes, sir; that's correct. I related back on the  
8 other stories that I had talked to each of these individuals  
9 about at one time or another. They had all asked to be kept  
10 informed.

11 MR. HARRISON: Thank you. I move the admission of  
12 JJ.

13 JUDGE BOGLE: Mr. L'Heureux?

14 MR. L'HEUREUX: No objection.

15 JUDGE BOGLE: Okay.

16 (Appellant's Exhibit JJ was  
17 received into evidence.)

18 MR. HARRISON: Your Honor, with the understanding  
19 that Ms. Chambers' affidavit and those exhibits to the  
20 affidavit are in the record, as well as her recent  
21 deposition, on which we will rely, we don't have any further  
22 questions.

23 JUDGE BOGLE: Let me point something out. Her  
24 affidavit is in this record because you submitted it a second  
25 time. I think late yesterday, I heard you say that you were

1 referring to an attachment to the affidavit that was  
2 submitted with the stay request.

3 MR. HARRISON: Yes.

4 JUDGE BOGLE: The stay request is a separate file,  
5 and that's not included with the file that I have here. You  
6 probably need in the time that we have before we conclude  
7 this proceeding, you need to go through the attachments to  
8 her stay request and see if there is anything there that  
9 hasn't been offered as an exhibit in this proceeding.

10 MR. HARRISON: I am sure there would be some. We  
11 would be happy to do that.

12 JUDGE BOGLE: I'm certain I have her affidavit. If  
13 there are other attachments, I don't want to mislead you into  
14 thinking they are in this record and they're not.

15 MR. HARRISON: Very good. I appreciate that  
16 guidance. Let me qualify my last statement. With that  
17 understanding, we have no further questions for this witness,  
18 but we are not prepared to close our case at the moment.

19 There are some other items, and Mr. L'Heureux may  
20 have more questions. I just want to put him on notice we do  
21 intend to rely on her affidavit and those attachments that we  
22 will now subsequently offer, to make sure they are in the  
23 record, and that may prompt further questions from Mr.  
24 L'Heureux.

25 MR. L'HEUREUX: It does not.

1 JUDGE BOGLE: You don't have any questions?

2 MR. L'HEUREUX: No.

3 JUDGE BOGLE: Thank you. You may step down.

4 (Witness excused.)

5 JUDGE BOGLE: That concludes the witnesses you  
6 intend to call for the Appellant, does it not?

7 MR. HARRISON: I believe it does if we are of the  
8 understanding that Mr. Beck's testimony is in by form of a  
9 deposition. I believe we established that.

10 JUDGE BOGLE: Is that one you were going to provide  
11 to me?

12 MR. HARRISON: It is, Your Honor. We have those  
13 now. I'm sorry. Mr. Griles is our witness on the 14th as  
14 well, Your Honor.

15 I have Mr. Beck's, Mr. Holmes, Mr. Manson's, and  
16 Mr. Wright's depositions, which I referenced earlier.

17 JUDGE BOGLE: Everybody has copies of those, is  
18 that right?

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

20 JUDGE BOGLE: What will we mark these?

21 MR. HARRISON: They are marked, Your Honor.

22 JUDGE BOGLE: It appears that Mr. Holmes'  
23 deposition is OO. Mr. Beck's deposition is PP. Mr. Manson's  
24 deposition is QQ. Mr. Wright's deposition is RR.

25 (Appellant's Exhibits OO-RR)



1 taking the witnesses out of order.

2 MR. HARRISON: I don't mind the out of order.

3 JUDGE BOGLE: We still have Mr. Griles to go. It  
4 is only 2:47. We need to make use of the rest of this day.  
5 If you have them available, I'd like to call them today.

6 MR. L'HEUREUX: All right.

7 JUDGE BOGLE: Why don't we take a five minute  
8 break? I will look for the Blyth affidavit and then we will  
9 resume with your rebuttal witnesses.

10 MR. HARRISON: Your Honor, before we take a break,  
11 if I could just note if these witnesses are in fact rebuttal  
12 to what Ms. Chambers has testified to or what is in our case,  
13 that's fine. If they are speaking to matters that would have  
14 been planned for their case-in-chief, or should have been, we  
15 will object.

16 JUDGE BOGLE: I believe I insisted he hold them  
17 for rebuttal.

18 MR. HARRISON: I don't have a problem with that as  
19 long as they are used for rebuttal.

20 JUDGE BOGLE: Let's take that break.

21 (A brief recess was taken.)

22 JUDGE BOGLE: Back on the record.

23 MR. L'HEUREUX: The Agency calls Bruce Schaefer.

24 JUDGE BOGLE: There is a lot of documentation up  
25 here. Do you want him to have it or do you want to take it

1 away?

2 MR. L'HEUREUX: Let's take it away. He doesn't  
3 need it.

4 JUDGE BOGLE: For the record, I just want to note  
5 that on the break, I found the Blyth affidavit. It is in the  
6 Appellant's response to the show cause order that I issued on  
7 the individual right of action appeal, at Tab D.

8 MR. HARRISON: Thank you, Your Honor.

9 JUDGE BOGLE: Your next witness is, Mr. L'Heureux?

10 MR. L'HEUREUX: Bruce Schaefer, Your Honor.

11 JUDGE BOGLE: Do you have any objection to taking  
12 an oath?

13 MR. SCHAEFER: No.

14 Whereupon,

15 CHARLES B. SCHAEFER

16 was called as a rebuttal witness and, having been first duly  
17 sworn, was examined and testified as follows:

18 JUDGE BOGLE: Please be seated and state your full  
19 name and your title.

20 THE WITNESS: Charles Bruce Schaefer. I'm  
21 comptroller for the National Park Service.

22 DIRECT EXAMINATION

23 BY MR. L'HEUREUX:

24 Q Good afternoon, Mr. Schaefer. I have some very  
25 brief questions, but before I do that, would you describe

1 briefly what your duties are as the comptroller of the  
2 National Park Service?

3 A I oversee the budget of the entire National Park  
4 Service and the finance operation of the entire National Park  
5 Service, and some minor administrative functions of the  
6 finance office and the budget office.

7 Q Does that include the budget of the U.S. Park  
8 Police?

9 A All budgets that are included in the National Park  
10 Service budget and the Park Police; yes.

11 Q I want to turn your attention to the budget  
12 planning process, which I think you refer to as the budget  
13 cycle, for the 2005 budget.

14 As we understand it from the testimony here, that  
15 budget was being developed or actually being developed during  
16 the Summer and Fall of 2003; is that correct?

17 A It's about a 20 month cycle. It starts in the  
18 Spring some 20 months ahead of the start of the fiscal year.  
19 That would be correct.

20 Q I want to focus your attention on the budget  
21 deliberations or consultations that occurred with respect to  
22 the budget for the Park Police for that 2005 budget during  
23 this time period. That is what my questions are going to be  
24 directed to.

25 Did you have any occasions during that time period,



1 from June through November of 2003, to know what requests the  
2 U.S. Park Police was making for its budget for the 2005  
3 budget?

4 A It would be best if I answered that by describing  
5 somewhat the process.

6 Q All right. Let's do that.

7 A As I said, the process starts in the Spring, some  
8 20 months ahead. It would have been the Spring of 2003, with  
9 a set of instructions that goes out and is circulated among  
10 the organizations, and posted on our web site. The  
11 traditional process. We have done it every year for as many  
12 years as I've been around.

13 All organizations are asked to respond to the  
14 request and encode what their requirements are into a  
15 database, and set priorities on those requirements, those  
16 additional requirements. I mean their increments of increase  
17 over what they currently have.

18 From that database, we develop our budget  
19 submission to the Department, because the process works in  
20 that way, where the Park Service, the individual non-bureaus  
21 of Interior, submit budget requests to the Department with  
22 some instructions from them.

23 In the course of deliberations, they determine what  
24 it is we may ask of the President and OMB, and then some time  
25 in the late Fall, the OMB passes back to us what we can get

1 out of that process.

2 That's a very, very short version of what happens.

3 In the case of the Park Police, in the 2005  
4 deliberations, as you mentioned, we went into that data file  
5 and in fact, we picked off the ones that we thought were  
6 appropriate and represented the highest priorities and  
7 included those in the departmental request, and submitted it  
8 to the Department along with the request for the other 600  
9 programs that we operate.

10 The Department was deliberating on that over the  
11 course of the Summer. By the way, each step of the way, we  
12 talked among the senior leadership about what was included in  
13 the budget, what's going on with the budget.

14 Q Let me ask you a question at this point, Mr.  
15 Schaefer. You said you talked to the senior leadership. Had  
16 you been talking to any of the senior leadership in the U.S.  
17 Park Police about their budget requirements?

18 A Well, normally in the course of preparing the  
19 budget, we talk to staff level people who were responsible  
20 for that, and in this case, there were staff level people in  
21 the Park Police who were engaged in those conversations.

22 Q Who were those persons?

23 A In this case, it was probably Shelly Thomas, who  
24 was functioning as a budget administrative person at the  
25 time. There may have been others, but I know for a fact she

1 was engaged in some of the conversations.

2 Q Would you agree with the statement that the U.S.  
3 Park Police was not permitted to make any input into the  
4 request of the National Park Service for the 2005 budget that  
5 went forward?

6 A No.

7 Q Why would you say that?

8 A I think the key for us is that when you issue a set  
9 of instructions and we go into that data file and we see  
10 there is data there and a request there, and we have  
11 interchange with people who provide that data, we presume it  
12 represents the needs of the organization. There were plenty  
13 of requests there for the U.S. Park Police that we melted  
14 into our submission.

15 Q When you send the budget forward from your bureau,  
16 the National Park Service, to the Department, what is the  
17 format? What does it look like? What does it mean in the  
18 document you send forward?

19 A It largely is numbers. It largely has numbers, and  
20 then there is discussion of the additional resources on top  
21 of the base that we need, and that is represented for the  
22 Park Police as it was for the other organizations.

23 There was, by the way, an increase in that initial  
24 submission for the Park Police, about \$3 million. It  
25 represented those things which was shown to us as being high

1 priority for the Park Police at that time.

2 Q When you send that document forward to the  
3 Department of Interior and inside that document, it contains  
4 a budget request for the U.S. Park Police, are you  
5 representing that is what the Park Police would like to have,  
6 or what the National Park Service is requesting?

7 A It represents what the National Park Service wants  
8 to request on behalf of the Park Police and every other  
9 organization; absolutely. Everybody has a long list of  
10 needs. People get only a share of what we are allowed to ask  
11 for.

12 Q Do you recall what the increase in the Park Police  
13 budget -- what increase was requested by the Department in  
14 its communication to OMB in 2003 for the 2005 budget? Do you  
15 recall what the amount of the increase was?

16 A About \$8 million.

17 Q Why do you recall that?

18 A At one point late in the process, when we were  
19 talking to the Department, the Park Police appeared to us  
20 with a paper that showed an increase need of some \$12  
21 million, if I recall.

22 That was made up of a list of things that were not  
23 part of that \$3 million, by the way, not even inclusive of  
24 that \$3 million worth of stuff that was represented as being  
25 a high priority for the Park Police, and it was surprising to

1 us that this \$12 million was on a piece of paper and existed  
2 and kind of out of the process and kind of out of the  
3 request, and it was unknown to Don Murphy. It appears that  
4 it had shown up in the departmental office of law enforcement  
5 as a Park Police request.

6 That became something that the departmental office  
7 of law enforcement began to focus on, this \$12 million  
8 request, which as I said, bore no relationship at all to this  
9 \$3 million request.

10 A series of meetings ensued between Park Police,  
11 other people in the Park Service, representatives of my  
12 office, and I'm not sure who else.

13 Q Who was in those meetings?

14 A Well, I was only in one initially, and then I had  
15 to go off on vacation. The one I was in initially was Chief  
16 Chambers, Pamela Blyth, representing the Park Police. I  
17 don't know if there was other Park Police people. It was  
18 quite crowded.

19 Representatives from the departmental budget  
20 office. Larry Parkinson. Myself, other members of my  
21 office. I believe that's pretty much in that one meeting the  
22 number of people who were present.

23 Q If I understand your testimony correctly, there had  
24 been \$3 million that came through this normal process.

25 A Right.

1           Q     Now there was a request for \$12 million that was  
2 outside that process; is that correct?

3           A     Correct.

4           Q     How was this resolved at your level before it went  
5 onto the Department?

6           A     Since we hadn't had any time to spend with this \$12  
7 million, to staff it out, we began staffing out this \$12  
8 million.

9           Q     What does that mean, "to staff it out?"

10          A     It was a \$12 million request. It was on a simple  
11 piece of paper that had a bunch of one line entries on it,  
12 many of which, by the way, were the same entries which were  
13 identical to items we had just finished requesting and got  
14 increases for in a prior budget.

15                   There was clear overlap and redundancy between  
16 things that had been funded in the fiscal 2003 budget.

17                   We were not in a position to defend it or review it  
18 or analyze it.

19          Q     I'm asking you to define terms, not because the  
20 Judge doesn't understand, but because I don't.

21                   When you say "defend it," what do you mean?

22          A     Well, everything that eventually leaves the  
23 National Park Service as a request for the National Park  
24 Service budget, is something we defend, but we have to be in  
25 a position to do so. We have to understand its context,

1 understand the history. That's our role in the budget  
2 process.

3 Q Is your testimony you were having some difficulty  
4 understanding that?

5 A A great deal.

6 Q What was the nature of the difficulty?

7 A The difficulty was there were things on this list  
8 that we felt we had already provided funding for in the  
9 fiscal 2003 budget. There was a \$12.6 million increase in  
10 the 2003 budget that was largely defended on the basis of the  
11 post 9/11 era, they needed to have additional law enforcement  
12 officers and additional resources for staffing, overtime  
13 related to Code Orange, and some other things.

14 Those are the very things that were on this \$12  
15 million list, some of those same things.

16 We had questions. We had significant questions as  
17 to how was it these things were showing up again. Certainly,  
18 if we didn't ask those questions, they were going to be asked  
19 at OMB, and if OMB somehow agreed to them, they were going to  
20 be asked on the Hill.

21 It is our role to be in a position to answer those  
22 questions on behalf of the Park Service, just like it would  
23 have been for any other program in the organization.

24 Q Was there a specific difficulty about this \$12  
25 million amount? Was there one thing more difficult about it

1 than another?

2 A It was just a list of things, going back say to the  
3 data file that we tapped to see who gets what, there are  
4 literally pages written on \$300,000 requests, on \$400,000  
5 increase requests. I had a page that had six or seven items  
6 on it that added up to \$12 million. It certainly didn't  
7 represent a reasonable budget request.

8 It needed to have some work done to it before it  
9 could be explained to anybody.

10 Q Was that work done?

11 A Well, we started on that work. We asked a series  
12 of questions about the items that were on that list, and  
13 specific notes that we wrote to the Chief asking a series of  
14 questions. We only got partial answers back, never complete  
15 answers on any of it.

16 In the meantime, the process went on. There were  
17 additional meetings held with the Department over the need  
18 for resources. In the course of those meetings, a final  
19 decision was made that actually increased the number that  
20 went to OMB for the Park Police over and above that \$3  
21 million request.

22 Q Is that the \$8 million?

23 A That's correct.

24 MR. L'HEUREUX: I have no further questions of this  
25 witness, Your Honor.



1 JUDGE BOGLE: Mr. Harrison?

2 MR. HARRISON: Thank you, Your Honor.

3 JUDGE BOGLE: I think before I turn the witness  
4 over to you, I'd like to ask a question. There has been some  
5 testimony about whether or not Ms. Chambers should have heard  
6 in budget meetings that she should not discuss figures that  
7 were going into the budget publicly, before they became the  
8 final budget figures.

9 Were you in any of those meetings? Do you have any  
10 knowledge of those types of discussions?

11 THE WITNESS: I can only answer that by saying that  
12 in each case, when we discuss either in a National Leadership  
13 Council meeting, an organization to which she belonged, be it  
14 in a formal meeting or on the phone, and when budget figures  
15 are discussed, we routinely start by saying these numbers are  
16 not to be discussed outside the organization.

17 I don't know -- I don't always know when it's a  
18 phone conversation, who is on the other end, but it's always  
19 a part of the conversations regarding budgets, regardless of  
20 what fiscal year it was or where we were in the process.

21 JUDGE BOGLE: The charge before us concerns an  
22 alleged public discussion of budget figures that took place  
23 on December 1, 2003. With your knowledge of the budget  
24 cycle, can you tell us on December 1, 2003, whether she would  
25 have been permitted to discuss budget figures publicly at

1 that time?

2 THE WITNESS: Certainly not discuss publicly  
3 numbers that were part of the budgets being formulated at  
4 that time, which would have been the 2005 budget.

5 JUDGE BOGLE: Thank you. Mr. Harrison?

6 MR. HARRISON: Thank you.

7 CROSS EXAMINATION

8 BY MR. HARRISON:

9 Q Mr. Schaefer, when you submitted the budget request  
10 to the Department of Interior for fiscal year 2005, you  
11 included an amount for the U.S. Park Police. Did you first  
12 send that work product with the \$3.3 million increase for the  
13 U.S. Park Police to Chief Chambers to review?

14 A We don't routinely do that. The material was sent  
15 to us.

16 Q My question was did you send it to the Chief. Yes  
17 or no?

18 A No. I don't know. My staff might have. I did  
19 not.

20 Q Did you sit down with the Chief and tell her  
21 verbally that you were requesting \$3.3 million as the total  
22 increase for fiscal year 2005 for the Park Police before you  
23 sent this submission to the Department of Interior's budget  
24 office?

25 A Did I sit down with her? No, I don't recall doing

1 that.

2 Q Did you know what Chief Chambers' opinion was on  
3 that amount, \$3.3 million, as the total increase for fiscal  
4 year 2005 for the U.S. Park Police, before you submitted this  
5 request you identified to the Department of Interior's budget  
6 office for fiscal year 2005?

7 A I knew that represented her highest priorities.  
8 That was my assumption.

9 Q Did you know her opinion -- I'm not asking your  
10 assumptions. Did you know what the Chief's opinion was on  
11 the figure you came up with as the total increase for fiscal  
12 year 2005 of \$3.3 million? Did you know how she felt about  
13 that?

14 A I suppose no. I don't know how to answer that  
15 question.

16 Q Yes or not will be fine.  
17 What data did you actually look at, that you were  
18 saying you pulled out of some sort of electronic database for  
19 the Park Police? Is that where you got your data?

20 A It's an electronic database for the whole National  
21 Park Service.

22 Q Which would include in this case the U.S. Park  
23 Police?

24 A That's correct.

25 Q Did you pull that data out yourself?

1           A     My staff did.

2           Q     You said that the data is encoded? Did I hear you  
3 correctly?

4           A     No. It's data. A big data file.

5           Q     You didn't say "encoded?"

6           A     I don't know. It's a big data file. It's a big  
7 data file with priorities on it. It's an electronic data  
8 file.

9           Q     Is it encoded?

10          A     "Encoded." I'm not sure I understand.

11          Q     You don't know what that means?

12          A     Not in the context you are using it.

13          Q     Who inputs that data?

14          A     In this case, the Park Police did.

15          Q     Do you know who in particular?

16          A     I would presume -- no, I don't know for sure.

17          Q     Do you know precisely what data was put into this  
18 database?

19          A     What data?

20          Q     What categories of data.

21          A     It represents the requirements, the added  
22 requirements, each organization has over and above their  
23 base.

24          Q     You mean what they need for the next fiscal year?

25          A     What they need -- it represents what they need over

1 and above their base for operations, for whatever year they  
2 get it. It represents what they claim they need at that very  
3 moment.

4 Q At any point in time?

5 A At any point in time. It's a standing list that is  
6 updated periodically by the individual organizations.

7 Q If an agency within the Department encountered a  
8 shortfall or an anticipated shortfall, theoretically, you  
9 could go to this database and see how they are doing and what  
10 their anticipated shortfall might be?

11 A It's a database that is used to respond to cyclic  
12 budget requests, the budget cycle, that are fixed and firm  
13 from one year to the next.

14 Q Let's try to be as precise as we can about this.  
15 Give me an example of the type of data that someone would sit  
16 down and type into the database, very specific.

17 A It would say, for example, in the case of the  
18 Yellowstone National Park, that they want to have the added  
19 resource to operate a new visitors' center, and the details  
20 for that, the number of staff they would want, the purpose  
21 for which they would want it, how much money they would want  
22 to do it, that kind of thing.

23 Q Is it a narrative?

24 A It's some numbers and some narrative; that's  
25 correct.

1 Q If I understand you correctly, and please correct  
2 me, any time an agency unit decides they need to do something  
3 additional that they haven't been doing with prior funding,  
4 they can enter it into this database?

5 A An agency unit meaning what?

6 Q U.S. Park Police, a national park. In this case,  
7 I'm talking about a section of the Department of Interior.

8 A A subunit only of the National Park Service. This  
9 is a National Park Service database, not of the Department of  
10 Interior.

11 Q They don't use the same procedures?

12 A They do not. We respond to departmental requests  
13 for data. Every bureau has their own system for doing so.

14 Q This is a system that you installed?

15 A This is a system that the National Park Service  
16 employs.

17 Q Did you install it?

18 A Me, personally? No.

19 Q Did you create the system?

20 A Did I personally?

21 Q Yes.

22 A No.

23 Q Let's go back to my question. Under this system  
24 that the National Park Service uses, at any point in time, an  
25 entity within the National Park Service, whether it's U.S.

1 Park Police or whatever entities you have in the National  
2 Park Service, if the controlling officials of that entity  
3 decide they need to do some new project, and they don't have  
4 money for it, you would expect them to enter that into the  
5 database?

6 A That's correct. I would expect they would enter  
7 it, and they are prodded by a set of instructions issued  
8 periodically.

9 Q A set of instructions issued periodically?

10 A Uh-huh; annually.

11 Q From your office?

12 A Uh-huh.

13 Q Those instructions explain what the entity should  
14 do in entering data in this database?

15 A It explains the timing of the request. It explains  
16 any special requirements that may have come to light as  
17 needed in any one fiscal year versus the other, any area of  
18 emphasis. Whatever it is we want to direct them to do, we  
19 tell them to do it. They are given an opportunity to review  
20 what is in that data file for them to set priorities  
21 accordingly, and we give them deadlines of when they have to  
22 do it.

23 Q This is done annually?

24 A Uh-huh.

25 Q Does this database only include new perceived

1 needed expenditures, or does it include existing activities  
2 for which there is noticed an anticipated funding shortfall?

3 A It is for increases above what you are able to do  
4 with your base operation. If you have a \$75 million base  
5 operation, but you cannot do, you have an unfunded need, and  
6 you want to represent that unfunded need in this system, you  
7 ask for the additional resources over and above that \$75  
8 million.

9 JUDGE BOGLE: Mr. Harrison, I'm getting way more  
10 information than I can possibly use concerning the budget  
11 process.

12 MR. HARRISON: Okay. Appreciate that.

13 BY MR. HARRISON:

14 Q Did you ever give any instruction to Ms. Chambers  
15 or the U.S. Park Police that they should enter into this  
16 database by a date certain exactly what they wanted to  
17 request for the upcoming fiscal year?

18 A I issued a set of instructions to the organization  
19 as a whole.

20 Q Did those instructions say exactly what I just  
21 said?

22 A Specifically to the Park Police? Those  
23 instructions were issued to every organization in the Park  
24 Service.

25 Q What did they say?



1           A     They are extensive.  They explain what the dates  
2 are, the requirements are, the timing, when stuff has to be  
3 in, and what procedures have to be followed.

4           JUDGE BOGLE:  Same comment, Mr. Harrison.

5           MR. HARRISON:  I'm trying to get an answer to a  
6 question.  This witness is apparently being relied on in  
7 rebuttal, to establish that there was a procedure for the  
8 U.S. Park Police to input data that I believe he is asserting  
9 would have been the way the Park Police would have given it  
10 to his office for the next fiscal year for their budget  
11 needs.  I may be misinterpreting.

12          THE WITNESS:  That's correct.

13          MR. HARRISON:  I'm trying to establish whether  
14 instructions were given out and Ms. Chambers would have known  
15 that was the case.  That's all I'm trying to get at.

16          JUDGE BOGLE:  I don't think that's a relevant area  
17 at all.  I understand she has complained they were not  
18 allowed adequate input.  How that figures into this case, I  
19 don't know.

20                 It first figured in when Ms. Blyth complained of  
21 it, and that's a whole other case.

22          MR. HARRISON:  Your Honor, this is not my witness.  
23 I would simply move to strike his direct exam by Mr.  
24 L'Heureux on that same topic if I'm not allowed to inquire.

25          JUDGE BOGLE:  I'm not going to strike his direct

1 testimony,.

2 MR. HARRISON: Then I should be allowed to cross  
3 examine.

4 JUDGE BOGLE: No. Let's move to something  
5 relevant.

6 MR. HARRISON: Then I will take exception.

7 JUDGE BOGLE: Do you have anything else for him?

8 MR. HARRISON: I do.

9 BY MR. HARRISON:

10 Q Can you point to a document that you ever gave to  
11 Chief Chambers that would have explained to her your  
12 expectation that she would identify her budget needs for an  
13 upcoming fiscal year to you in a certain procedure?

14 JUDGE BOGLE: I think that sounds like the same  
15 question.

16 MR. HARRISON: I meant it to be beyond his  
17 database.

18 JUDGE BOGLE: How this budget was prepared is not  
19 the reason he was called. He was called by Mr. L'Heureux to  
20 talk about the budget figures primarily. Let's get back to  
21 them.

22 MR. HARRISON: He testified about the other  
23 matters.

24 BY MR. HARRISON:

25 Q Going to the matters that the Court wishes to know

1 about, Mr. Schaefer, you said that there was an amount  
2 requested in some document submitted to some agency for the  
3 U.S. Park Police of about \$8 million.

4 What exact document are you referring to that  
5 contained that figure of about \$8 million?

6 A The request from the Department of Interior for all  
7 bureaus in the Department of Interior to the Office of  
8 Management and Budget.

9 Q This would be a DOI submission to OMB?

10 A Correct.

11 Q It was for fiscal year 2005?

12 A Correct.

13 Q The number you were talking about was the request  
14 for U.S. Park Police?

15 A Correct.

16 Q What exactly was it for in regard to the U.S. Park  
17 Police? About \$8 million for what, exactly?

18 A At that point, as I recall, I don't have it in  
19 front of me nor have I read it recently, but it was for  
20 additional staff and overtime, if I'm not mistaken. There  
21 might have been some portion of it which was for equipment.

22 Q Did you understand it was the only amount being  
23 requested as an additional increase for fiscal year 2005  
24 compared to the funding level for 2004?

25 A Yes.

1 Q You saw this document yourself?

2 A Oh, yes. It came into my office.

3 Q Do you still have it?

4 A I'm not certain.

5 Q You do obtain the submissions to OMB, don't you?

6 A For some period of time.

7 Q Years?

8 A There are no official requirements to keep those  
9 documents.

10 Q You may have thrown it away?

11 A I think we probably have what went over to OMB for  
12 fiscal 2005 for the Park Police and rest of the Park Service.  
13 It's recent enough that I'm sure we do have those records.

14 Q Was this amount you were talking about about \$9  
15 million?

16 A It was in the \$8 million range. It might have been  
17 a bit over \$8 million.

18 Q Have you seen any documents submitted to OMB that  
19 refers to either a 9 or \$10 million figure for an increase  
20 for fiscal year 2005 for the U.S. Park Police?

21 A No, not that I recall.

22 Q Have you seen any documents submitted from OMB, I  
23 guess, to the President, with a 9 or \$10 million figure for  
24 the U.S. Park Police?

25 A From OMB to the President?

1 Q Yes.

2 A No.

3 Q Have you seen any document in the budget process  
4 for fiscal year 2005 for the U.S. Park Police talking about a  
5 9 or \$10 million figure for an increase for fiscal year 2005?

6 A Not that I recall; no.

7 MR. HARRISON: If I could have just a moment, Your  
8 Honor.

9 (Pause.)

10 BY MR. HARRISON:

11 Q Let me show you, Mr. Schaefer, a document that's  
12 been marked as Appellant's Pre-Trial Exhibit Y. Take a  
13 moment and tell me if you recognize that.

14 (Witness reviewing document.)

15 THE WITNESS: Uh-huh.

16 BY MR. HARRISON:

17 Q What is it, sir?

18 A I don't recall it. I'm not sure what it is.

19 Q Do you see down in the fifth paragraph there it  
20 references budget amounts for the U.S. Park Police under "law  
21 enforcement?"

22 A I do.

23 Q Do you see a \$9 million figure there?

24 A I do.

25 Q That doesn't refresh your memory at all about a \$9

1 million figure being used for the U.S. Park Police for fiscal  
2 year 2005?

3 A It looks as though every number on this page is  
4 rounded to the nearest nine, and that \$8 million could have  
5 been \$8.6 million and it could have been rounded to nine in  
6 this document.

7 Q What was the number you actually saw?

8 A I don't recall. The number that came out of the  
9 discussions was in the \$8+ million range. About \$8 million.  
10 We tend to --

11 Q I think you said that more than once.

12 A Yeah.

13 Q Once is probably enough.

14 A So was the question.

15 MR. L'HEUREUX: Objection, Your Honor.

16 MR. HARRISON: The witness is not being responsive.

17 JUDGE BOGLE: I think he's being very responsive.

18 Do you have anything else?

19 MR. HARRISON: Yes. I would move the admission of  
20 Exhibit Y.

21 JUDGE BOGLE: He doesn't know what it is.

22 MR. HARRISON: This is a document we were provided  
23 by the Agency in discovery. It's an Agency document  
24 representing for a number of entities in the Department of  
25 Interior their budget amounts for the time period in

1 question. It's admissible whether he identifies it or not.

2 JUDGE BOGLE: Mr. L'Heureux, do you know what it  
3 is?

4 MR. L'HEUREUX: I don't know what it is either. We  
5 gave it to him because it seemed to fit one of his requests.  
6 I can't tell you sitting here what it is, Your Honor.

7 JUDGE BOGLE: I don't know what it is, so I'm not  
8 going to take it.

9 MR. HARRISON: Your Honor, if I need to, I'd like  
10 to request that the custodian of documents who provided it in  
11 discovery come and identify it.

12 JUDGE BOGLE: Let's finish up with this witness,  
13 and then we will have some discussion about this document.

14 MR. HARRISON: Fine.

15 BY MR. HARRISON:

16 Q Sir, for the record, could you identify the header  
17 on this document?

18 A FY'05 Budget Questions, National Park Service.

19 Q Thank you.

20 You mentioned you saw a U.S. Park Police document  
21 about the need for \$12 million. Was that a document talking  
22 about an anticipated shortfall for fiscal year 2004 and the  
23 need for funds to cover the same expenses for the next fiscal  
24 year, 2005?

25 A I don't recall.

1 Q Do you know if there was a discussion about a \$12  
2 million shortfall for the U.S. Park Police for fiscal 2004?

3 A No.

4 Q That was never discussed?

5 A Not with me.

6 Q Was there a shortfall for U.S. Park Police for  
7 fiscal 2004?

8 A Not that I'm aware of.

9 Q Do you remember the Chief of Police raising that  
10 issue at any time?

11 A I don't recall. Maybe, but I don't recall.

12 Q Did you ever attend the budget meetings with Mr.  
13 Manson and Mr. Parkinson and others about U.S. Park Police?

14 A Not many of them. My staff went to some of those  
15 meetings, but I didn't go to many of them.

16 MR. HARRISON: Your Honor, I need to retrieve one  
17 of my documents, if I may.

18 BY MR. HARRISON:

19 Q Mr. Schaefer, would you take a look at Appellant's  
20 Exhibit Z and tell me if you recognize that?

21 A I can only tell you what it appears to be. It  
22 appears to be a summary of the database that I talked about  
23 earlier.

24 Q Does it have budget information in it for the U.S.  
25 Park Police?



1           A     It does.

2           Q     Does it seem to be for fiscal year 2005?

3           A     It was the data that was in there at the time this  
4 report was run. It was just like every other organization in  
5 the Service. There were lists like this for every  
6 organization of the National Park Service, probably totaling  
7 600 or \$700 million.

8           Q     Do you know the time frame for this particular  
9 document?

10          A     If it doesn't have a date on it, I wouldn't.

11          Q     You would have to go by the date that's on it?

12          A     I don't see a date on it.

13          Q     Do you see a figure at the bottom there that is  
14 sort of a total of the items?

15          A     Uh-huh.

16          Q     \$41. something million?

17          A     Correct.

18          Q     Have you ever seen a figure of that size in  
19 reference to the U.S. Park Police budget needs?

20          A     I don't recall.

21          Q     Was there a discussion that you were a party to as  
22 to whether or not to request a supplemental appropriation for  
23 the U.S. Park Police for fiscal year 2004?

24          A     I didn't understand your question. Could you say  
25 it again?

1           Q     Yes.  Were you party to a discussion that concerned  
2  whether or not to request a supplemental appropriation from  
3  Congress for the U.S. Park Police for fiscal year 2004?

4           A     Not that I recall.

5           Q     Did you attend a meeting at some point with Ms.  
6  Shelly Thomas and a woman by the name of Dottie Marshall and  
7  Mr. Murphy regarding U.S. Park Police budget issues?

8                   JUDGE BOGLE:  This is not your witness, and this is  
9  well beyond the scope of direct examination.  I think I am  
10  going to say at this point that unless you have some  
11  questions concerning the areas he was examined on on direct,  
12  we are finished with this witness.

13                   MR. HARRISON:  I'm trying to refresh his memory on  
14  what he doesn't seem to remember about the budget shortfall  
15  for the Park Police and a request that was larger than \$8  
16  million.  That is what I was trying to do with this document  
17  and the question.

18                   JUDGE BOGLE:  It's too far beyond the scope of  
19  direct.  Anything else for him about what he was asked on  
20  direct?

21                   MR. HARRISON:  I'll see what I have, Your Honor,  
22  and I'll note my exception to your limitation.

23                   BY MR. HARRISON:

24           Q     When these budget meetings occurred, and you  
25  mentioned that at the end of those meetings, there would be

1 some caution about not discussing you said "these numbers,"  
2 without saying what numbers you were speaking of, at the end  
3 of those meetings when this caution was given, was there any  
4 citation, any law or policy that required confidentiality of  
5 the budget numbers being discussed?

6 A Those admonishments were given at the beginning of  
7 the sessions. Always before we started speaking about  
8 numbers, we gave it.

9 Q Either way, there was no reference to the law or  
10 policies?

11 A I don't recall my exact words.

12 JUDGE BOGLE: Anything further, Mr. Harrison?

13 MR. HARRISON: Just reducing my question list, Your  
14 Honor. I only have one sheet left.

15 BY MR. HARRISON:

16 Q The document I showed you, Mr. Schaefer, which was  
17 Exhibit Z, which listed these items that you thought had been  
18 pulled from the database you mentioned, do those items there  
19 reflect the same, what you called prioritization, of budget  
20 needs that you had incorporated into your \$3.3 million  
21 increase submission to the Department of Interior?

22 A Yes. In fact, as I look at it now, the first three  
23 priorities are exactly the make up of that request that went  
24 to the Department. We responded precisely as the  
25 instructions said. We would, for the Park Police, as well as

1 other organizations, have provided in the request a level of  
2 \$3.3 million for those three items.

3 Q You basically are saying these first three items  
4 were the basis for your request?

5 A They were.

6 MR. HARRISON: Your Honor, that might be enough to  
7 authenticate this document for admissibility.

8 JUDGE BOGLE: After listening to his description of  
9 what it is, it appears to be a document that is in a great  
10 state of flux. I don't think it represents anything other  
11 than what information existed in the computer at the time the  
12 search was conducted, and I don't see how that is helpful to  
13 us in the evidence we need.

14 Anything else for the witness?

15 MR. HARRISON: Thank you, Your Honor. I'll note my  
16 exception.

17 BY MR. HARRISON:

18 Q Did you have any way of knowing, sir, what the  
19 repercussions would be on the U.S. Park Police functions if  
20 you took, for example, those top three priorities and did not  
21 fund the remaining items?

22 MR. L'HEUREUX: Objection; beyond the scope of  
23 direct.

24 JUDGE BOGLE: Objection sustained.

25 MR. HARRISON: I will note my exception. Nothing

1 further that's allowable, Your Honor.

2 JUDGE BOGLE: Thank you. Anything, Mr. L'Heureux?

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

4 JUDGE BOGLE: You may be excused.

5 (Witness excused.)

6 JUDGE BOGLE: Do we have another witness?

7 MR. L'HEUREUX: Yes. The Agency calls Mr. Randy  
8 Myers.

9 JUDGE BOGLE: Do you have any objection to taking  
10 an oath?

11 MR. MYERS: No.

12 Whereupon,

13 RANDALL J. MYERS

14 was called as a rebuttal witness and, having been first duly  
15 sworn, was examined and testified as follows:

16 JUDGE BOGLE: Please be seated and state your full  
17 name and your title.

18 THE WITNESS: My name is Randall Joseph Myers. My  
19 title is senior attorney, Solicitor's Office for the  
20 Department of Interior.

21 JUDGE BOGLE: Do you want to retrieve those  
22 documents?

23 MR. L'HEUREUX: I think I should.

24 DIRECT EXAMINATION

25 BY MR. L'HEUREUX:

1 Q Good afternoon, Mr. Myers.

2 A Good afternoon.

3 Q What duties do you perform in the Department of  
4 Interior?

5 A I'm counsel and advisor to the U.S. Park Police as  
6 well as the National Park Service insofar as it deals with  
7 law enforcement or demonstration issues.

8 Q Do you know the Appellant in this case, Teresa  
9 Chambers?

10 A I do.

11 Q How did you come to know her?

12 A When she was appointed as Chief of the U.S. Park  
13 Police. I became acquainted with her at that time.

14 Q Let me ask you to turn to Tab 4K that is before  
15 you. Would you look at that and let me know when you are in  
16 a position to identify it?

17 (Witness reviewing document.)

18 THE WITNESS: Yes, I have looked at that.

19 BY MR. L'HEUREUX:

20 Q What is this item found at Tab 4K?

21 A There looks like several documents there. The  
22 first is a note to three individuals by myself dated January  
23 13, 2004 that is six pages long.

24 The second document is a document drafted by me to  
25 Teresa Chambers dated September 15, 2003, marked as 4K-7,

1 which is four pages long.

2 The last document is a note from me to Chief  
3 Chambers dated August 13, 2003, marked as 4K-11.

4 Q Let me just ask you, to get to the point quickly,  
5 if you are willing to adopt the narrative in the cover  
6 document dated January 13, 2004, as your sworn testimony in  
7 this matter?

8 MR. HARRISON: Your Honor, this seems to be on the  
9 prima facie case, and not rebuttal, as far as I can see.  
10 This document has long been known to be part of the Agency  
11 record and something on which Mr. Hoffman relied.

12 JUDGE BOGLE: Let's see first of all if he's  
13 willing to do that.

14 THE WITNESS: Yes.

15 JUDGE BOGLE: I will permit it.

16 BY MR. L'HEUREUX:

17 Q My question to you, Mr. Myers, is fairly brief.  
18 Would you describe what efforts you made with respect to this  
19 episode, which I will call the OAS matter? What efforts did  
20 you make to communicate with Chief Chambers concerning what  
21 you were doing with respect to this OAS matter?

22 MR. HARRISON: Objection. It's not rebuttal.

23 JUDGE BOGLE: I'll permit it.

24 THE WITNESS: Once I received a telephone call from  
25 a Park Police official that OAS had a meeting with Chief

1 Chambers and some of her staff, whereby they had complained  
2 to the Chief regarding the Park Police involvement and  
3 dealings with the OAS headquarters, I immediately placed a  
4 call to Chief Chambers' office to ask for a meeting to meet  
5 with her.

6 BY MR. L'HEUREUX:

7 Q Were you given a meeting?

8 A A meeting was scheduled. My recollection is I  
9 think it was like July 30th. I got a call from the Chief's  
10 office to say it was cancelled, and that I would be notified  
11 when it was rescheduled. I never received any notice from  
12 the Chief's office of the meeting being rescheduled.

13 Q Do you recall from whom you received that call that  
14 the appointment had been cancelled?

15 A My recollection was I believe it was Park Police  
16 Lieutenant Beck.

17 Q Do I understand your testimony, and I'm not trying  
18 to repeat it, I'm trying to remember it, that there were no  
19 further calls from Lieutenant Beck?

20 A That's correct. I never received a call from  
21 Lieutenant Beck regarding my request to meet with the Chief  
22 regarding the OAS complaint.

23 Q What did you do next about following through on  
24 this project?

25 A Well, I was very concerned about this issue. I



1 needed to know more about it so the Solicitor's Office could  
2 make an assessment regarding its validity and any  
3 implications, and frankly, national implications to such a  
4 complaint.

5           On August 13, 2003, I wrote a personal note to  
6 Chief Chambers reminding her that a month had passed since my  
7 request on July 10th for a meeting, no meeting had been  
8 scheduled, and that my office was supposed to close the  
9 matter, and we needed to meet so we would know more about  
10 this complaint.

11           I received no response to my note of August 13,  
12 2003. The next month, I was asked by the Chief's office to  
13 take a look at a Park Police after action report regarding  
14 the "tractor man" incident.

15           I reduced to writing my memorandum to Chief  
16 Chambers on a document dated September 15, 2003 where I  
17 analyzed her draft report, and in my second paragraph on the  
18 first page of that report, I again reminded Chief Chambers  
19 that I still needed to meet with her regarding this issue of  
20 the OAS complaint, and that I was unable to deal with the  
21 validity of the complaint until I knew more about the facts.

22           Q     Did you receive a response to the last letter?

23           A     I never received a response from Chief Chambers'  
24 office or from Chief Chambers regarding my September 15th  
25 memorandum.

1 Q Were you ever able to resolve this matter?

2 A Yes, I was. Once --

3 Q I don't want to know what the resolution was. I  
4 just wanted to know if you were able to resolve it.

5 A Yes, sir.

6 Q Were you ever able to resolve it while Chief  
7 Chambers was still serving on duty as the Chief of Police?

8 A No, sir.

9 MR. L'HEUREUX: I have no further questions, Your  
10 Honor.

11 JUDGE BOGLE: Mr. Harrison?

12 CROSS EXAMINATION

13 BY MR. HARRISON:

14 Q Do you know, Mr. Myers, that a memo of yours was to  
15 be considered by Mr. Hoffman, Paul Hoffman, in a disciplinary  
16 inquiry regarding Ms. Chambers?

17 MR. L'HEUREUX: Objection, Your Honor. Beyond the  
18 scope of direct.

19 JUDGE BOGLE: Sustained.

20 MR. HARRISON: Note my exception.

21 BY MR. HARRISON:

22 Q Were you ever interviewed by Mr. Hoffman?

23 MR. L'HEUREUX: Same objection, Your Honor.

24 JUDGE BOGLE: Mr. Harrison, I have less than a full  
25 page of notes here on his direct testimony. That's all you

1 need to cross examine on.

2 MR. HARRISON: Note my exception, Your Honor.

3 BY MR. HARRISON:

4 Q Did you ever pick up the phone and try to call Ms.  
5 Chambers and talk to her about your concern?

6 A Other than my first telephone call asking for a  
7 meeting? No, sir; I did not.

8 Q That first call wasn't to Chief Chambers, was it?

9 A No, it was to Chief Chambers' office.

10 Q The answer to my question is no?

11 A That's correct.

12 Q Lieutenant Beck, his name is Phil Beck, not Jeff  
13 Beck?

14 A I believe you are right; yes, sir.

15 Q You referenced a number of times a complaint. What  
16 exact complaint are you talking about?

17 A The fact that at a meeting between Chief Chambers  
18 and her staff and representatives of the Organization of  
19 American States, during the course of the meeting, I later  
20 found out they complained to the Chief of the Park Police  
21 that they believed that the Park Police actions taken during  
22 the "tractor man" incident was inappropriate and contrary to  
23 their diplomatic status under an international treaty.

24 Q Did you attend this meeting?

25 A I did not.

1           Q     You didn't hear any complaint language from OAS  
2 representatives?

3           A     I've never met with them nor did I talk with them;  
4 that's correct.

5           Q     Have you seen a written complaint from OAS on this  
6 matter?

7                   MR. L'HEUREUX:  Objection, Your Honor.  This is  
8 beyond the scope of direct.

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

10                  JUDGE BOGLE:  I'll permit that.

11                  THE WITNESS:  My understanding is there was no  
12 written complaint, sir.

13                  BY MR. HARRISON:

14           Q     Thank you.  Did someone in particular tell you that  
15 a "complaint" had been made?

16           A     Yes, sir.

17           Q     Who was that?

18           A     Acting Chief Benjamin Holmes and Lieutenant Jackie  
19 Brooks, when I interviewed them later.

20           Q     Do you know Assistant Chief Holmes?

21           A     Yes, I do.

22           Q     And you consider him to be an honest man?

23           A     Yes, I do.

24           Q     If he stated in his deposition that there was not a  
25 complaint, would you have any reason to dispute that

1 testimony?

2 A I can only tell you what Chief Holmes and  
3 Lieutenant Brooks told me, which I interpreted to be a  
4 complaint by OAS.

5 Q Did someone assign you to look into this issue?

6 A No.

7 Q You took it upon yourself to do so?

8 A Yes, sir, because of the importance of the issue as  
9 I saw it.

10 Q What was the ultimate resolution of the issue?

11 A After finally interviewing those other Park Police  
12 officials who were at the OAS meeting, I made an analysis of  
13 the treaty itself and the facts as had been relayed to me by  
14 the Park Police, and came to a conclusion.

15 Q I'm familiar with that. What was your conclusion?

16 A That it did not appear that the Park Police had  
17 violated the international treaty dealing with the diplomatic  
18 status of OAS headquarters, but the Park Police did violate  
19 general orders which obligated the Park Police in such a  
20 situation to contact the Department of State because of the  
21 international implications of such an incident.

22 Q Did you ever learn from an attorney by the name of  
23 Hugo Teufel that in fact there was no complaint by the  
24 Organization of American States?

25 A No, sir.

1           Q     You spoke with Assistant Chief Holmes, I take it,  
2 about the matter at some point?

3           A     That's correct.

4           Q     Was Holmes present in the meeting with the  
5 Organization of American States?

6           A     Yes. Chief Holmes and Lieutenant Brooks indicated  
7 they were in fact present at that meeting.

8           Q     Those officers were available to you to chat about  
9 it?

10          A     After Chief Chambers was no longer there, I  
11 initiated contact with the Park Police to ask for a meeting.

12          Q     I guess that's not my question.

13          A     I'm sorry. What's your question, sir?

14          Q     Prior to that point in time, could you have gone to  
15 Assistant Chief Holmes or Officer Brooks?

16          A     I think I wasn't aware as to who else was at that  
17 meeting until later on, and I believed this issue to be so  
18 critical that I believed it was necessary to alert the Chief  
19 of Police.

20                 Once I alerted the Chief of Police regarding the  
21 issue, I frankly didn't think it was appropriate for me,  
22 given the chain of command of the Park Police, to go to other  
23 people, subordinates, unless she directed me to go to those  
24 people.

25          Q     Do you know why that one meeting that was set up

1 was cancelled?

2 A No, sir.

3 Q You don't know who cancelled it?

4 A It was not me.

5 Q Other than that?

6 A I know nothing more than that.

7 Q Your go between on those meetings and scheduling  
8 issues was Lieutenant Beck?

9 A That's my recollection; yes, sir.

10 Q Did you take this issue to Mr. Don Murphy at some  
11 point?

12 A I did in the sense that I cc'ed Deputy Director  
13 Murphy in my memorandum to Chief Chambers dated September 15,  
14 2003.

15 Q Not other than that?

16 A That's correct.

17 MR. HARRISON: Nothing further.

18 JUDGE BOGLE: Mr. L'Heureux?

19 MR. L'HEUREUX: No further questions.

20 JUDGE BOGLE: Thank you. You are excused.

21 (Witness excused.)

22 JUDGE BOGLE: I believe that concludes the  
23 witnesses that we have available for today, is it not?

24 MR. HARRISON: Yes, Your Honor.

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

1           JUDGE BOGLE: We will recess today at 3:55, and we  
2 will reconvene here on Tuesday at 9:00 for the testimony of  
3 Mr. Griles and for your closing statements.

4           Let me ask you now what you would propose for a  
5 length of time for those closing statements.

6           MR. L'HEUREUX: I would like four or five hours and  
7 I would like Mr. Harrison to have about 20 minutes. With  
8 that, I think I can do it in roughly an hour.

9           JUDGE BOGLE: An hour? You can't be serious.

10          MR. L'HEUREUX: You can give me two in case I get  
11 long winded.

12          JUDGE BOGLE: Mr. Harrison, what about you?

13          MR. HARRISON: I'm somewhat flexible, but I think  
14 at least an hour would be good.

15          JUDGE BOGLE: I can't possibly give you each an  
16 hour. Let's say 30 minutes a piece, and that's more generous  
17 than I've ever been.

18          We will recess for today and reconvene on Tuesday.

19          MR. HARRISON: Before you do that, there was an  
20 issue of additional exhibits that may have been attached to  
21 Ms. Chambers' affidavit and possibly a few other exhibits.

22          Can we offer those if needed at the beginning on  
23 Tuesday?

24          JUDGE BOGLE: Yes.

25          MR. HARRISON: Did Your Honor want a brief or



1 closing arguments?

2 JUDGE BOGLE: Closing arguments.

3 (Whereupon, at 3:55 p.m., the hearing recessed, to

4 reconvene on Tuesday, September 14, 2004, at 9:00 a.m.)