UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DIANE J. SCHROER,
Plaintiff,
v. CA No. 06-763
JAMES H. BILLINGTON,
Defendant.

Washington, D.C.

Thursday, January 11, 2007

Deposition of CHARLOTTE P. PREECE, called for examination by counsel for Plaintiff, pursuant to notice, at the Law Offices of 1875 Pennsylvania Avenue, N.W., Washington, D.C., and commencing at 9:10 a.m., before Barbara a. Huber, Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

APPEARANCES:
On behalf of Plaintiff:
SHARON M. McGOWAN, ESQUIRE
JAMES D. ESSEKS, ESQUIRE
American Civil Liberties Union Foundation
125 Broad Street
18th Floor
New York, New York 10004-2400
(212) 549-2593
smcgowan@aclu.org

On behalf of Defendant:

BEVERLY M. RUSSELL, ESQUIRE
U.S. Department of Justice
Judiciary Center Building
555 4th Street, N.W.
Washington, D.C. 20001
(202) 307-0492
beverly.russell@usdoj.gov

Also Present:

Jessie James, Jr.
Julia Douds

* * * * *

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PROCEEDINGS

Whereupon,

CHARLOTTE P. PREECE,

was called as a witness by counsel for Plaintiff, and having been duly sworn, by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF

BY MS. McGOWAN:

Q Good morning, Ms. Preece. My name is Sharon McGowan. And I'm here with my colleague, James Esseks. And we represent the Plaintiff in Schroer versus Billington. And we're here this morning to take your deposition.

Have you ever been deposed before?

A No.

Q Okay. So I'm just going to go through a series sort of instructions and tips so that you understand how things are going to proceed today, and that the court reporter can take everything down. I will ask you a series of questions that you will answer under oath, as you've just been sworn. And the court reporter will take it all

down. Okay?

A Okay.

Q And it's important that you answer out loud, because the court reporter cannot record a nod of the head or a gesture. Okay?

A I understand.

Q The court reporter also cannot -- or it's difficult for her to record when two people are talking at the same time. And so I will certainly try not to interrupt you. And at the same time, it's important for me to get the question out so that the court reporter can have a clear transcript. Okay?

A Okay.

Q Okay. And if you don't understand a question, will you ask me to repeat it and to clarify?

A Yes.

Q Okay. And if you do answer a question, I will assume that you understood it. Okay?

A Yes.

Q I will take breaks throughout the day.

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But if you need a break, just let me know and I'll find a place that we can stop for a few minutes. Okay?

A Fine.

Q Are you feeling well today?

A Sure, yes, uh-huh.

Q Are you taking any medication today that would prevent you from being able to give complete and accurate testimony?

A No. I mean, I'm taking medication, but not that would.

Q Okay. Is there any other reason that you would not be able to give complete and accurate testimony today?

A No.

Q Okay. Before we start with your questions, I wanted to just lay out a few terms that we'll be talking about today. The first term or pair of terms is "transgender" and "transsexual."

What do you understand the term "transgender" to mean?

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A If someone is changing physical appearance from one sex to another.

Q Okay. And anything else?

A And becoming that sex, living as that sex.

Q Okay. What do you understand the term "transsexual" to mean?

A I thought they were synonymous.

Q Okay. For purposes of this deposition, when I talk about transgender or transsexual applicants, I'm referring to individuals who intend to or have transitioned from living as the gender that they were assigned at birth; for example, on their birth certificate, to living as the gender that they feel they are on the inside. This includes individuals who have a formal diagnosis of gender identity disorder.

And so in this case, for example, Diane Schroer is a transsexual woman. She was assigned the gender male at birth, on her birth certificate, but now lives and presents herself to the public as female. The term "transgender"

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sometimes is used differently from "transsexual." But for purposes of today, I will use the term synonymously.

A Okay.

Q And so if there's at any point where you're unclear about what the definition is that we're talking about, definitely please feel free to ask me that and I will try to clarify.

And so is that okay?

A Yes.

Q This case involves a dispute about the hiring decision made for the position of specialist in terrorism and international crime. Over the course of this deposition I may refer to this as the terrorism specialist position. Okay?

A Fine.

Q And, finally, the plaintiff in this case is Diane Schroer. At the time of the events in this case, Ms. Schroer went by the name of David Schroer. So during this deposition when I talk about Diane Schroer or Ms. Schroer, I'm also referring to the person formerly known as David

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Schroer. Okay?

A And is it appropriate for me to refer to him as David during the period that I knew him as such?

Q That is fine. If you want to use Mr. Schroer, David Schroer, or Ms. Schroer, or Diane Schroer, we will understand, for purposes of the deposition, that we are talking about one person.

A Okay.

Q Okay. What is your title?

A I'm the assistant director for foreign affairs, defense, and trade.

Q And where do you work?

A In the medicine building of the Library of Congress.

Q And you are the assistant director of a service unit at the Congressional Research Service; is that correct?

A Of a research division.

Q A research division. Okay.

And what are your specific job

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responsibilities?
A I supervise about just shy of a hundred people, probably about 85 research analysts, who do work for the United States Congress on foreign affairs, defense, and trade.
Q And how many of those analysts are in positions requiring security clearances?
A Most of the trade people not. Most of the foreign policy people do. All the defense people do.
Q And, roughly, the number of -- of the 85 research analysts, what number does that amount to of analysts that have a security clearance component of their job?
A I'd say 75 to 80 percent have clearances.
Q Who do you report to?
A The director of the Congresional Research Center.
Q Who is?
A Dan Mulhollan.
Q Okay. And who reports to you?

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A The people that I supervise. I have six intermediate managers, or seven rather section heads. I have a deputy. I have an administrative support person. I have two project management coordinators. And the rest are analysts.
Q And how long have you been with the Library of Congress?
A Since 1976.
Q And when did you take over the position that you currently hold?
A I became acting division chief in late 1991. I became permanent division chief in early 1994. There was a reorganization roughly six years ago. And trade people were moved into the division. And then instead of being a division chief, I became the assistant director for foreign affairs, defense, and trade.
Q And that was 2000 or 2001?
A Roughly 2000, yes.
Q Do the analysts that you report to report directly to you?
A No. They have a section head.

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Q And for the position of terrorism specialist, to whom would that analyst report?
A The head of the foreign policy management and global issues section. And that would be Francis Miko, M-I-K-O.
Q And Mr. Miko was the supervisor at the time of the events in this case; is that right?
A That's correct.
Q Were you the person responsible for hiring the terrorism specialist?
A Yes, I was the security officer.
Q Okay. Was the terrorism specialist position a newly created position that you were filling?
A No.
Q Okay. Who held the position previously?
A Audrey Kurth Cronin.
Q Can you spell that name?
A Kurth is K-U-R-T-H. And Cronin is C-R-O-N-I-N. Audrey is her first name.
Q Oh, Audrey. Okay.
A I saw you had it written down, so --

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Q When did Ms. Kurth Cronin inform you that she intended to leave the position?
A In July of 2004.
Q And did she inform you why she was leaving the position?
A Yes.
Q And why was that?
A She had accepted a teaching position, a faculty position, at the National War College.
Q And what was her last day on the job?
A It was the last week of July. I can't remember the specific date.
Q Did you need to do anything to get approval to begin the process of replacing Ms. Kurth Cronin in the position?
A I did.
Q What did you do?
A I had to make a special appeal to the director.
Q And what did that involve?
A A short memo, going down to talk to him, saying why we needed a person when we did, because

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it was out of our hiring cycle.
Q And what did you say in that memo?
A Basically the exegesis of the job requirements, particularly post 9/11, this position was in high demand. It was important that we fill it as soon as possible.
Q And to whom did you send this memo?
A I'm not even sure if it was a memo or a conversation. It was just a discussion of going down. And it was all very quick, because I didn't have much timing from the time I think she was going to take the position.
Q Okay. And with whom did you speak or with whom did you have this conversation?
A The director.
Q And can you tell me what you remember from the conversation about how you described how quickly you wanted to fill the position?
A I think I said as soon as possible. We only have two people, or had two people at the time we who worked in terrorism. And so when one left, we were very short-staffed and scrambling.

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Q And how did the director respond to your request?
A Favorably.
Q And by favorably, what does that mean?
A That he said we'll work with our workforce development people to get the posting up as soon as possible.
Q And did Mr. Mulhollan have to produce any paperwork to get that process started?
A I don't know.
Q Okay. Do you remember seeing any memo from Mr. Mulhollan, after your conversation, about the fact that he had approved your request?
A No.
Q Okay. As part of your conversation with Mr. Mulhollan, did you share any documents with him?
A No.
Q Okay. Did you request permission to conduct this hire on an expedited basis?
A Not on an expedited basis, but out of normal cycle. We normally have a quarterly

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sometimes only semiannual staffing call. And this did not -- this timeframe did not coincide with that staffing call. So in that sense it was special.
Q Other than being an out-of-cycle hire, was there any other option that you had for expediting the hire?
A Just to stay on top of it and make sure each stage of the process moved along as quickly as it could.
Q Do all employment vacancies in your unit need to be filled on an urgent basis?
A No.
Q Okay. Which ones do not?
A For example, we're in the process of having a staffing call now. We just recently had one, and positions were approved. I met yesterday with the workforce development staffing people to come up with a timeframe and set priorities of which positions I wanted to fill first, which ones I could afford to fill later in the fiscal year, so --

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Q Okay. And if you could explain sort of which -- which positions did you consider more urgent and which ones less so?
A Okay. In this case, the urgent ones were a specialist in weapons of mass destruction proliferation, non-proliferation policy; a specialist in military operations. Two less urgent were an analyst in international trade and finance. Oh, I cannot -- a fourth position, excuse me. An analyst and a junior analyst in international narcotics and crime.
Q How many hires have you overseen?
A I would dare say 40 to 50.
Q And by overseeing, correct me if I'm wrong, but that means that you were the selecting official for those positions; is that correct?
A That's correct.
Q Okay. And how many of those hires were for analyst positions?
A 95 percent of them.
Q And how many of those positions did not need to be filled on an urgent basis?

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A Could you define urgency for me?
Q Well, were there positions that you felt needed to be filled on an urgent basis; and if so, I would ask you to describe how you determined that they were urgent?
A By the workload.
Q And what do you mean by workload?
A CRS fields questions from members of Congress. We also -- it's part of our job, as well as to anticipate, to look out -- to have products prepared on issues that we see coming down the road. And so our analysts are both reacting to requests they're receiving, as well as looking ahead and trying to prepare.
Q And of the 40 to 50 hires that you've been involved in, how many were hires that you requested to be filled out of cycle?
A Very few. I'm trying to think if there was -- I can't remember another time of going to the director out of cycle and saying we need to fill immediately, as soon as we can.
Q So your testimony is that the terrorism

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specialist position was the first and only time you've gone to the director with a request for a hire out of cycle?
A Since we started this process. We didn't always have this staffing cycle. Back in the day when I first became division chief, when you wanted a position you would just go down and talk to the director. There wasn't an organized systematic staffing call like there is now.
Q And do you need to fill out any paperwork in order to request a hire out of cycle?
A I just don't recall whether I did or not. I may have.
Q With respect to the terrorism specialist position, if Mr. Mulhollan had not approved your request to fill the position out of cycle, how long would it have taken for you to be able to fill that position?
MS. RUSSELL: Objection, to the extent that a response calls for speculation.
But you can go ahead and answer if you understand.

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THE WITNESS: I do understand it. I don't know when the next staffing call was. I think it was in the fall sometime of '04.
BY MS. McGOWAN:
Q And when -- from the time in which this staffing call takes place, what is the lag time between when the staffing call happens and when you can actually begin filling the positions that you've identified during the staffing call?
A Sometimes it's weeks, sometimes it's months. In the case now, we're operating under a CR, and uncertain about the budget. It can be longer.
Q And by CR you mean?
A Continuing resolution. I'm sorry.
Q Okay. And are requests to fill a vacancy for a position that already exists impacted by the continuing resolution?
A I'm sorry. Please again.
Q This is because in some part I'm unfamiliar with how the --
A Right.

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Q -- continuing resolution works.
A Right.
Q My understanding is that under the continuing resolution, the funding stays at the same level. So bringing on new positions would obviously be very difficult because no new money would be coming.
My question is with respect to positions that have already existed and it's simply filling a vacancy in a pre-existing position, does the continuing resolution impact your ability to fill vacancies for pre-existing positions?
A It could.
Q Okay. How so?
A As you said, the money wouldn't be there to fund the position. It wouldn't affect staff on board now. We don't anticipate that it will. But instead of being allowed to say hire 20 people across the service, they might decide we only have a budget for ten people.
Q And with respect to this question of whether or not there would be any new funding

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there, I understand that.
I guess my question is more due to the continuing resolution, are you inhibited in your ability to fill vacancies for positions that have already existed and for which funding had already existed?
A No. I should be able to fill these four positions even if we're operating under CR.
Q For the 40 to 50 positions that you were the selecting official for, for any of those jobs was a security clearance required?
A Yes.
Q How many?
A I would say roughly at least half.
Q And how long did the hires take from the moment that the job announcement was posted until the applicant actually began working at CRS?
A Again, that can vary greatly.
Q Okay. Give me a sense.
A Posting normally goes up for 30 days. Posting closes. The applications go to the Library's human resources' office. They sort them

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by scores. You're -- have you talked to the personnel people? You know how this works?
Q We actually did speak with Ms. Alkisswani on Monday, so you can --
A Okay. So she explained the process?
Q Sure. But you can go through in shorthand. And if I have questions, I'll ask you for clarification.
A Okay. Please feel free to interrupt me then as we go along.
Q Okay. Thank you.
A The personnel specialist in human resources sorts them according to scoring, how they score themselves. And this system is based first on an applicant self-rating. As the selecting officer, I then get a grid that shows how many people fit into each one of those cohorts, how many at 100, how many 99, on down. There are no names tied to that. It's just a number. You have six people at 100. You have four people at 98, on down.
As the selecting officer, I then have to

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make a determination how many people I want to interview. The system has changed somewhat since then. But at the time, this was the system in place. I said that I would like to top 18.
Do you want me to continue?
Q Sure.
A Okay.
Q Because I'm asking sort of generally with respect to all of your hires. So certainly --
A Okay.
Q -- the experience with the terrorism specialist position is part of that experience. But you shouldn't feel constrained --
A By it.
Q -- by just that experience.
A Okay. So I said I wanted the top 18. And then human resources compiles their application packages and gives us three copies, myself and the two panelists on the hiring selection process with me. Then I gave my staff to my administrative assistant, Rita Banks, to set

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up interviews.
We began interviews for the position in mid October. And finished those interviews mid November.
Q And a question I have about that is how do you select the number of people -- and, again, this is as a general question -- that you want to interview for a position?
A I'm required to take the top seven, plus ties.
Q How often do you interview more than that?
A At that time, I often did, during that year or two. The process is now changed, whereby we get the -- we can ask for applications. And we can screen them. At that time, there was no opportunity for screening. So most of all the division chiefs would ask for a greater number than we were required to take, because it was a self-selection system, self-rating system. Glad you find it equally as amusing.
Q I'll remember that next time I'm

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applying for a government job, although apparently the system doesn't work that way anymore.
How does your need to fill a position quickly or not impact your decision about how many people you were going to interview?
A I try not to let it, because it's such a serious responsibility. I want to make sure I get the best person. So I'm not likely to short-shrift, even though that position is very important.
Q And this may be obvious, but the more people that you decide to interview impacts on how long that stage of the process is going to take; isn't that right?
A That's true.
Q Okay. Have there been any circumstances where you have decided to interview perhaps a smaller number of people in order to speed that process up?
A Under this new system, I feel quite comfortable doing that.
Q Before that, under the old system?

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A No. I would say the average was to interview between 15 and 20 people, depending on where the cut fell.
Q And in your experience, how long does it take to get through 15 to 20 interviews?
A I've done in as quickly as two weeks, and as long as two months. Because all three people in the panel must be there for all the interviews, so somebody goes on vacation, or another leave, it'll drag out.
Q And just to be clear, we were talking about the new system where you have greater information, and then the old system that was a pure self-selection process --
A Right.
Q -- for that preliminary stage?
Under the old system, did you ever interview a smaller number of candidates in order to speed up the process of hiring for a position?
A I said I usually took between 15 and 20.
(Mr. James entered the deposition.)

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BY MS. McGOWAN:
Q I'm asking if there was ever --
A Sometimes, I mean --
Q -- a case?
A -- sometimes there are smaller applicant pools and sometimes there are larger applicant pools. That can be another factor, but --
Q And so do you remember in any case where you went with a smaller number to speed up the process?
A No.
Q Are you familiar with the process for obtaining security clearance for new hires of analysts?
A I'm generally familiar with it. I'm not an expert.
Q And in your experience, how long does that process take?
A Again, there's no hard and fast rule. It depends on how complicated your life was. It depends on if the security office is backlogged. It has to process a lot of applications. It's

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certainly been lengthier across government-wide since 9/11.
Q Thinking about your experience and the number of hires that you've done where a security clearance was involved, can you give me a range, sort of the quickest through the longest, of how long it took for those applicants?
A Well, the quickest can be if someone already holds a clearance at another government agency.
Q And what makes that so quick?
A Because it basically can be transferred and verified. If you're starting from scratch with no security clearance, I would say minimum six to nine months. Par for the course is a year.
Q With respect to -- have you hired anyone where they had a pre-existing security clearance from another agency and all that was required was transferring it?
A Yes.
Q How long did it take to transfer the clearance?

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A I would have to defer that question to Ms. Wilkins. She is the one who does that. She works with other agencies, security officers to transfer the clearance.
Q With respect to hires that you have made of individuals who already had a security clearance --
A Right.
Q -- did you need to request any waiver of the security clearance process for them?
A Repeat, please.
Q Sure. With respect to applicants that you've selected for a position who already hold a security clearance --
A Right.
Q -- or already held a security clearance from a different agency, were they able to begin immediately in the position with the security clearance, or did you need to request a waiver --
A A waiver.
Q -- of the pre-appointment security process?

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A I did not need to request a waiver for them.
Q Focusing still on applicants that you've hired that had security clearances, I asked you how long it took for those individuals' clearances to be transferred over.
How are you informed when the applicant for a position that you've hired has been fully cleared?
A I'm usually not. In this case I know, for example, with the person we hired for this position, he came from an agency where he had a clearance. I do know that within a month that he was here he was using that clearance. So I'm -- I'm assuming it happened very quickly.
Q And during the month when he did not have the clearance --
A He may have had the clearance then. It may have transferred immediately. I don't get notified clearance date.
Q How do you determine whether or not you can share classified information with an analyst

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if you don't know when their clearance has been cleared?
A We don't -- we're not originating agencies of classified information. Most people have clearances, so they can participate in classified briefings, either in one of the executive branch agencies or on a congressional committee.
In the case where want to participate in classified briefings on the Hill, our clearances must be transferred from the Library of Congress to say Senate Arms Service Committee. And, again, that's worked through the Senate or House security office and our personnel security office.
Q Okay. And how long does it take when you need to transfer the clearance from the Library to the Senate agency?
A It can happen in an hour.
Q And so with respect to an applicant who, for example, held their clearance at DHS, the Department of Homeland Security --
A Right.

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Q -- can their clearance be likewise transferred that quickly to the Library so that they can begin work fully class -- fully cleared?
A I don't know. That's -- you'd have to ask that question of Ms. Wilkins.
Q So just to be clear, what information do you have about the clearance status of the analysts working for you?
A I get a list on an annual basis. I would add that I'm also informed if there is a problem with an analyst getting a clearance.
Q And how are you informed?
A Usually a phone call.
Q And who's that phone call from?
A Cynthia Wilkins.
Q And without naming analysts where this has been a situation, describe to me what happened in those circumstances.
A She would call me to come down to the office. And we would have a discussion of the nature of the problem, the severity of the problem, whether the clearance was not worth

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pursuing.
Q And how many times has this happened?
A Twice.
Q Okay. And so if we can go through each example.
Can you tell me first with respect to the analyst that was at issue, was this someone who was a new-hire, or an existing employee?
A Existing employee.
Q And with respect to the employee, how did the security clearance issue emerge?
A I don't understand.
Q Sure. With respect to each employee -- and we'll do each one separately -- how did Ms. Wilkins come to inform you that they had a security clearance concern?
So, for example, was it a case that they were in the process of up-grading a clearance and an issue came up?
I don't know what various options might be, so if you could just explain to me how it came up in each situation.

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A One was every five years you have to have your clearance re-upped. So one was in a -- as they were re-upping a clearance. The other than one was employee who was trying to get a clearance.
Q Focusing first on the second employee, the employee who was trying to get clearance, how long had the employee been working with CRS at the point when they began attempting to obtain a clearance?
A I'm not sure, because it predates when I became a manager. Her hire predated. As I recall, early in my tenure, she wanted to get a clearance.
Q Had she not originally needed a clearance to begin in the position?
A I think that's correct.
Q And so tell me what happened.
The issue was brought to your attention, and how was it addressed?
A We decided not to pursue the clearance.
Q And what did that mean with respect to

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this employee and her ability to perform her duties at CRS?
A It meant that she couldn't use classified information.
Q And what was the nature of the problem?
MS. RUSSELL: Objection. Vague.
THE WITNESS: The nature --
BY MS. McGOWAN:
Q Do you understand my question?
I'm asking sort of what was the nature of the problem that was preventing this employee from getting the security clearance that she was seeking?
A She worked at a foreign embassy for a number of years. She took a leave of absence. And there's some questions about her behavior while she was working overseas.
Q And how -- how much time did you spend -- or actually how much time was spent by you and Ms. Wilkins and anyone else involved in the process investigating this issue?
A I can't speak for Ms. Wilkins. I can

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say that I probably spent two, three hours at most. I didn't -- I don't do the investigations. That's Ms. Wilkins' responsibility.
Q When you learned that this analyst was not going to be eligible for the security clearance that she was seeking, how did that impact on her job responsibilities?
For example, did you have to reassign work that would have otherwise gone to her?
A No. Because we don't do classified work. We don't produce classified documents.
Q Oh. Okay.
But if I'm right, CRS, while it does not produce classified documents, has access to classified documents in producing their work; is that right?
A If the analyst chooses to, yes.
Q Is the decision whether or not to work on classified -- you know, work on information that involves access to classified documents purely within the analyst's discretion?
A Largely. I mean, it's more used in the

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defense field than it is in the foreign policy or the trade areas.
Q Is this employee still with CRS?
A Yes.
Q And with respect to the other employee who had information come up as part of a -- I believe the term is "periodic review"?
A Uh-huh.
Q What was the nature of the information that came up during that security clearance review?
A It was a question of finances and not paying taxes.
Q And how was that matter resolved?
A It was resolved between the individual and the personnel security office.
Q Were you brought in at all to those discussions?
A Not with the individua. Ms. Wilkins briefed me separately.
Q And how long did it take to resolve this matter?

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A It's a question that you would have to ask Ms. Wilkins.
Q How long did your involvement in this matter last?
A A couple of meetings. Again, not to exceed two hours.
Q While this issue was outstanding, was this employee restricted in the work that he or she could perform?
A No.
Q Are you familiar with the process for requesting a waiver of the pre-appointment security clearance investigation?
A Yes.
Q Can you explain that process to me, your role in that process?
A Yes. It's my responsibility to write to the personnel security office a very short two-line memo requesting a waiver.
Q And what does that memo contain?
A Basically that. I request that a waiver be granted for the candidate's name, title, so

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they can begin work. I understand that this person will not have access to classified information until a security clearance review is processed.
Q And do you request a waiver in every case involving a position that has a security clearance component?
A Where someone doesn't have a -- is not already cleared, I would be likely to request that waver, yes.
Q How many times have you requested a waiver?
A I don't know. Maybe in 50 percent of those cases, to be very general. It depends if we're hiring new staff or more seasoned staff. If you're trying to get students through the presidential management fellowship program, for example, they're unlikely to have had previous government employees. And they're likely not to have clearances.
Q And what are the criteria for granting a waiver?

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A It's to -- personnel security still would do a basic background check, as they do on every new employee. And then they would -- personnel security would give the soughtee for the position forms to fill out to begin the clearance process.
Q And at what point is a decision made about whether a waiver will or will not be granted?
A It's always been granted.
Q And so what are the criteria that must be satisfied in order for a waiver to be granted?
I recognize that they've been granted in every case, but what are the factors that must be demonstrated?
A They must pass the background check.
Q And by "pass," what does that mean?
A That nothing turns up that they have previous criminal activity, they have -- again, this is a Cynthia Wilkins question.
Q Well, I'm curious, with respect to any of the applicants where you've requested and

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gotten a waiver for them, have there been any cases where something turned up in the background check, but a waiver was nonetheless granted?
A No. Because this background check takes place before the employee starts, before the employee is even offered the job.
Q Okay. But with respect to any of the applicants that you have sought a waiver for --
A I wouldn't seek the waiver till after they started.
Q So at what point do you send an applicant to the personnel security office for a background check?
A They don't go to the personnel security office.
Q Okay. I'm trying to sort of get a sense of how this waiver process works. So if I'm mixing up --
A Let me explain it. As the recommending official, it is my job to write a recommendation of who I think is the best candidate to my director. My director then approves that

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recommendation. And a PAR, personnel -- I'm not sure what PAR stands for -- a PAR is generated. It's a work force document. The paperwork then goes to the office of personnel security, where a preliminary background check is done.
I'm not informed of any of this process. If it is completed successfully, it passes through that office, then it goes to various offices in the Library, who must sign off. After it is signed off at the highest Library level, it goes back to the Library's office of work force. And someone in the office of workforce extends an offer of employment to the applicant, so --
Q All right. In your experience, has there ever been a case where the PAR was generated, sent to the office of personnel security, and the preliminary background check was not successfully completed?
A I can think of one.
Q Okay. Can you tell me about that case?
A Yes. The person was found in the background check to have had previous criminal

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activity.
Q Okay. And then what happened?
A I withdrew the offer.
Q And why did you withdraw the offer?
A Because I didn't think the person was a trustworthy individual. And he had not revealed that information at any stage during the process.
Q Did you have any conversations with any officers from the personnel security office about whether or not the information that had been revealed by itself, sort of the nature of the criminal activity for example, would render that person ineligible for a security clearance?
A It's a long time ago. It's possible. I don't know. I don't remember.
Q Do you recall any conversations about how long the security clearance process was going to take for this person, in light of the fact that this new information had emerged?
A I don't recall.
Q Did you have any conversations with Ms. Wilkins, or whoever the appropriate person in

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the personnel security office was, about whether or not a waiver, if requested for this applicant, would be granted?
A We never got to that point. When -- no.
Q I'm sorry. I didn't mean to --
A No, it just didn't get to that point, because I withdraw -- the request was withdrawn.
Q For any of your other hires involving a security clearance, was there ever any other case where you submitted a PAR and information that -- well, information emerged as a result of that background investigation that had a security clearance implication?
A That's the only one I can think of.
Q Does Ms. Wilkins or her employees in the personnel security office inform you -- well, actually, let me take that back.
With respect to this particular candidate, where information emerged as a result of the personnel security background check, how were you informed that there was an issue that had come up?

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A Ms. Wilkins called me.
Q Okay. And what did she say?
A She told me the nature of the problem.
Q Anything else?
A No.
Q Did she indicate to you that further investigation was going to be necessary of this person?
A No. Because I made the decision, as I said, not to go forward with the hire, with the recommendation.
Q If you can basically tell me how the conversation with Ms. Wilkins went, so that I don't have to guess at did someone say this and did someone say that.
A She described the nature, what the investigation turned up. I called the applicant. I said we have this information that has been unearthed. Is this true? He said, yes, I should have told you. And I said I'm withdrawing your name from consideration for the position.
Q And what prompted you to call the

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applicant to discuss this information?
A To see what his reaction would be.
Q Was there something that the applicant could have told you that would have made a difference?
MS. RUSSELL: Objection. Calls for speculation.
But you can answer if you understand the question.
THE WITNESS: I don't know. That really is speculation.
BY MS. McGOWAN:
Q Well, let me ask this. Is there -- at that point, when you called the applicant, were you simply informing this person that they were no longer under consideration, or were you interested in still obtaining information to decide whether or not you would keep them in the running?
A Yes, I wanted to call. And I wanted to hear what he had to say about it, to whether he admitted it freely to -- he apologized. He said it was a mistake, that he should have told me.

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Not that it may have swayed my mind one way or another, but --
Q Are there any documents reflecting the fact that this was an applicant for whom you had submitted a PAR, who then had a problem emerge during his background investigation?
A Not that I'm aware of.
Q Did you have to produce any documents reflecting the fact that you were withdrawing the PAR that you had submitted for that person?
A No. The posting was canceled.
Q And by the posting being canceled, does that mean that you did not go with any other applicant for that position?
A That's correct.
Q Do you assess whether or not a candidate is likely to receive a waiver of the pre-appointment security investigation requirement as part of your decision about who your top applicant is?
A Can you repeat, please?
Q Sure. Do you assess whether or not a

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candidate is likely to receive a waiver of the pre-appointment security investigation process, thus allowing them to begin work quickly, as part of your decision regarding who your top applicant for a position is?
A Put that another way, at the end of each interview question, a response or a question: Is there anything else you think we should know abou you that would be helpful to us, for us to know? I listen to that response. Certainly if the person -- this has never happened -- but would say I'm a convicted felon, or I was accused of espionage five years ago, that would likely factor into my decision.
Q And is this a question you ask every applicant?
A Uh-huh.
Q And so how do you assess the response to that question with respect to your determination of whether or not they -- the applicant would be a top choice for you?
A It's additional information that is

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provided to me. If it -- sometime the person just says I have nothing else to add. Sometimes people will elaborate on previous experience. I weigh that with their answers to the rest of the questions.

Q And, for example, marriage to a foreign national is, am I right, something that potentially has a security clearance implication?

A Potentially.

Q If someone did not reveal that information to you during the interview or in response to that question, but that information came up in the course of a personnel -- of a background check, how would that impact your assessment of whether or not this person was your top candidate?

MS. RUSSELL: Objection. Calls for speculation.

THE WITNESS: Again, I think we're out of order in sequence in what happens in the process. I make a recommendation. It goes to personnel security. If the person didn't tell me

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they were married to a foreign national, and in the security clearance investigation -- now, let's assume here that we have -- we're doing a person who has a clearance. Okay. And they're married to a foreign national.

I make a recommendation -- they don't tell me they're married to a foreign national. It goes to security clearance. If there are no problems, I don't even know that the person is married to a foreign national. I know if a problem arrises in personnel security. Then Cynthia will call me.

I had a case recently where I was selecting an employee for a position. When I asked that last question, said one thing you might want to know about me is I am married to a foreign national. He said I don't think this will cause a problem with my security clearance. And I was willing to make the recommendation and go forward. The gentleman had previously held security clearances. It may delay the time it takes to process his clearance.

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BY MS. McGOWAN:

Q And so just to be clear, in that case, even though you knew that there was some information about this person that might slow down the security clearance process, you went forward with the recommendation; is that right?

A That's correct.

Q And for that person, how long did it take for them to complete the security clearance process?

A This is a very new employee, so I don't know.

Q And what kind of job was this?

A It's an analyst.

Q And in what --

A It was --

Q -- in the very --

A -- in a regional area.

Q Regional area.

A The foreign policy regional area.

Q What's the full title of the position?

A I think it's specialist in European

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affairs. It's either analyst or specialist. I can't remember what GS level it is. Special confers a GS level, GS-15. The positions GS-14 and below are analysts.

Q And was there any time sensitivity with respect to filling that position?

A We requested a waiver. And so the analyst could start right away.

Q But with respect to actually sort of getting the final candidate into the position, was this what you would have considered to be a more urgent hire?

MS. RUSSELL: Objection to the form of the question.

THE WITNESS: Not as urgent as the other position. It was to replace someone who was not yet retired.

BY MS. McGOWAN:

Q But this was still a position that you wanted to fill quickly; is that right?

A Not quickly, no. I mean, this was to replace a person who was not yet retired. We

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often try to bring people in a year or two before we anticipate someone retiring, to allow them to work with them, to get up to speed, to learn the culture, what we do.

So this was not a position like the terrorist position, which was much more critical to the nature of the work. And we had a person who left. We had no one.

Q Even though this wasn't a position where you were filling a vacancy, you still requested a waiver to expedite the process of bringing this new-hire on; is that right?

MS. RUSSELL: Objection to the form of the question.

But you can go ahead and answer.

BY MS. McGOWAN:

Q Well, let me break that down.

A You always request a waiver. The person can start. It doesn't -- it's not to stall their hiring. What it stalls is their ability to use classified information. But they can still work here. It doesn't --

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Q Has there ever been a situation where prior to filling out a personnel action form or a PAR with respect to a position for which you were the selecting official, where you called the personnel security office to find out whether there would be any problem getting a waiver for a candidate if they were selected?

A I can't think of any.

Q Is that the kind of call you could make if you wanted to get a preview of the personnel security office's opinion about a candidate and their eligibility for a waiver?

A No. I mean, if I have a question, I can call Cynthia at any time.

Q Is the situation in this case involving Ms. Schroer a case where you called the personnel security office before filling out a PAR to find out about whether or not information about that applicant would affect anything with respect to their security clearance?

A There was never a PAR prepared for Mr. Schroer.

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Q Right. That's my question.

In this case, you called and had a meeting with the personnel security office prior to your filling out a PAR for this position?

A I did not fill out the PAR. I write a letter of recommendation to the director.

Q And the letter of recommendation precedes --

A The filling out --

Q -- the filling out of any PAR?

A Correct.

Q Okay. So in this case, just to make sure we're on the same page, you had a conversation with the personnel security office about information regarding Ms. Schroer and her security clearance that came prior to your filling out any recommendation, and prior to your filling out any PAR for the position; is that right?

A Prior to my completing a letter of recommendation. And as I said, the office of workforce prepares the PAR. I do not.

Q Okay. Is that the only case where you

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have had that kind of conversation with the personnel security office?

MS. RUSSELL: Objection to the form, but --

THE WITNESS: Again, please.

BY MS. McGOWAN:

Q Is the case involving Ms. Schroer the only case where you have had a conversation with the personnel security office about information that -- of -- that may involve security clearance implications prior to your writing a recommendation for a candidate?

A I believe so.

Q And so, for example, in this case that we were just talking about with respect to the specialist in European affairs, you did not reach out to the personnel security office to find out whether this individual's marriage to a foreign national might have security clearance implications; is that right?

A This individual was savvy enough that he requested a meeting, with the personnel security

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office in my presence, to go over whatever implications it might have.
Q And when did he make that request?
A I don't remember. I can't remember if it was before he was hired or it was after he came on board, but it was within a short period on either side of that.
Q But he did not make that request during the interview, for example?
A No.
Q Okay. Did he make that request before or after you had written your formal memo of recommendation for him?
A I can't remember.
Q And did you have any conversations with the personnel security office about how this information might impact this applicant's security clearance process?
A No.
Q And you said you did submit a waiver of the pre-appointment security clearance investigation for this employee; is that right?

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A Yes.
Q And it was granted, correct?
A Yes.
Q Are there any documents that reflected what happened in that case with respect to your request for a waiver?
A My usual two-line request. That's -- and then if there are documents, personnel security would have them. I don't.
MS. McGOWAN: I think we'll take a break. So we'll convene back in five minutes.
(Recess)
BY MS. McGOWAN:
Q So we're back on the record. And we were discussing a number of different employees. I just wanted to sort of run through them. We had what I'll call employee A, which was the employee that had the issue come up during their periodic review. And we had employee B -- employee A was the one who had the issue back sort of about the tax issue. Employee B was the employee who had some issues coming up with respect to their

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conduct while they were living overseas.
And then we had employee C, who was the applicant for whom the PAR had been generated, and then criminal -- information about their background of a criminal nature came to light. And then we had employee D, who was the employee who has recently been hired at CRS who was married to a foreign national. So we got those four employees.
With respect to employee C, where there had been a PAR generated and then you withdrew the offer, you mentioned that you ultimately pulled the posting and did not hire the position?
A That's correct.
Q Why --
MS. RUSSELL: Actually, I'm going to object to the form of the question.
But you can go ahead and answer.
BY MS. McGOWAN:
Q Well, am I correct that with respect to the position that employee C had been applying for, that once you learned this information from

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the employee, you withdrew your offer; is that right?
A He wasn't an employee. He was an applicant.
Q I'm sorry. The applicant for that position, you withdrew the offer of employment; is that right?
A That's correct.
Q Okay. And then you ultimately did not fill that position; is that right?
A That's correct.
Q And why was that the case?
A We thought it was cleaner to re-post.
Q And did you ultimately re-post for that position?
A Yes, we did.
Q And what was the lag time between closing the posting or closing the process for the first time and posting the second time?
A I can't remember. It was 15 or more years ago.
Q Okay. And what was that position?

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A An analyst in intelligence.
Q Did that position deal with terrorism at all?
A It dealt with the agencies who were likely to oversee terrorist activities.
Q So we've got employee A, B, C, and D that we've just gone through?
A Right.
Q Are there any either employees or current employees or applicants for employment where information came up in the course of either that candidate's application or the employee's tenure of a security clearance concern?
A Not of a security clearance concern.
Q And you mentioned -- and I'm paraphrasing here -- that you asked all of your applicants whether there is anything else about them that they should -- that you think that they should tell you or that they should think that you should want to know. And we discussed employee D, who mentioned, for example, that he was married to a foreign national.

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Have there been other circumstances where applicants have told you information in response to that question that caused you to say, huh, I wonder, this seems like it might have some bearing on the security clearance requirement for the position?
A I'd say the only other case is if they themselves are dual citizens. And there, it would have an affect. Because if they were a dual citizen, they would have to renounce their citizenship from the other country to be eligible to get a security clearance.
Q And there been cases where individuals have identified themselves as dual citizens?
A Yes.
Q And was there more than one case?
A Yes.
Q Roughly how many? Do you remember?
A Two that I can think of.
Q Two. Okay. And what were the positions -- I don't know if they were both applying for the same position, or they were two

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different positions -- that these applicants were applying for?
A Can I make a correction first?
Q Sure.
A Employee D, I said that he was an analyst or specialist in European affairs.
Q Uh-huh.
A He was an analyst in Middle Eastern affairs.
Q Okay.
A A specialist in Middle Eastern affairs.
Now if I can ask you to repeat your question, please.
Q Sure. Well, actually, let me -- with respect to this analyst in Middle Eastern affairs, is there any aspect of this job that involved terrorism?
A Well, certainly tracking terrorist groups in the region, yes.
Q Anything else?
A No.
Q And so we were talking about the two

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instances where applicants had identified themselves as dual citizens.
My first question was what position or positions were these applicants applying for?
A The position for -- let's call this person applicant E. The first dual citizen did not require a security clearance.
Q Okay.
A The second position with a dual citizen was for an analyst in European affairs. That did require a security clearance. And the individual worked with the office of personnel security to renounce the citizenship of the other country.
Q And we'll call this person --
A F.
Q -- applicant F.
A Got it.
Q Okay. And with respect to applicant E, was that an analyst position?
A Yes.
Q Okay. And what was the title, more or less?

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A Broadly, international affairs, United Nations, humanitarian assistance, those kinds of issues.
Q And I assume the citizen was U.S. and something else?
A British.
Q British. And how did this information affect your assessment of this candidate, if at all?
A I made a determination that she didn't need a clearance to perform her work. And so it didn't affect my decision at all.
Q And was this applicant ultimately the candidate that you recommended for the position?
A Yes.
Q And at any point -- well, is this applicant who's now an employee, still an employee of CRS?
A Yes, she is.
Q And during her tenure at CRS, has there come any point where she had need to apply for a security clearance?

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A No.
Q Okay. With respect to applicant F, this applicant was also a dual citizen.
And so what were the duel citizenships involved?
A Again, U.S. and British.
Q Okay. And how, if at all, did this information about the applicant being a duel citizen impact your assessment of the candidate?
A Well, I asked the candidate -- made him aware, first of all, that to get a security clearance he would have to renounce his foreign citizenship, and is this something he would be willing to do. He said yes. And we proceeded to hire him.
Q And do you have an understanding of what's involved in the process of renouncing citizenship?
A The person goes down and has an appointment with Cynthia Wilkins. And Cynthia walks them through the process. I do not sit in on that.

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Q Okay. And do you know whether or not this individual completed their renouncement of their British citizenship prior to your recommending their employment at CRS?
A I don't know.
Q When did you --
A Prior to their employment, yes. It would have been prior to the employment, yes, prior to the hiring.
Q And so at the time that you wrote your memorandum --
A My recommendation.
Q -- recommending their hire, am I right that at that point the individual had not yet renounced their citizenship, to your knowledge?
A I don't know. I don't know the timing, the sequencing on that.
Q Did you have any conversations with Cynthia Wilkins about working through this dual citizenship issue for this applicant?
A Yes, I did.
Q Okay. Tell me about that.

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A I asked Cynthia what does he need to do. She said he needs to come in and make an appointment with me, which he did. And I think I got a subsequent call from Cynthia that everything was okay.
Q And when did you make this contact with Cynthia Wilkins, sort of where in the process?
A Probably after the interviews were concluded, but before I wrote a recommendation.
Q And did you have any conversation with Cynthia Wilkins about how long it would take to complete this process of renouncing a dual citizenship?
A It was a matter of sitting down and having an appointment. It was not a protracted process.
Q And at any point between when you recommended the hiring of this candidate in the memorandum and when they came on to the position were there any other security clearance issues other than the dual citizenship that came up?
A No.

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Q Okay. Did you request a waiver of the pre-appointment security clearance investigation for this person?
A Yes.
Q And was it granted?
A Yes.
Q Okay. So we now have applicant A through F.
Are there any other applicants or employees that had -- that brought to your attention information that had a security clearance dimension that you needed to address?
A That's all I can think of.
Q Okay. Have you ever decided to go with a candidate who -- for employment who perhaps originally was your second or third choice over the candidate who had been your first choice, due to concerns that your first choice candidate might take longer to go through the security clearance process?
A No. I mean, if the interview is completed and nothing comes up during the

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interview that would lead me to question, then I -- I'm shooting kind of blind.
Q Okay.
A Do you understand what I mean?
Q I'm not sure, actually.
A If the person -- if two people come through and interview -- and you're the first choice and you're second choice --
Q And you're referring to me and James, as --
A Exactly.
Q -- hypothetical people?
A I'm sorry. Exactly. Person A and person B. And nothing comes up to lead me to be suspicious or questioning of your qualifications or credentials, I would go with applicant A. If Cynthia Wilkins subsequently turned up something in an investigation that would change our mind, then I could switch to person B.
Q Okay. And am I right that the situation that we were discussing with respect to employee C, the individual who had information come up

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after the background check, is perhaps the closest case to that, where this candidate had been your top choice, you found information, didn't go with them; but in that case, rather than going with a second choice from that original pool, you decided to re-post; is that correct?
A That's correct.
Q Okay. And so thinking back through all of your interviews with the various applicants, has there ever been a situation where you had, you know, applicant A and applicant B; and applicant A was your top choice, based on everything you had heard in the interview, but then at the end, in response to your anything else question they revealed some information that may or may not have a security clearance component, might lead to a delay or a more cumbersome security clearance process?
Has there ever been a case like that, where you've had an applicant reveal that information, and then you said, you know, I'm actually going to go with applicant B so I don't

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have to deal with the issues that applicant A, you know, may or may not have, based on what they've just told me?
A I can't think of one.
Q In the beginning, we started off talking about the process for hiring the terrorism specialist position. So I just wanted to go back to that. You know, we were talking about sort of how the vacancy first emerged. And that, you said, was due to someone leaving the position.
At that point, with respect to beginning the process for filling the position, were you involved in any processes for determining the qualifications that would be necessary for someone filling the terrorism specialist position?
A Yes.
Q Who else was involved?
A Francis Miko, and Steven Bowman.
Q And who are they?
A Two of the seven section heads. Francis Miko holds -- is the section head where this position resides, the specialist in terrorism.

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Steve Bowman is head one of one of our defense sections that does special operations and military operations connected with counterterrorism.
Q How did they become part of the hiring team?
A I asked them to be.
Q And what were the most important qualifications for the terrorism specialist position?
A You're familiar with the term KSA's, knowledges, skills, and abilities?
Q I have become familiar with the terms, yes.
A Okay. There were three critical components: Knowledge, policy analysis, and writing.
Q Okay. And how did you decide that -- well, let me back up.
Is it accurate to say that these three things were the most important qualifications for the job?
A Right. What it would mean is that if

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you didn't score at least to the minimally successful in these three areas, you could be disqualified from further consideration.
Q Were there other qualifications for the position?
A Yes.
Q Okay. And what were they?
A Research methodology, world communications, leadership, ability to work collaboratively with others, objectivity, judgment, and discretion. One, two, three, four five, six, seven, eight. I think there were nine. There may be a tenth one, but I think those are the ones.
Q Okay. And how did you -- I'm sorry. That's the list?
A Yes.
Q Okay. How did you decide that these were the qualifications for the position?
A They're the qualifications for every position in CRS, with the exception of the leadership that is only at the GS-15 level.

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Q And to the extent that these are qualifications for every CRS position, in addition to these were there any other qualifications unique to the terrorism specialist position?
A What we do is the knowledge is customized for the position, for each position.
Q Okay. Is there anything else regarding the qualifications that -- either additional qualifications or customized qualifications with respect to the terrorism specialist position?
A That it required a top secret clearance.
Q Okay. Now, was an active top secret clearance a prerequisite for the job?
A No.
Q Okay. So would you have considered someone who did not already hold a top secret security clearance?
Would you have considered someone like that to be competitive for the position?
A Yes, particularly if they had held a clearance before.
Q Okay. How likely did you think it was

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that the top candidate for the position would not have an active top secret clearance?
MS. RUSSELL: Objection to the form. It calls for speculation.
But you can answer if you understand it.
BY MS. McGOWAN:
Q With respect to your thoughts about who the likely top candidate or candidates would be, did you expect that the top candidate or candidates would probably be actively holding a top secret security clearance?
A Yes. Yes.
Q Okay. I'm going to show you a document that we will mark Exhibit 19.
(Deposition Exhibit No. 19 marked for identification.)
BY MS. McGOWAN:
Q Actually, I'm handing you the wrong document this is the one I meant to you give you
(Deposition Exhibit No. 20 marked for identification.)
BY MS. McGOWAN:

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Q This is a document that was produced by the Government in discovery. It is Bates-stamped numbers 288 through 294. And at the top of the page it says, Crediting Plan Questionnaire.
Do you recognize this document?
A Yes. And based on this, I see I missed one of the KSA's on -- oh, wait. This is just a KSA in the applicant questionnaire. This was not a question for the interview. So, no, I don't need to amend it.
Q Okay. What is this document?
A It's the crediting plan.
Q What is a crediting plan?
A It's meant to set a standard to be kind of a benchmark against which to judge responses, either the way the person ranks themselves in the applicant questionnaire, or later in the interview stage.
Q Okay. There is -- there are a series of signatures --
A Uh-huh.
Q -- on the upper right-hand corner?

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A Yes.
Q Do you recognize --
A All those, yes.
Q Okay. And am I right that your signature is the third signature down, full signature, with the date of August 5th?
A Right.
Q And are those your initials below that?
A They are.
Q Okay. Take a moment to flip through the documents. And there are various marks, stars, and checks next to checks throughout the documents.
Do you know what those marks were meant to signify?
A Critical factors.
Q Okay. And by critical factor, is that -- I don't know if that's a --
A That's the --
Q -- term of art --
A -- term that -- remember when I mentioned the three critical factors that means if

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you didn't score at least minimally successful in those areas, you could be disqualified from the -- further consideration.
Q And so if a KSA is not starred or checked, what did that mean? Did that have any --
A It means -- the ones that are double-starred are double-weighted in the scoring. They get a weight of two. The other factors get a weight of one.
Q And did the panel have any discussions about which of these KSA's to star?
A Yes, we did.
Q Okay.
A It's up to the discretion of the panel. For our research analysts, they're almost always those three. Sometimes, depending on the technical nature of the position, research methodology becomes a fourth.
Q Turn to page 291. There's a KSA listed regarding the ability to build and maintain a professional network?
A Uh-huh.

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Q Were there any discussions about whether or not to select or star this KSA?
A No.
Q Okay. And on that first page, where there are a series of signatures and then initials, do you know what the signatures and initials with the dates are reflecting?
A The date would be the date that we approved the crediting plan.
Q Okay. So to the extent that you have one date here that's your signature with the date of August 5th, and then a second date with your initials as August 10th, do you know what --
A The first --
Q -- what did you do on --
A -- the first could --
Q -- each of those days?
A -- have been a draft. There could have been some technical fixes in between. And we had to initial the second date.
Q Okay. So but your initials here by the second date means that you sort of reviewed this

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document and were --
A -- signing off --
Q -- signing off on?
A -- exactly.
Q Okay. Great. Thank you.
Either as part of your discussion with respect to your crediting plan or at any other point in the process, did you have any discussions with Steve Bowman and Francis Miko about the kind of candidate most likely to be qualified for the position?
A We had discussions about what question to ask, how to customize that knowledge question to get what we wanted.
Q Okay. And what were you looking to get at? What you kind of information were you looking to get at by crafting the question in a particular way?
A Breadth and depth of expertise and knowledge.
Q Other than how to craft your interview questions, did you have any other discussions

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about sort of the type of candidate most likely to be qualified for the position?
A No. I mean, we didn't say we want somebody from academia or somebody from the military or somebody from the Defense Department.
Q Did you have any conversations about whether or not the top candidate was likely to be a man or a woman?
A No.
Q Did you have any conversations about the importance of a candidate being able to start in the position quickly?
A Yes.
Q Okay. Tell me about that, those conversations.
A They were just that, that we hoped to get someone on board as quickly as possible. That was --
Q Okay. And did you communicate this to the applicants?
A Yes.
Q Okay. How so?

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A That we would like to get through the process as quickly as possible. We were doing the interviews in a timely way. I would always let the applicant know you were the seventh of 18 people interviewed, you were the fifth of 18 people; we're wrapping -- we hope to wrap up the interviews by the middle of November and be making a selection sometime in mid December.
Q Okay. In addition to those comments, which I'm assuming would be made in the context of an interview --
A That's correct.
Q -- with an applicant, were there any ways in which you communicated to applicants earlier on in process, either through the job announcement or in some other way, that time was really of the essence with respect to filling this position?
A No.
Q Did you talk at all with the outgoing terrorism specialist about the qualifications for the position?

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A No.
Q And am I right that the outgoing terrorism specialist was no longer at CRS when these decisions were taking place; is that right?
A That's correct.
Q Okay. Were you involved in the creation of the job announcement for this position?
A Yes. I reviewed it.
Q Other than reviewing it, what was your involvement?
A Reviewing it, and making suggestions again to customize to add some language in that describe the position.
Q Okay. I'll show you the document I showed you before, which has been marked as Exhibit 19. And that document was produced by the Government in discovery. It has Bates-stamp numbers 327 to 330. And at the top it says, Specialist in Terrorism and International Crime.
Do you recognize this document?
A I do.
Q What is it?

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A It's the vacancy announcement.
Q Okay. And there are some marks on this document.
Do you know who made those marks?
A No.
Q So, for example, the comment here to Edith, JA documents, etc., was that written by you?
A No.
Q Do you recognize that handwriting?
A No.
Q And looking on page 329 and 330, there are stars placed after certain lines of text.
Did you make those marks?
A No.
Q Okay. Do you know who did?
A No.
Q Do you know what those marks were attempting to represent?
A (Witness examined document). I could only speculate -- and it would be speculation -- that they were attempts to define critical

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competences. But they're incorrect, if they are. This may not be the final version. Because I know knowledge, for example, was a critical weight. And that shows up as one star, so --
Q Let me show you a document that was previously marked as Exhibit 9.
A (Witness examined document). Well, this did have a fourth critical competency. This looks more like it.
Q Does this -- well, let me start first. This is a document that was previously marked as Exhibit 9.
A Okay.
Q And it has Bates-stamps number 136 through 139. At the top it says, Specialist in Terrorism International Crime. This appears to be the final version of the job announcement.
Do you recognize this document?
A Yes.
Q Okay. Am I correct, does this reflect the final posting?
A It could. I do not recall the ability

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to lead tasks and people effectively was a critical competency, but I could be wrong. It definitely is closer than the previous one. And I'm not sure that the ability to design and utilize research and analytical methods was a critical competency. So I do not know if this was the final final, or just another version.
Q Were you involved in the decision about when the job would be posted?
A To the extent that I asked that it be posted as soon as possible.
Q And on this document it says that the opening date was August 12th, 2004.
Is that consistent with your recollection of when the job was posted?
A Yes. Yes.
Q Were you involved in the decision about how long you would accept applications for the position?
A It's pretty traditional that vacancy announcements are up for 30 days.
Q And so on this document where it says

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close date of October 13th, 2004, am I right that that's the last date on which you accepted applications for this position?
A Again, I didn't accept them personally. They went to the Library's office of human resources. But it was the last date that candidates could apply.
Q And could you have requested for this posting to be opened for less than 30 days?
A Yes.
Q Okay. Why did you not?
A It's a senior position. Typically when you do a nationwide search, you want a 30-day posting, particularly given that we're in the month of August, which is a vacation month.
Q Did you have any discussions with either the panel members or anyone else at CRS about whether or not you would keep the position open for less than 30 days?
A No.
Q Okay. When did you first hear back about what applications you had received for the

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position?
A Sometime in late September probably.
MS. McGOWAN: I have a document here that we're going to mark as Number 21.
(Deposition Exhibit No. 21 marked for identification.)
MS. McGOWAN: And I have a second document we're going to mark as Exhibit 22, as well, while we're at it.
(Deposition Exhibit No. 22 marked for identification.)
BY MS. McGOWAN:
Q The first document, that was marked Exhibit Number 21, is a document that was produced by the Government in discovery. It's been Bates-stamped number 161. At the top it says, Edith Friday, Re Applicants' Scores Point Spread. And then the second document, which is marked Exhibit 22, has Bates-stamp number 162. And it says, at the top, Specialist in Terrorism and International Crime, GS-0101-1.
Do you recognize these documents?

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A I do.
Q What are they?
A This is Edith letting me know how the applicants broke out, how they scored themselves. And it's the breakdown. One person scored themself or herself at 100, two at 99, one at 98, and so on down.
Q And who is Edith Friday?
A Edith was the HR person who was the staffing specialist for this position.
Q And turning to Exhibit 22, where there is a circle around some of the scores.
Do you know who made that mark?
A My guess is it would be Edith, based on my e-mail on the previous page, that I talked to the panelists, only will review the top 18. If you add those scores, it will be 18.
Q Okay. So this was not you who made this mark on the document?
A I don't know.
Q And tell me, how did you decide that 18 would be the number of people you would interview?

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A Well, I probably said I don't want to interview another nine. That would make the pool too big. I have to take the top seven, plus ties, which would have meant I would have had to interview down to 96 -- six, seven, eight, nine, ten, eleven. I choice to go with a larger pool. Because as I said, as -- said at the time, we had no prescreening mechanism. We just had the applicants' self-scores. So I was generally going for larger pools to interview during this timeframe.
Q At any point did you discuss any concern about the amount of additional time it would take to interview the additional seven candidates that had the score of 95?
A It was. It was a factor. I mean, we did discuss among ourselves --
Q Okay.
A -- as to where the cut should be, whether the cut should be 96 or 95.
Q Okay. And describe those discussions.
A Well, we'd have discussions about are

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you going to be around, anybody have vacation plans or leave plans that would prevent them from sitting on the panel.
We had had some experience with this process prior to this applicant's -- this positions being filled. And we were getting candidates who were selecting themselves at a very high score, and having absolutely no credentials whatever to perform the job. So we decided to go with a larger pool.
Q With respect to who you selected to be on the interview panel with you, did you have any discussions -- well, let me ask this.
Were Francis Miko and Steve Bowman the two individuals that you intended to have on this panel no matter what?
A Yes. They were the closest in knowledge to what the job position entailed.
Q And so did you have any discussions with them, prior to bringing them on the panel, about any scheduling conflicts that might have over the next couple of months with respect to being able

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to complete the hiring process?
A I can't remember.
Q So once you decided -- let me take those documents back from you.
A Okay.
(Handing document).
Q Once you decided how many candidates to interview, what did you do next?
A I gave my package of applications to my administrative assistant, Rita Banks, who scheduled the interviews.
Q And did you give Ms. Banks any particular instructions about when she should set up interviews?
A Yes. I asked her to try to schedule them as soon as possible.
Q Okay. And how many interviews per day were you hoping to schedule?
A Two. Sometimes if a third one had to be squeezed in, we squeezed in a third.
Q And how long did it take Ms. Banks to actually set up the interviews?

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A I don't remember. She would schedule them piecemeal. She would schedule one, and then send us an updated list the next day. And as she got people, contacted people. We started the interviews in mid October.
Q I'm going to show you two documents that we'll mark as Exhibits 23 and 24.
(Deposition Exhibit No. 23 and 24 marked for identification.)
BY MS. McGOWAN:
Q And document 23 is a document that was produced by the Government in discovery. It's been Bates-stamped number 158 to 160. On the front of the first page it says memorandum, dated September 17th, 2004. And then Exhibit 24 is a document that has been produced by the Government in discovery. It's bates-stamped number 165. And at the top it says, Charlote Preece, interview update, 10/28/04.
Looking at Exhibit 23, pages 159 and 160 particularly, do you recognize this list?

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A Yes.
Q And what is it?
A It is the list of the 18 people.
Q Okay. And then looking at Exhibit 24, do you recognize this document?
A Yes.
Q And what is it?
A It was from my administrative assistant to the panel, letting us them know when the interviews were scheduled.
Q Was there any attempt to commence interviews earlier than October 26th?
A I don't know.
Q Are you aware of anything that prevented interviews from being scheduled prior to October 26th?
A Not that I can be specific about.
Q So vacations or anything like that come to mind?
A Vacations don't. One of the panelists travels in his job capacity quite a bit. And I do not know whether or not during that first period

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in October if he had any travel. I do not know.
Q And at the top of Exhibit 24, in the beginning of the text, it says, Reply requested when convenient.
Did you reply to this e-mail?
A Yes. That's basically to say that time is okay for you.
Q And so I'm sorry, just to be clear, you sent a reply to this e-mail?
A I may not have. Generally, Rita works from my calendar. And she knows when I'm free or not. So I don't always have to reply. But the other candidates, Francis and Steve, would have --
Q Okay.
A -- presumably.
Q And just to be clear, you mentioned one of the other panel members traveled a lot.
Was that Mr. Miko, or Mr. Bowman?
A Mr. Miko.
Q Okay. So looking at Exhibit 24, it has the second candidate listed at October 27th at 9:00 a.m. as David Schroer.

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Were you involved in the interview with Ms. Schroer?
A I was involved in all the interviews.
Q Okay. Does anything stand out in your mind regarding Ms. Schroer's interview, that you remember?
A I remember thinking very highly of him and his qualifications.
Q And why was that the case?
A Lengthy military background; contacts at the inner agency level, and NSC, the White House, State Department. He had a very good interview, answered the questions cleanly, concisely.
Q Okay. Anything else?
A It was -- as I said, he was one of my top candidates.
Q Did you have any -- well, before I go there, were there any concerns that you had at all about Ms. Schroer?
A No.
Q Any negatives that occurred in your mind over the course of the interview?

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A No.
Q Did you discuss at all during the interview whether Ms. Schroer had an active security clearance?
A I don't think so, but we could have. It wasn't one of the questions in the booklet. And if you've seen one of these structured interview guides -- which I gather you have by now -- if it's not a question in there, we generally don't ask it.
Q And did you discuss Ms. Schroer's employment after leaving the military?
A As part of the first question, he volunteered -- the first question is a very broad question: Please provide any information, knowledge, and experience that would contribute to this job. And I believe during the course of that he told us what he was currently doing.
Q And as part of this course of conversation about Ms. Schroer's work experience, did you have any discussions about whether or not there had been any interruption in the period of

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time that she had held a security clearance?
A No.
Q When Ms. Schroer concluded the interview in response to your question about is there anything else we should know, do you recall what she said?
A No, I don't. I would have to refer to the interview guide.
Q When Ms. Schroer left, after the interview was over, did you and the other panelists make any comments to each other?
A Briefly.
Q And what did people say?
A How he was the second candidate interviewed, and it's nice to know that you have someone that you think can do the job early in the process, rather than to have that person be your 17th or 18th person.
Q That's true.
Did you make comments to that affect, or did someone else?
A I think we all thought he was a strong

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candidate.
Q And looking at Exhibit 24, it lists the first interview on October 26th and the last one on November 16th.
Is that consistent with your recollection of how long it took to complete the interviews?
A Uh-huh. Yes.
Q Upon completion of the final interview on November 16th, what happened next as part of the hiring process?
A We each individually scored all 18 applicants, collected all the application packages and materials. They went back upstairs to Edith Friday. And then it's Edith's job to compile those scores. We see a spreadsheet usually of the scores, how each one of us scored.
And then she sits us down for a meeting, and calls to our attention where -- any instances on any one of these factors we scored -- where the point differential was two points or greater, and asked if we want to talk about that factor and why

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we scored that individual the way we did.
Q And do you recall any discussions of that nature happening with respect to these candidates?
A I'm sure there were.
Q Okay.
A I mean, given the 18 across nine, ten categories, there probably were areas where we did have discussions. And I don't remember which individuals or which factors, no.
Q Okay. Focusing on a couple of the applicants, do you remember any discussion about disparities in scoring with respect to Ms. Schroer's application?
A I really can't remember.
Q Okay. And similarly with respect to Mr. Rollins?
A I can't remember.
Q At any point -- and I'm referring to Exhibit 24, looking at the interview schedule -- at any point did you go back to Rita and point out that there was a gap of almost a week between

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November 8th and November 15th where no interviews were happening?
A I don't remember.
Q Do you know of any particular reason why there was this gap in the interviews?
A No, I don't.
Q Okay. When you saw this list and saw that the last interview was taking place on November 16th, were you concerned at all about the length of time the interviews were taking, or did this seem average to you?
A Seemed average to me.
Q I'll next show you a document which we'll mark as Number 25.
(Deposition Exhibit No. 25 marked for identification.)
BY MS. McGOWAN:
Q And then I'm also going to ask you to look at a document that has been previously marked Number 12.
A (Witness examined document).
Q Turning first to Exhibit 25, do you

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recognize this e-mail?
A Uh-huh.
Q What is it?
Actually, I'm sorry. Before we go on, let me just identify what this document is for the record. This, which has been marked as Exhibit Number 25, is a document produced by the Government in discovery. It's Bates-stamped number 148. At the top says, Charlote Preece references for terrorism position.
And so, I'm sorry, if you can tell me what the e-mail is.
A It is letting my fellow panelists know that we would begin reference checks. And it's proposing who would do reference checks on each of these three people.
Q And how did you select these three people as the applicants that you would continue to pursue?
A I always like to talk to the current supervisor. These other people are people listed as choices.

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Q Okay. I think my question was a little unclear.
With respect to the fact that it was John Rollins, David Schroer, and Kel Britvec --
A Yes.
Q -- that were the applicants for whom you were going to reference checks --
A Yes.
Q -- how did you select these three applicants as individuals that you describe as your final list?
A Based on discussions among the three of us of who we thought our top candidates are, and to pursue reference checks, who we wanted to pursue reference checks with. We were free to select any of the applicants that scored above a three, three or above. So when you see this final referral list documents, 12, we could have selected any one of these individuals.
Q Okay. And how did you select the three that you did: Mr. Rollins, Ms. Schroer, and Kel Britvec, from the applicants here on this final

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referral list?
A We thought those were the best applicants. There was one woman who withdrew, or she would have been in this mix, as well. That was Dana Lesemann.
Q I wasn't sure if Dana was a male or a female, so -- okay. So Ms. Lesemann withdrew.
At what point did she inform you that she was withdrawing?
A Within a day or so, within a day or two.
Q Within a day or two of what?
A The interview.
Q Okay. And staying with Exhibit 12 for a moment. This is a document marked Bates-stamp number 155. It's the final referral list that we were referring to, with the number of applicants names and their interview scores. And looking here at the staffing specialist name where Edith Friday has signed it -- well, first let me ask you that.
Am I right that that's Edith Friday's signature?

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A I'm not sure I would know what --
MS. RUSSELL: Objection. Lacks foundation.
BY MS. McGOWAN:
Q Okay. Do you know who the staffing specialist on --
A I know Edith Friday --
Q Okay.
A -- but I'm not familiar with her handwriting.
Q Okay. With respect to this signature here under the staffing specialist name and date, do you know what it being signed and dated by the staffing specialist means?
A It means that's the day she signed it and I received it.
Q Is she the one who would have produced this form?
A Yes.
Q Okay. And am I right that you received the form on November 30th, 2004, the date that's listed here under the staffing specialist's name?

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A That was probably the case.
Q Okay. Looking back in Exhibit 25, with respect to these three applicants, was there an order of preference with respect to these three finalists?
A No.
Q How did you intend to decide what your final order of preference was going to be for the applicants on this list?
A We were going to call a reference for each of them, three references for each of them. When I called -- first, the first thing that I do is call or e-mail the applicants to let them know that we are about to begin reference checks. Because I would like to talk to their current supervisor. They may want to first inform their boss that they have applied for another position. I always ask them to get back to me and let me know if that's okay.
So obviously this e-mail was sent before I had heard back from them. Also, in many cases you need to ask them, even though they've

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initialed off on a reference check form, we need to get more current information about the whereabouts of these folks.
There's usually a fair bit of interplay, or there can be, that if one of the references they've listed is overseas or unavailable, can you give me an additional reference so I can call. So there's that kind of interchange that takes place.
Q When was the next time you had contact with Ms. Schroer after the interview?
A Probably sometime within a couple of weeks, ten days or two weeks of this, maybe even sooner.
Q And what was the purpose of that contact?
A Trying to get more current addresses for people.
Q Okay. Anything else?
A Well, we did have one exchange I remember, about Walt Chrietzberg, who was his supervisor at the time. And I asked David if I could -- if it was okay to call him. David

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e-mailed back. And he said that he preferred that I not call him, that I speak with two other gentlemen instead.
Q Okay.
A That gave me some suspicion.
Q What kind of suspicion?
A It is -- it was unprecedent for me never -- not to have spoken to a current supervisor. So I had -- he said that this was around the holiday time and this could potentially affect his Christmas bonus, so he prefer that I not speak with this gentleman.
Q And so when you say that that was the point at which you first suspected something, what did you suspect?
A Well, generally when someone tells you they don't want you to speak to their supervisor, you assume that their supervisor may say something that's negative.
Q Did you have any other suspicions about why you were not being authorized to contact Mr. Chrietznberg – Chrietzberg?

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A No. It just raised an eyebrow.
Q Did you have any discussions with Steve Bowman or Francis Miko about the fact that for Ms. Schroer you did not have the okay to talk to the current supervisor?
A It was probably noted.
Q By "noted," do you mean actually like a physical notation made somewhere?
A No. I probably said I was a little leary that he didn't want me to talk to his current supervisor.
Q And did either Mr. Bowman or Mr. Miko share your concern?
A They thought it was unusual. But I think they had conducted their reference checks and got very glowing reference checks from the other two folks.
Q Do you know when Mr. Miko and Mr. Bowman contacted the references that were assigned to them?
A No. I can't give you the dates.
Q Do you know if the people that are

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listed here, Mr. Daley and Mr. Olsen, are the people that Mr. Miko and Mr. Bowman respectively actually contacted, or did they contact different references?
A I can't remember, but it's on the sheets that you should have.
MS. McGOWAN: I'm going to show you a document that we will mark Exhibit Number 26.
(Deposition Exhibit No. 26 marked for identification.)
BY MS. McGOWAN:
Q This is a two-page document that has been produced by the Government. It's been Bates-stamped number 705 and 706. At the top it says, Charlote Preece, re: Updated references and writing samples.
Do you recognize this document?
A Uh-huh.
Q And you should --
A Yes. Yes.
Q -- certainly take a moment to read it.
A (Witness examined document).

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Q What is it?
A It is an e-mail exchange between David and myself, with Dave giving me some additional contact information, and then my response thanking him for the information, and may I talk to his current supervisor, and then David's response to me indicating two alternative people who are coordinators/supervisors on a job that he was also working on.
Q Did you, after receiving this e-mail from Ms. Schroer, ever indicate either orally or in writing to Ms. Schroer that her request that you not contact her current supervisor was unusual?
A Well, I stated in my message that we have a requirement to conduct a reference check with the perspective employee's current supervisor. But I didn't mention it further to him, no.
Q And to the extent that in this e-mail, the fourth line of the text of the e-mail at the top, where Ms. Schroer identifies Marc Alderman

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and Jeff Brady as her coordinators/supervisors, in your view did that not satisfy the requirement to talk to a current supervisor?
A Yes. I mean, that was the substitute.
Q And so at any point did you tell Ms. Schroer that you really wanted to talk to Walt Chrietzberg, in order to consider the application?
A Not beyond this.
Q Were you satisfied that Marc Alderman and Jeff Brady had sufficient experience with Ms. Schroer to give you a reference that you considered adequate?
A Yes, in terms of fulfilling that requirement to talk to a supervisor, yes.
Q And did you speak to either or both -- or, actually, there's actually three: Marc Alderman, Jeff Brady, and Bill McRaven.
Did you speak to any of these references identified by Ms. Schroer in this e-mail?
A Marc Alderman, to my best -- Alderman to my best of my recollection.
Q And did either you or Mr. Miko or

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Mr. Bowman contact either Mr. Brady or I think that's Rear Admiral McRaven?
A I don't remember. I remember we each did one reference check on each. So I don't know if the folks listed here were the ones contacted, or if McRaven was ever contacted. I would have to look at those sheets.
Q How long after you received this information from Ms. Schroer did you contact the references for Ms. Schroer?
A Between this date and over the next week.
Q Do you remember following up the same day?
A I don't remember.
Q Okay. And did you have any difficulty reaching Marc Alderman?
MS. RUSSELL: Objection to the form of the question.
BY MS. McGOWAN:
Q Well, actually, did you reach Mr. Alderman the first time -- well, let me ask

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this.
How did you first try to contact Mr. Alderman? Did you call him?
A Yes.
Q Okay. Did you reach him when you called him --
A I can't --
Q -- the first time?
A -- I can't remember.
Q Okay. At some point you had a telephone conversation with Mr. Alderman; is that right?
A I did. It was very late. I recall that it was late. It was one of the last ones, if not the last one.
Q And by late, just so I'm clear, do you mean late in the day, late in the week, late --
A Late --
Q -- late relative to what?
A The last reference call.
Q Okay. And what did you talk about? Please describe that conversation to me.
A Asked him about his qualifications, how

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he knows him.
Q I'm sorry. By "his," do you mean Mr. Alderman's --
A I'm sorry. Mr. Schroer.
Q Mr. Schroer's qualifications. Okay. I'm sorry. Please continue.
A Asked him about his writing, what did he consider his strong points, what did he consider his weak points.
Q And what weak points did Mr. Alderman identify?
A If anything, he was an over-achiever and worked too hard.
Q That's a good reference.
A It's a good weak point, yeah, a good weak point to have.
Q Did you discuss with Mr. Alderman the fact that Ms. Schroer had asked you to not contact Mr. Chrietzberg?
A No.
Q Why not?
A I didn't think it was appropriate.

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Q Why not?
MS. RUSSELL: Objection to the form, lacks foundation.
BY MS. McGOWAN:
Q Why did you think it was not appropriate to ask Mr. Alderman why Ms. Schroer didn't want you talking to Mr. Chrietzberg?
A Just thought it was personal information.
Q Okay. How did you wrap things up with Mr. Alderman at the end of the conversation?
A By this time, I was pretty certain who I wanted to recommend. And so I appreciated the call. I thanked him for spending the time. As I did say, this was the last reference. And by that time I probably told him that he was my top candidate. Because by this time Mr. Schroer was my top candidate.
Q And do you recall saying anything to Mr. Alderman along the lines of the fact that the call was a formality?
A Yes, I think I did say something like

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that. I had the reference checks I needed. The fact that he finally got back to me or I finally got back to him -- I think he called me -- I -- you know we -- we included it, but I wouldn't have had to include it.
Q And so you mentioned that by that time you had decided Ms. Schroer was your top candidate.
When did you decide that?
A We were formulating it all along. The three of us were talking. We'd get reference checks back. We'd share those references with one another. We would sit down and talk. And certainly by the middle of December Mr. Schroer was my top candidate.
Q And why?
A I thought he had the best interview. He impressed me the way he thought on his feet.
Q Anything else?
A It was difficult, because the qualifications of the top three people were all exceptional. I would have been happy to have any

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one of them.
Q Okay.
A In terms of their knowledge, the breadth and depth of their knowledge, the level -- high level positions of responsibility they were given. Those were all good and equal. The distinguishing factor that led Schroer to be my top candidate was his performance at the interview.
Q After talking with Marc Alderman, did you -- well, let's ask this.
When did you next speak to Ms. Schroer?
A I can't give you the date.
Q Okay. Do you recall having a conversation with Ms. Schroer sometime after this last correspondence regarding references?
A Yes.
Q Okay.
A And calling him up and asking him if he were still interested in the position, and when he might be available, letting him know that I was about to write up a recommendation.
Q And did you ever indicate to Ms. Schroer

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that you wanted to offer her the job, but only if she was still interested?
MS. RUSSELL: Objection to the form. But you can answer if you understand.
THE WITNESS: Please, again.
BY MS. McGOWAN:
Q Sure. During the conversation, did you ever make a statement to the affect of: I want to hire you, but I only want to go forward with the hiring if you actually want the job?
A Usually I ask the person first are you still interested in the position. And then I let him know I would like to recommend him.
Q Do you recall having any conversations about the salary for that position during that conversation?
Let me just back up for a moment. In your last response you said that usually you ask the person if they're still interested.
And so with respect to the conversation that you actually had with Ms. Schroer, what did you say?

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A I don't remember exactly what I said. But I probably said, David, you're my top candidate. Are you still interested in the position? And he said very much so. And I said, well, then I'd like to begin preparing the paperwork for the recommendation.
Q Okay. And do you recall having any discussions about the salary for that position at that point?
A We did. I can't remember whether it was at that conversation or a subsequent conversation.
Q And what was the nature of that conversation?
A The position was a GS-15 step one. And Mr. Schroer claimed that he was making more money than that in his current capacity, and was there any room for negotiation. And I said I would have to contact our personnel specialist, whose name is Chuck Freyder, and get back to him with that information. And I think I did the following day. I can't remember whether I phoned him or sent him an e-mail.

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Q Who's the "him" in that sentence you called?
A David.
Q David. Okay.
And so at some point did you follow up with Ms. Schroer about what you had learned from --
A Yes. That's what I mean. I --
Q -- what you had learned from your conversation with Mr. Freyder?
A Yes.
Q And tell me about that conversation.
A I can't remember whether it was a conversation or an e-mail. But the response was basically if he could provide proof of the salary level, it'd be possible to bring him on as high as a GS-15, step ten.
Q After this correspondence about salary, how did you leave things with Ms. Schroer, once you had let her know that you had information about the salary?
A I told him that I would start processing

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the paperwork.
Q And at any point did you have a conversation where Ms. Schroer suggested that you meet?
A Yes.
Q Okay.
A We did.
Q Tell me about that conversation.
A He said that he would like to get together for either coffee or lunch, to discuss more about the job and to -- how did he phrase it? There was something he wanted to tell me.
Q Was there any additional description of what that was?
A No.
Q Did you ask?
A No.
Q Did you have any suspicions about what Ms. Schroer might want to discuss with you?
A I wondered, yes. I mean, I wondered enough to stop writing the recommendation about four or five sentences into it. I thought I'll

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wait to see what he tells me on Monday.
Q So with respect to the written recommendation, when did you start writing those first few lines that you were just describing?
A After the conversation where I asked him if he was interested in the job, and the salary seemed to work out, resolve okay, seemed there was no impediment from there.
Q And was the discussion that you had about the salary and the discussion in which Ms. Schroer suggested that you meet, was that two discussions, or one?
A I think two, as I recall. I'm not sure.
Q And so when did -- did you agree to meet?
A Yes. Uh-huh.
Q And when did you agree that you would meet?
A The Friday before the Monday that we met.
Q Okay.
A We agreed to meet for lunch on Monday.

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Q Turning back briefly to our discussion about what it was that made Ms. Schroer the top candidate. You mentioned that the interview was very important in your determination that Ms. Schroer was the top candidate.

In what ways did the interview with Mr. Rollins not go as well as the interview you had had with Ms. Schroer?

A I thought Mr. Schroer was a little more insightful, particularly with response to the first couple of questions on policy analysis and -- "creative" I think is a word that I used when I met with him on Monday.

Q Okay. Anything else?

A No.

Q Okay.

THE WITNESS: Is this a good natural break?

MS. McGOWAN: I think it probably is. And so it seems like a time where we can begin our narrative after lunch.

(Whereupon, at 11:58 a.m., a

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luncheon recess was taken.)

AFTERNOON SESSION

(1:00 p.m.)

Whereupon,

CHARLOTTE P. PREECE,

was recalled as the witness and, having been previously sworn, was examined and testified further as follows:

EXAMINATION BY COUNSEL FOR PLAINTIFF CONTINUED

BY MS. McGOWAN:

Q Okay. We're back from lunch. And we left off where we were talking about an agreement that you had with Ms. Schroer to meet. And my understanding was that it was a Friday when you agreed to meet, and then it was the following Monday that you actually met.

I'm going to show you a document that we will mark Exhibit 27.

(Deposition Exhibit No. 27 marked for identification.)

BY MS. McGOWAN:

Q Do you recognize this document?

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Actually, sorry. But while you review it, I will just identify it for the record. This is a document that's been produced in discovery by the Government. It's been Bates-stamp number 707. And at the top it says, Specialist in terrorism and international crime.

A Yes, I do.

Q And what is it?

A It is the beginning of a recommendation for Mr. Schroer.

Q Okay. And when did you draft this document?

A Thursday or Friday morning prior to the lunch.

Q And we discussed this briefly before the break.

Do you recall whether you began drafting this e-mail, or actually this document, before or after you agreed to have lunch with Ms. Schroer?

A Before.

Q Okay. And after you agreed to have lunch, did you -- is any of what appears in this

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document text that you drafted after agreeing to have lunch with Ms. Schroer?

A No.

Q Okay. Were there any other drafts of this document?

A No.

Q One question that I had is were you under any particular time constraints with respect to when you needed to make your final selection of the applicant for the terrorism specialist?

A I wanted to do it before Christmas.

Q And were there any particular rules or regulations that set out a deadline for you, or was that just an internal deadline for yourself?

A Yes. I requested once to have the vacancy announcement extended. You have to draft the letter of recommendation within I think it's five days of -- three or five days of when the posting closes. And so I think the posting was extended through the end of the month of December.

Q And by extending the posting, did that mean that applications could continue to come in

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for --
A No, no, no, no, no.
Q Okay.
A No. It just meant that we had longer to make the selection.
Q Okay. And what did you need to do, if anything, to request that extension?
A I needed to write a letter to the head of human -- an e-mail in this case to the head of human resources.
Q And who is that?
A I cannot remember. It's not the same person anymore. I can't remember the name of who it was at that time.
Q And do you recall roughly when you sent that e-mail?
A I believe it was early December.
Q And what did that e-mail say?
A Basically requested an additional two-week period to conduct reference checks and make the final -- make a recommendation.
Q And were you -- did you provide any

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additional reasons or any reasons as to why you needed an additional two weeks?
A Just what I told you. They're very short memos, generally, just a couple sentences.
Q And did you receive any response back to that request?
A An e-mail back that said that my request was approved.
Q Prior to the request being approved, were there any requests for additional information about why you needed more time?
A No.
Q Okay. Is it a common occurrence to ask for this kind of extension?
A It's not uncommon.
Q How often have you done it?
A Maybe one out of every four, one out of every five.
Q And so as a result of the extension, you had until when to make --
A I believe it was December 31st.
Q Okay. And by December 31st, what was it

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that you were obligated to do? Is it to write the --
A To prepare the recommendation, the director would have had to approve it, and the PAR would have been cut.
Q Okay. And is it possible to ask for more than one extension?
A You could ask for it.
Q If you ask for more than one extension, is your experience that you're then required to provide additional feedback --
A I would have had to provide additional justification.
Q So I want to turn to Monday now, when -- and I can take that document back from you.
A (Handing document).
Q Monday is, if I'm right, when you were scheduled to meet with Ms. Schroer; is that correct?
A Yes.
Q And just so that we're clear, I believe that was Monday, December 20th, 2004.

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Tell me, on that day, when did you first either speak or encounter Ms. Schroer?
A Mr. Schroer came to my office around noon.
Q So and were you going to actually have lunch at the Library, or had you planned to have lunch somewhere else?
A Somewhere else.
Q Okay. Can you describe for me the part of your meeting that took place up until you left your office at the Library?
A We chatted very briefly, just to exchange pleasantries, and we left. I introduced him to one or two people who were in the hall.
Q Do you remember who you introduced him to?
A No.
Q Were they individuals in your division of --
A Yes, yes --
Q -- the CRS?
A -- we were walk -- just walking out of

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my division.
Q And do you recall what you said in making this introduction?
A This is David Schroer, we hope to have him working with us on terrorism issues in the not-too-distant future.
Q Did you say anything to the affect of: Here is the new guy that we're bringing on?
A Here's the new guy that we're bringing on? I don't remember using that terminology. But certainly words to the affect that we had hoped to bring Mr. Schroer on board, yes.
Q At some point were you and Ms. Schroer in your office?
A Yes.
Q And did you have any conversation while you were in your office?
A Other than to exchange pleasantries, I don't recall an -- any conversation at all in my office.
Q Did you talk at all about your preparing of the paperwork for Ms. Schroer?

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A That's quite possible, that I said I was in the process of preparing paperwork, yes, uh-huh.
Q Do you recall showing Ms. Schroer, you know, paperwork regarding her application while you were in your office?
A No.
Q On your way out to lunch, leaving your office, did you encounter anyone?
A Yes. There were a few people walking by. And I introduced David to those people. I can't remember who they were.
Q Did you -- do you recall encountering Francis Miko on the way out?
A I don't recall.
Q Do you recall anything about those conversations on the way out?
A Not other than what I told you. They were very brief. We were -- I said from the time that David arrived in my office, we were three or four minutes until we left.
Q And do you recall anything that these

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individuals to whom you were introducing Ms. Schroer, do you recall what they said?
A No.
Q Did anyone say things to the affect of, you know, welcome on board or --
A Quite possibly. It would be good to have you. I don't know. I assume people were pleasant.
Q Is there anything else about the part of the meeting that happened while you were at the -- at your office at the Library?
A No. It was very brief.
Q Okay. Did you and Ms. Schroer converse on the way to where you were having lunch?
A I assume we chatted.
Q Tell me what you remember about that conversation.
A Nothing. The restaurant is two minutes from the Library.
Q Did you talk about the job?
A I do not recall.
Q Do you recall having any conversation

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about the people who work at the Library?
MS. RUSSELL: Objection. Vague.
THE WITNESS: At the luncheon we did.
BY MS. McGOWAN:
Q Okay. I'll hold off then for a second. I'll get us to lunch.
A Okay.
Q And so anything else about your conversation on your way to the restaurant that you remember?
A No.
Q Okay. And once you're at lunch, can I assume that conversation continued between you and Ms. Schroer?
A Yes.
Q Okay. Describe what you remember about that conversation.
A I was talking about what it was like to work at CRS. I was talking about our mission to serve Congress, our values of objectivity and nonpartisanship. I was describing how the sections were laid out, and the organization of

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the office. I was describing how we do our work. I described our research design and briefing process. I talked a little bit about what I call the culture of the office.
Q And how did you describe the culture?
A I remember telling him it was a very diverse and eclectic group of people, that we weren't stereotyped like many institutions are: The State Department, or the Intelligence Agency or, God forbid, lawyers.
MS. RUSSELL: I guess I can't raise an objection to that.
THE WITNESS: That people came from different backgrounds: People from academia, people from the military, people from other executive agencies, people from think tanks, and that I thought that that enriched the work of our division because people brought various perspectives to examining foreign and defense policy issues.
BY MS. McGOWAN:
Q Did you ever discuss why Ms. Schroer had

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emerged as your top candidate?
A He asked me that question. And I responded to it. And I told him pretty much what I told you, that I thought his answers were a bit more creative, that his contacts that he brought to bear, would bring to bear, would be useful in his position.
Q Anything else?
A I think I told him that we had a very strong applicant pool, and we had another highly qualified candidate that we looked at very carefully.
Q And did you have any conversation about why Ms. Schroer had beaten out that other candidate?
A Yes. That was the conversation based on the a little bit more creativity, imagination. Very strong interview, I told him he had a strong interview.
Q Anything else?
A In the conversation at lunch?
Q About this part of the conversation

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about --
A The qualifications?
Q Yes.
A That's what I recall.
Q At some point did Ms. Schroer tell you she had something she wanted to discuss with you?
A Yes.
Q Okay. Describe that conversation.
A He said that he had something personal that he wanted to talk to me about. And then he asked me if I knew what transgender migration was or what I knew about it.
Q And was that the precise term that --
A That's the term I recall.
Q Okay. And what did you say when she asked you that?
A Very little, if anything.
Q And then where did the conversation go from there?
A He proceeded to describe it, and --
Q And how did he describe it?
A Well, he talked about that he'd always

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felt uncomfortable, there was something -- a level of discomfort in his life, and that he'd come to the realization over the years that he felt more comfortable -- he would feel more comfortable living life as a woman than a man.
And he told me that he was under -- had been consulting with a psychiatrist, and that was part of the process, and that he had been taking hormone treatment for about a year, and wanted to complete the other physical processes required for the migration, and that he would like to start work at CRS in January as a woman.
Q What was the first thing that went through your mind when you heard Ms. Schroer tell you that she wanted to start work as a woman?
A Wow, I can't believe this. I was stunned.
Q And how did you feel?
A Surprised, disbelieving.
Q Were you upset?
A Not initially. I think I was more just shocked.

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Q How did you feel when Ms. Schroer was explaining to you what it meant to be transgender, or what she meant by it when she told you that she was transgender?
A I was listening. I was trying to understand. I've never known anyone who has undergone the process, so I was listening.
Q Were you phased at all by this information?
MS. RUSSELL: Objection to the form of the question. It's vague.
But you can answer if you understand it.
THE WITNESS: If phased means shocked or surprised, yes.
BY MS. McGOWAN:
Q So this didn't strike you as just run-of-the-mill lunch conversation?
A No.
Q Had you ever had a discussion like this with anyone before?
A No.
Q So how did you respond?

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A I think I asked him to tell me how he came to that decision. He pulled out a portfolio and showed me some photographs on how he would present as a woman. I looked at those.
Q And what did you think?
A What did I think?
Q Looking at the photos.
A I thought he looked like a man dressed in women's clothes.
Q Anything else? What else went through your mind?
A That was -- I mean, confusion, I guess. At one point I think I asked him, David, how can I hire you as a man and you start work as a woman. We went on from there to talk about the security clearance. And he said that he knew he would be required to get a psychiatric fitness for duty determination.
Q And did he say how he knew that?
A He said that he knew other people who had gone through this process who had gotten security clearances.

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Q And did he describe at all what he understood their experience to be?
A No.
Q Did he tell you whether or not those individuals had kept their clearance?
A No.
Q Did you talk at all about sort of what all was involved in transitioning from male to female?
A We didn't get into bitty gritty details; but, yes, I mean, we -- there would be surgeries required, and physical changes.
Q And did you talk at all about what kinds of surgeries were going to be involved?
A No. I mean, not in detail.
Q Do you remember talking at all about Ms. Schroer's plans to have facial surgery?
A He told me he wanted to complete the process. And by that I took it to mean that he would need the electrolysis and implants and other surgery.
Q And did you talk at all about any plans

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for sort of full sex reassignment surgery?
A Not plans, no. I mean, nothing that I'm going to do this in February, I'm going to do this in December, no.
Q Was there any conversation about how this would impact on his ability to -- or her ability to start at work?
A No. I would say we talked for maybe 15 or 20 minutes after this revelation. And I think because I was confused and taken aback, I said that I would have to talk to people within my organization, and I would get back to him within 24 hours.
Q Did you ask Ms. Schroer who else knew that she was transitioning?
A I don't recall that.
Q Did you ask her if any of her job references knew that she was transitioning?
A I don't believe I did.
Q And did you have a conversation with Ms. Schroer about what name to use on the paperwork?

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MS. RUSSELL: Objection. Lacks foundation.
MS. McGOWAN: I'm sorry. Sure.
BY MS. McGOWAN:
Q Did you have a conversation with Ms. Schroer about the fact that you were filling out paperwork for the position and needed to know what name to use?
A No. I asked him how I could hire him as David and he would start work as Diane. And I was confused about paperwork, as well.
Q And tell me about that conversation.
Sort of what did Ms. Schroer say when you posed this question to her?
A I don't recall, other than he seemed to think that it could be worked out.
Q When you asked Ms. Schroer how could you hire her as David and have her start work as Diane, was it just a question of paperwork that you were concerned about, or did you mean something more?
A Well, I certainly knew I needed to check

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on the security clearance. That was foremost in my mind.
Q And why did you think that?
A Because David had a clearance. Diane didn't.
Q And what conversations, if any, did you have with Ms. Schroer at the time about this security clearance issue?
A I asked him how this was likely to affect his ability to get a security clearance.
Q And did you, at the moment you're asking Ms. Schroer the question, have a gut instinct about what impact it would have?
A I certainly had a feeling that it could slow things down a great, great deal.
Q Did you think that David Schroer would lose his security clearance over this issue?
A David, I didn't know about whether David would, but I knew Diane didn't have one.
Q Did you have any conversations at all about what of this information David -- what information, if any, David had already reported to

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the entity currently holding his security clearance?
A No.
Q Why not?
MS. RUSSELL: Objection. Calls for speculation.
But you can answer if you understand the question.
THE WITNESS: I didn't think of it at the time. You know, at this -- by this point, I needed advice.
BY MS. McGOWAN:
Q So I wanted to ask you, to the extent that you are articulating a concern that David had a clearance but Diane didn't, why did you think that the clearance that Ms. Schroer held as David would not apply to Diane, as well?
A I just didn't think it would. But that's why I ended the conversation, because I needed to go back and get advice from the security people.
Q Did you think that David would become a

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different person as Diane?
MS. RUSSELL: I'm going to object to the form of the question.
But you can answer if you understand.
THE WITNESS: Can you say what you mean by a different person?
BY MS. McGOWAN:
Q To the extent that David had a security clearance and the concern was that Diane did not, my question is did you think that David would be a different person as Diane, such that the information that they knew about David and that formed the basis for his security clearance decision would no longer be relevant for Diane?
A I don't think I thought of him as different in terms of what he knows. He would still have the same experiences he had, to carry with him as Diane. But how that affected the security clearance, I had a lot of questions about.
Q And what were those questions? What were you concerned about?

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A Was Diane going to be able to be cleared; and, if so, in a timely fashion.
Q And why were you concerned that Diane might not be cleared?
A Because the position required a top secret clearance, and because it was needed particularly to do this job.
Q And understanding that the position itself needed a clearance, why were you concerned that Diane might not get that clearance --
A In a timely way? Because he, himself, told me that he would likely have to have a psychological fitness for duty prior to a determination whether to proceed with the clearance.
Q Other than that information, was there any other concern that you had; for example, with regard to honesty?
A Yes. I felt deceived, somewhat deceived.
Q And did you address that concern with Ms. Schroer?

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A No.
Q At any point did you say something along the lines of: Why are you just telling me this now?
A I don't know if I -- I don't recall. I may have. I may not have. I don't recall.
Q When I asked you sort of your reaction when you first heard this information, my understanding is you said that you weren't upset initially?
A Yes.
Q Is there a point at which you became upset?
A Not upset visibly. But as the conversation went on, I thought -- I did think to myself certainly why are you telling me this and why are you telling me now? Why didn't you come to the interview dressed as a woman? He had told me, during the course of the conversation, that he was presenting himself as a woman except in work settings.
Q And what did you think about that?

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MS. RUSSELL: Lacks foundation.
But you can answer if you understand the question. And it also -- no, I'll just stick with the same objection. It lacks foundation.
But you can answer if you understand.
THE WITNESS: Certainly my personal preference was that if he were open and honest about this and come to the interview dressed as a woman, at least I wouldn't have been -- felt deceived.
BY MS. McGOWAN:
Q And did you have any conversations with Ms. Schroer about what her legal name was at that point?
A He told me that he would be changing his name early in January to Diane.
Q So up until that point, Ms. Schroer's legal name was still David Schroer?
A That's what he was using, yes.
Q So what would you have thought if on December 28th, I think it was, at 10:00 a.m., when the person on your interview list named David

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Schroer was scheduled to appear, a woman in a dress showed up for the interview?
MS. RUSSELL: Calls for speculation.
But you can answer if you understand.
THE WITNESS: What would I -- I'm sorry?
BY MS. McGOWAN:
Q What would you have thought?
A I would have thought the person was a transsexual.
Q And how would that have impacted your assessment of that applicant?
A I would have probably consulted personnel security to see if there were implications for an individual's ability to get a security clearance.
Q Other than the security clearance issue that you just identified, would you have thought that this individual being transsexual impacted on their KSA's, in knowledge, skills, and abilities, for the position?
A No, other than contacts. I did have some concerns about whether his contacts knew,

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whether they would be as forthcoming as they might be had he not revealed this or undergone the procedures.
Q And would your concern about contacts have been less if Ms. Schroer had come to the interview dressed as a woman?
A They would have been there under that case, as well.
Q Do you recall, when Ms. Schroer told you that she was transitioning from male to female, do you recall saying anything along the lines of, you know: Why would you want to do something like that, or words to that affect?
A I think I did ask him how did you come to this decision, why did you do that, yes.
Q And what was his response? What was Ms. Schroer's response?
A To the best of my recollection, he said that he had never felt comfortable in his body, and that it was something that he -- probably came to him as -- as -- when he was young, but it took a long time for him to come to the realization

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that, yes, I would be more comfortable in a female's body.
Q And so you -- am I right you were told by Ms. Schroer that this was something that she had been dealing with for a long time; is that right?
A Yes. Uh-huh.
Q And to the extent that this was something that Ms. Schroer had been dealing with for a long time, were you concerned at all about how Ms. Schroer's decision to appear at work as a woman may or may not distract her from her work duties?
A I'm sorry. Please repeat that.
Q Sure. I'll make it a shorter question.
Were you concerned at all about Ms. Schroer's transition as being a distraction?
A I was concerned in terms of the surgeries. And I knew nothing about how many surgeries would be required, how long they would take.
Q And did you ask Ms. Schroer for any

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information that might give you a better sense about that?
A I don't recall that I did.
Q What did you think about the fact that Ms. Schroer had brought pictures of herself dressed as a woman to this meeting?
MS. RUSSELL: Objection. Lacks foundation.
BY MS. McGOWAN:
Q Let me back up.
I think we discussed that at some point in the meeting Ms. Schroer showed you pictures; is that correct?
A That's correct.
Q And these were obviously pictures that she had brought to the meeting to show you; is that right?
A That's right.
Q Okay. What did you think about the fact that she had brought these pictures to this meeting?
A I guess I thought David wants to see

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me -- wants to show me what he would look like as a female. I don't think I thought anything beyond that.
Q Do you recall what you said first when you saw the pictures?
A I don't think I said much of anything.
Q Do you recall saying "wow," or words to that affect?
A No.
Q Did you think it was appropriate for Ms. Schroer to show you those pictures?
A I didn't know what was appropriate.
MS. RUSSELL: Objection to the form of the question.
Go ahead.
BY MS. McGOWAN:
Q I'm sorry?
A I didn't know what was appropriate.
Q So after hearing this information, did you have any concern that the contacts that Ms. Schroer had in the government and the military would no longer want to associate with her because

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she was undergoing a gender transition?
MS. RUSSELL: Object to the form.
But you can answer if you understand.
THE WITNESS: Yes. I think I already mentioned that.
BY MS. McGOWAN:
Q Okay. And why did you think that?
A The military being the culture it is, and particularly special forces, I thought it's possible that some people would be understanding and others would not.
Q And when you talk about the culture of the military, what do you mean?
A Combat lines, uniquely male profession.
Q Did you think of the military as being a particularly unfriendly or unsympathetic place with respect to transgender people?
A I thought it was likely probably to have a more conservative attitude than the general population at large.
Q And in this context, by conservative, is it fair to say that mean negative?

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MS. RUSSELL: I'm going to objection to the form of the question.
But you can answer if you understand.
THE WITNESS: Conservative in terms of traditional values than is being seen as outside those traditional norms.
BY MS. McGOWAN:
Q Were you concerned about bias by military people against Ms. Schroer if she were in the position?
A Yes.
Q And with respect to this concern about her contacts with government and military people and possible bias, did you express any of those concerns to her?
A No. I was to the point where I didn't want to say anything more, because I needed to process it. I needed to go back to my agency, talk to some people.
Q And so did you ask her if any of her special forces, you know, colleagues knew that she was transitioning?

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A I didn't ask that.
Q As you were hearing this information, what were you thinking with respect to Ms. Schroer's trustworthiness?
A As I said, I felt somewhat deceived.
Q And why did you think that?
A Because he waited for so late in the game to talk to me about this.
Q And when in the process do you think Ms. Schroer should have told you?
A He could have told me at any time. He could have told me at the interview or after the interview. He could have told me when I contacted him to let him know that he was a top candidate and that I would be starting reference checks.
Q And – I'm sorry. Continue.
A He could have called me any time while those reference checks were going on and we were in fairly routine contact by phone or by e-mail.
Q And if at the point where you contacted Ms. Schroer regarding her reference checks she told you this information about her intentions to

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transition, would you have gone forward and contacted her references, or would you have walked away at that point?
MS. RUSSELL: Objection to the form. Calls for speculation.
THE WITNESS: I would have probably did the same thing I did in this circumstance, and go back talk to my boss and talk to personnel security to determine impact.
BY MS. McGOWAN:
Q Did you say anything to Ms. Schroer about feeling deceived, or your concerns about her trustworthiness?
A I don't recall that I did.
Q Is there anything else that you remember discussing during this lunch?
A I remember saying something to the affect that, David, you've given me a lot to think about. I need to go back to my office and talk to some people. I do want to fill this position by Christmas, and so I'll get back to you in a timely manner.

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Q Anything else?
A That's -- that was pretty much the end of the conversation.
Q Okay. And before we end this part of the conversation, I just want to go back and make sure that I am clear about everything that you discussed.
When you raised this issue with Ms. Schroer of how can I hire you as David when you want to show up as Diane, other than the name on the form and other than the security clearance concern that you identified, did you mean anything else by that question?
MS. RUSSELL: I'm going to object to the extent it mischaracterizes her testimony.
But you can go ahead and answer if you understand the question.
THE WITNESS: Please repeat it.
BY MS. McGOWAN:
Q Sure. We've talked about the concern about the name that goes on the paperwork, whether it should be David or whether it should be Diane.

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And also talked about your concern about the security clearance issue.
I'm sort of wondering if there's anything else that you were trying to convey when you asked Ms. Schroer: How can I hire you as David when you want to come to work as Diane?
MS. RUSSELL: It's the same objection.
But answer it if you understand it.
THE WITNESS: It was a practical question. David Schroer applied. David Schroer interviewed. I did reference checks on David Schroer. He wants to start work as Diane. I didn't hire Diane. I didn't recommend Diane. I didn't interview Diane.
BY MS. McGOWAN:
Q And in what ways were you concerned that Diane would be different from David?
MS. RUSSELL: Objection to the form.
BY MS. McGOWAN:
Q Or were there any ways in which you were concerned that Diane would be different from David in a way that would impact your decision about

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whether you wanted Diane when you had wanted David?
A Just the security clearance.
Q Okay.
A The contacts.
Q Uh-huh. Anything else?
A Those were the primary.
Q Recognizing that these two were the primary reasons, were there any other reasons, even recognizing that they may have been less important?
A Credibility with members of Congress went through my mind.
Q And by credibility, what do you mean?
A This position is a senior position. It would likely be that -- or it was certainly expected to be that this person would have close contacts with committees, potentially be called to testify. Generally when you testify they read a bio about yourself. He would be testifying before people who knew -- would know that only a man could have those experiences.

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Q And were you concerned that people would react negatively?
A Yes.
Q And why is that?
A That they might not be as tolerant, the same reason as the contacts.
Q And so with respect to the credibility with members of Congress, is it fair to say that you were concerned about bias against plaintiff by individuals who disapproved of transgender people?
A I thought it was possible.
Q And did you -- were you concerned that people might be less interested in what she had to say because she was transgender?
A Yes.
MR. ESSEKS: Why don't we take five minutes.
MS. McGOWAN: We'll take a five-minute break here, and be back at 2:00.
(Recess)
BY MS. McGOWAN:
Q So we're back from our break. And we

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were just wrapping up our conversation about the lunch meeting that you had with Ms. Schroer.
Before I sort of move to what happened next, I'll just ask you is there anything else about that conversation that we haven't discussed?
A Not that I recall at the moment.
Q And how did you wrap things up?
A I think with that last statement that I said there, David, you've given me a lot to think about. I need to go back to the Library and talk to some officials, that I want to finish this posting around the Christmas -- before Christmas, and that I will be back to you -- I can't remember whether I said the next day or in 24 hours, but soon.
Q And at some point you and Ms. Schroer part ways; is that right?
A Yes.
Q Okay. So did you walk back to your office by yourself, or was Ms. Schroer still with you?
A Well, we walked out of the restaurant

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together. I don't think he went back into the building with me.
Q Okay. What were you thinking as you walked back to your office after lunch?
A That was the most incredible experience I ever had.
Q And what do you mean by incredible?
A Unbelievable. It's just not what I expected at all.
Q Now, you mentioned -- and correct me if I'm wrong -- that you said that you had never known a transgender person before; is that right?
A Yes.
Q So how do you know whatever you knew at that point -- how did you know whatever you knew at that point about what it meant to be transgender?
A From what David told me.
Q Had you ever, you know, seen any television shows or movies about transgender people?
A No. The only recollection that I had

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was of tennis, was Rene Richards, when she played with Billy Jean King. Yes, I am that old.
Q And what did you know about Rene Richards? And how did that sort of inform what you knew about transgender people?
A I just knew that there was a sex change.
Q And have you ever interacted with anyone who's transgender?
A I don't believe I have. It's possible that I may have, but not to my knowledge.
Q And this is sort of a subpart of this question, but have you ever interacted with anybody at the Library of Congress who's transgender?
A Not that I know of.
Q And have you ever interacted with someone whom you didn't know at the time was transgender, but then later found out that they were?
A No.
Q Are you familiar with the movie "Trans-America"?

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A No.
Q Okay. Other than the television reports you mentioned about Rene Richards, have you seen any television documentaries or news shows about transgender people?
A No.
MS. RUSSELL: Objection, to the extent it that it mischaracterizes her testimony.
But you can answer if you understand.
THE WITNESS: If I understand, you asked me if I have seen any --
BY MS. McGOWAN:
Q Television --
A -- television shows or documentaries about transgender migration issues? No.
Q When you learned that Ms. Schroer is in the process of transitioning from male to female, did that make you feel uncomfortable at all?
A I would say more curious than uncomfortable. I was trying to understand it.
Q Did you feel differently interacting with her once she told you that she felt like she

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was a woman?
A Not about the individual, no. I knew it was going to create all kinds of complexities. But as far as the way I felt toward David, no.
Q And so from your perspective, nothing about your interaction was any different after you learned that Ms. Schroer was a transsexual woman?
MS. RUSSELL: Objection to the form.
You can answer if you understand.
THE WITNESS: I won't say nothing was different. My feelings about David's competencies, his knowledge, his experience was -- was not different. Yes, I was surprised, as I stated. And, yes, it did raise concerns about whether he was going to be able to -- whether she was going to be able to fill the institutional needs that the organization had.
BY MS. McGOWAN:
Q And so other than that, other than your thinking through the impact of this information on the job, you had no other personal reaction to the news?

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A No. I mean -- no. I didn't bear him ill will as a result of it, no.
Q And not even ill will. Was there any way in which you felt differently interacting with Ms. Schroer after you learned this news?
MS. RUSSELL: Same objection. Form.
THE WITNESS: Please repeat.
BY MS. McGOWAN:
Q Sure. You mentioned that you didn't have any ill will.
And I was asking, putting aside sort of any, you know, feelings of ill will towards Ms. Schroer, was there anything about your interaction with Ms. Schroer that felt different after she tells you: I'm a woman?
A Just what -- what I was going to need to do, but not about him as an individual.
Q Did you have any concern that Ms. Schroer wouldn't pass for a woman if she came to the Library of Congress dressed as a woman?
MS. RUSSELL: Objection to the form.
THE WITNESS: That wasn't a

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consideration that crossed my mind.
BY MS. McGOWAN:
Q Did you think individuals who had not met David Schroer would see Diane Schroer and suspect that this was a transsexual person?
A Again, that was a fleeting thought in my mind, if that. These other real factors were. The security clearance, by far the dominant, was what I was focusing on. When I came back and I talked to the director, the first person I talked to was Cynthia Wilkins. That was my overriding concern.
Q And we'll definitely talk about what happened when you got back to the office.
My question is, in light of what you saw in the pictures that Ms. Schroer shared with you and the concerns that you expressed about how she looked, were you concerned that other people would react to Ms. Schroer as a man in a dress?
A I don't know if "concerned" is the right word. Yes, they probably would have.
Q As far as the individuals who are in the

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specific unit where the terrorism specialist would have worked -- and I believe that's Mr. Miko's unit -- how many people are in that unit, if that's the right term to describe the section?
A Roughly 12, 13.
Q And how many of those people are -- in that unit are military veterans?
A Only the person who was hired for the position.
MR. ESSEKS: Mr. Rollins?
THE WITNESS: Yes.
BY MS. McGOWAN:
Q And how many men and woman are in that unit?
A That may take me a minute.
Q Okay.
(Whereupon at which time the witness wrote on a piece of paper.)
THE WITNESS: And now that I am composing this list, I now see that there is another man who is -- had military experience, as

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well, in that section.
Right now, I'm coming up with six women and four men.
BY MS. McGOWAN:
Q Okay. And can you go through -- and I don't necessarily need the names -- but tell me which positions are held by the men, and then which -- the titles of the positions that are held by the women?
Or approximations, a description of the --
A Of what they do?
Q Of what they do, by subject area or however it takes.
A Okay. I'll start with the men. The first one does foreign aid, would be Mr. Rollins, who obviously does terrorism. The third person does international narcotics and crime. And the fourth is a new-hire who does the foreign policy apparatus.
Q Okay.
A Do you want me to do the same thing for

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the women?
Q Yes. As to the women?
A The first person does sanctions and foreign policy legislation.
Q I'm sorry. Is that two or --
A That's --
Q -- that's one?
A -- sanctions and foreign policy legislation. The next one does foreign policy management, State Department. The third person does humanitarian relief and reconstruction. The fourth person does human rights and international health. The fifth person does foreign operations appropriations. The sixth person does the United Nations and related agencies.
Q Okay.
A I could be omitting somebody. That's just the best of my recollection.
Q Sure. Can you explain to me a little bit what foreign policy apparatus -- that was one of the positions that you listed -- what does that do?

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A The institutions in the State Department, International Broadcasting, what used to be the U.S. Information Agency.
Q And so this person provides research support for those agencies?
A Right, and programs conducted by those agencies. USAID.
Q And how many of these positions interact regularly with members of the military?
A Certainly the terrorism position, the narcotics position, the reconstruction and humanitarian relief. That's about half of them.
Q And am I correct Mr. Miko is the supervisor of all these people?
A Yes.
Q Okay. So we are now at the point where you're back at your office. Tell me what's the first thing you do.
A Go down to the director.
Q Did you encounter anyone --
A Before that? No.
Q Okay. So you go down to the director.

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And that's Mr. Mulhollan?
A That's correct.
Q Okay. Tell me what happens.
A I tell him about the lunch, and what Mr. Schroer has revealed.
Q And how do you describe this to him, what happened?
A I said, Dan, I just had a very unique situation, experience in my life. The candidate that I was considering recommending for the position of terrorism has informed me that he would like to start work as a woman. He said, you're kidding. I said, no. I said, I need to talk to some people. I said, I would like to go down and talk to Cynthia Wilkins, because I was pretty sure this was going to have implications for security clearance.
And he said, okay, I will let Kent know. And that would be Kent Ronhovde, who is the counselor to the director.
Q Other than "you're kidding," did Mr. Mulhollan say anything else to express, you

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know, his surprise or other reaction to your news?
A No. It was a short conversation, probably lasting no more than two to three minutes. And I did tell him that time was of the essence, because I promised to get back to Schroer.
Q And so other than offering to contact Mr. Ronhovde, did Mr. Mulhollan say that he would do anything else?
A No.
Q And then did you go directly from that meeting --
A I think I went back to my office to call Cynthia first to see if it was okay to come down, if she were free.
Q And did you explain at all to her what you wanted to meet with her about, on that phone call?
A No.
Q She was available?
A She was available.
Q And so what happened next?

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A I went to her office. And I told her the same thing, what had transpired. And I asked her what ramifications this new information would have that related to the candidate's ability to get clearance.
Q And when you told her what had happened during your lunch meeting, what did you say?
How did you describe what had happened?
A I said, Cynthia, I was considering recommending a candidate for a position that requires a top secret security clearance. During the conversation, the gentleman told me that he would like to start work as a woman, and that he would like to -- how could I say it -- migrate -- transgender migration, was undergoing transgender migration.
Q And what was her reaction?
A Her reaction was she had not dealt with a case like this before. And she asked me a few questions. And then she said that she would like to check on the regulations before discussing this with me any further, and that she would meet with

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us tomorrow, or soon thereafter.
Q I'm interested to find out more about the questions that she asked you.
Before we turn to that, as far as her initial reaction, did she say anything along the lines of "wow" or --
A No.
Q -- "holy smokes, that's wild"?
A No.
Q Okay. Other than saying that she hadn't dealt with a case like this before, did she provide any sort of initial indication about her reaction to this piece of information?
A No.
Q And then you said that she asked you some questions.
What questions did she ask you?
A Was the -- did the job vacancy announcement carry a TIS requirement.
Q And your answer to that was?
A Yes.
Q Okay. What else?

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A I don't recall.
Q Did she ask whether or not the applicant currently held a clearance?
A She may have.
Q Did she ask anything about when the individual's most recent security investigation had been conducted?
A No.
Q Did she ask you any questions about break in service, or interruptions in service?
A Not that I recall. She didn't ask me about the individual. She was just trying to get some facts before she did her research.
Q At that point, having gone through the application process with Ms. Schroer, did you know whether there had been any interruption in Ms. Schroer's holding of a security clearance?
A No.
Q And so at this point, am I right that Ms. Wilkins asked for no information specifically about the person involved?
A I don't recall.

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Q Did you offer any information about the specific person involved for her to take into account?
A I think I did mention, yes, that he had 25-plus years of military service, told her his MSO.
Q I'm sorry. By --
A That's military occupational specialist.
Q Okay. Okay. What other information about Ms. Schroer specifically did you share?
A That he had showed me a portfolio.
Q Did Ms. Wilkins ask any questions about the portfolio?
A No.
Q Did she ask you to described the pictures in the portfolio?
A No.
Q Did you describe what the pictures were?
A I can't recall, other than to say he showed me about half a dozen photos of what he would look like as a woman.
Q And how long did the meeting with

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Ms. Wilkins last?
A Not long. Ten minutes, 10, 15 minutes.
Q Did you discuss any of the specifics that Ms. Schroer had shared with you about what was involved in transitioning, either sort of medical or psychological?
A Other than to tell her that he intended to go through the complete process.
Q And did you --
A And that he -- I do remember telling her that he had mentioned that he would likely need a psychiatric fitness for duty prior to a determination whether or not to go ahead with a security clearance investigation.
Q And did Ms. Wilkins respond at all to your use of the term psychiatric fitness for duty evaluation?
A No.
Q Did she express, you know, any sentiment agreeing or disagreeing with whether or not Ms. Schroer's statement about a psychiatric fitness for duty evaluation was accurate?

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A No. She said she wanted to do her homework. That's the kind of person she is.
Q And so did you inform Ms. Wilkins that Ms. Schroer was under the care of a therapist?
A Possibly.
Q And did you discuss any sort of specific medical procedures that Ms. Schroer might be contemplating?
A No.
Q Did you discuss at all with Ms. Wilkins whether there was any information that would be particularly helpful for her to have from the applicant?
A No.
Q Is there anything else that you discussed during that conversation?
A Not that I recall.
Q What did you do next?
A I think I went outside and had a couple of cigarettes.
Q And what was going through your mind when you were having those cigarettes?

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A Wow, I can't believe this is happening to me.
Q And were you concerned at all that you were implicated in a hire involving a transgender person?
A I was starting to feel set up. The shock was winding down, and I was starting to think, wow, have I been had?
Q And I guess what do you mean by having been had?
I mean, did you feel put upon, or sort of -- how were you feeling?
I haven't been through this experience, so how were you feeling?
A I felt that am I being -- I was asking myself the question: Am I being set up for a legal suit?
Q And in what way did you think that you were being set up?
A Well, that he had reeled me in with this interest in the job, that he got me to admit that I was going to recommend him, and then he was

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going to tell me something which was going to change my recommendation, and that that could result in legal action against the Library.
Q Do you think that Ms. Schroer knew that this would change your recommendation, this information would change your recommendation?
A I have no way of knowing that.
Q At that point, when you're outside having probably a much-needed cigarette, were you starting to formulate in your own mind a plan about what you were going to do, how you were going to deal with this situation?
A I knew that we -- I needed to talk to people, to more people, that this meeting with Cynthia was going to become very important the following day.
Q At that point, did you still feel like you wanted to hire Ms. Schroer?
A I was leaning against it. I really didn't make up my mind until conversations with people the subsequent day, the next day.
Q And tell me why.

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Why were you leaning against it?
A Well, I did sense that there would be strong problems with the security clearance, then the same issues that we discussed about before: trust, and confidence, and credibility, and contacts. All these things were running through my mind.
Q And by credibility and contacts, that's what we were talking about with respect to sort of having, you know, negative interactions with the military or members of Congress; is that right?
A Right.
Q And was that a concern that standing alone was enough reason for you to decide you didn't want to go forward with Ms. Schroer?
A Absolutely not. That was a minor reason.
Q And your concerns about her trustworthiness, was that something that sort of by itself was a reason why you were thinking that you weren't going to go forward with her as --
A It wasn't a reason alone, but it was --

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it was a reason.
Q And if Cynthia Wilkins had come back to you and said, no problem, this person's got a clearance already, not a big deal, would you still have gone forward with your recommendation for Ms. Schroer?
MS. RUSSELL: Calls for speculation.
But you can answer if you understand.
THE WITNESS: I don't know the answer to that question.
BY MS. McGOWAN:
Q And what would have been the factors you would have been weighing if the security clearance timing issue had fallen away?
MS. RUSSELL: Same objection.
But you can answer if you understand.
THE WITNESS: Uh-huh. I probably would have gone back and done some serious reflection. Because the second candidate also had extremely good skills, and did very well in the interview, and had glowing recommendations, as well. I would have weighed my decision.

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BY MS. McGOWAN:
Q And in your mind, did this other candidate just present fewer concerns with respect to this credibility and contact point?
A Yes.
Q In part, because he was not transsexual; is that right?
A Yes.
Q After -- well, let's -- we'll finish that cigarette.
What else are you thinking?
I don't know how many you had, so -- I doubt one would have been sufficient, so, you know, what else were you thinking at that point?
A I think that we've pretty much covered it.
Q Okay. Walk me through sort of, you know -- roughly what -- what time is it now at this point?
A Late afternoon.
Q Okay. Walk me through sort of what happens between, you know, when you get back to

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your office and the end of your business day.
Who did you talk to?
A Steve Bowman. I think Francis was on leave that day. Gary Pagliano.
Q Okay. Anyone else?
A I may have talked to my deputy, my acting --
Q And who was that?
A -- who was acting deputy at the time, Ed Bruner.
Q Anyone else?
A Not that I recall.
Q Okay. And let's just walk through each one.
Steve Bowman, obviously Steve had been a member of the interview panel; is that right?
A Yes.
Q So tell me about your conversation with him.
A Again, I told him what transpired. Steve was shocked, as well.
Q What did he say?

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A I can't remember exactly what. Something -- some equivalent to "wow," as well. "You're kidding," something like that.
Q And after sort of his initial reaction to what you shared with him, did you guys talk at all about what it meant?
A Well, said next step. I said next steps we got to hear from personnel security. We got to speak to the legal folks.
Q Did Steve Bowman express a personal opinion about what he thought about Ms. Schroer's candidacy in light of this information?
A Not that I recall.
Q Did he ask you what you thought you were going to do?
A Well, that's why I said next step. We got to hear from the personnel security folks and the legal folks.
Q Did Steve Bowman offer sort of his two cents about what he would do if he were you?
A No, because we didn't know enough at the time.

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Q Did Mr. Bowman sort of make any comments along the lines of, you know: I wonder who else knew; I wonder if the reference I spoke to knew, anything along those lines?
A He may have. I don't recall these conversations.
Q Okay. Is there anything else from that conversation that you recall?
A No.
Q When you talked about what the next steps were going to be, in this conversation with Steve Bowman, you mentioned that you were going to be talking to the security clearance people. I believe you also mentioned that you were going to talk to the folks at legal.
While why were you going to talk to the folks at legal?
A Because, as I said, I thought there were potential lawsuit ramifications.
Q Did you talk at all about this concern about being set up for a lawsuit with Steve Bowman?

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A No.
Q When you were sort of thinking about, boy, have I been set up for a lawsuit here, were you thinking that Ms. Schroer actually wanted the job, or that she was just looking for some, you know, test case for a discrimination lawsuit?
MS. RUSSELL: Objection to the form, and to the extent that it might mischaracterize the testimony.
But you can answer if you understand.
THE WITNESS: I don't know the answer to that. I don't know what his motivations were.
BY MS. McGOWAN:
Q But at that point, did you have any doubt in your mind about whether or not Ms. Schroer had actually ever really wanted the job at all?
A He was certainly well-qualified for the job.
Q But as far as whether or not she had applied for the job because she actually wanted to do the job, did you any --

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A She seemed enthusiastic before he told me of his intention to complete the transgender migration. He certainly seemed enthusiastic in our conversations at the restaurant and at the interview. So that's the only thing I can say. He seemed to want the job.
Q And did your impression about how much Ms. Schroer seemed to want to job change after you had had this conversation about her gender transition?
A Not necessarily. I believe that part of what he would like to achieve if he wins this suit is to be reinstated, or to be hired in the first place.
Q Turning to the other people that you spoke to that day.
Gary Pagliano, who is he?
A Gary is another one of my defense section heads.
Q And tell me about your conversation with him.
A This, very similar, just described what

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happened.
Q Now, to the extent that Mr. Pagliano had not previously, you know, met Ms. Schroer or been involved in the process, did you have to explain to him in some greater detail sort of the background of the situation?
A No, I didn't, because he did know David Schroer.
Q He did?
A Yes. He and David were classmates at the National War College. And I had talked to Gary, if he knew Mr. Schroer while he was at the War College. This was while I was doing references.
Q And how did he react to the news that Ms. Schroer was transitioning from David to Diane?
A He was shocked.
Q How did you know that he was shocked?
Did he say something? Was it in his body language? How did you know?
A I would say both. You're kidding? Yeah.

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Q And what else did he say?
A I can't believe it. I would have never expected it.
Q Did he say why, anything about why he would never have expected it?
A Well, he knew that he was in special forces, knew of some of the operations that David had led, I think had visited David and his wife at their home.
Q Did he say anything along the lines of Dave being a macho or a masculine guy?
A No. He talked more about what an intellectual he was. He was a distinguished graduate of the War College, David.
Q Did Mr. Pagliano express any sadness or disappointment at this news?
A No. I think more disbelief.
Q Did Mr. Pagliano ask you what you were going to do next?
A I think he did ask me if I had a good second candidate.
Q And what did you say?

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A Yes, I did.
Q Did Mr. Pagliano say anything along the lines of, or ask you whether or not you were thinking about go ahead and hiring Ms. Schroer anyway?
A He might have asked me what I was going to do. If he did ask me that, I probably would have said at this point I don't know.
Q You mentioned everyone sort of expressing some level of surprise at the news.
With respect to your feeling surprised or shocked at this news, is one of the reasons you were shocked because of sort of the most hyper, masculine, macho background of this person?
A That's certainly, I'm sure, lend itself to it.
Q In light of Ms. Schroer's background as a special forces officer engaged in obviously very macho stuff, macho tasks, did that make it harder for you to visualize this person all of a sudden becoming a woman and wearing a dress?
A I think it did, yes.

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Q And were you concerned that if you brought Ms. Schroer on, that there would be problems resulting from the fact that Mr. Pagliano had known Ms. Schroer as David?
A No.
Q And by problems, I mean sort of, you know, awkwardness or any sort of difficulty in stressors in the workplace?
A That wasn't what was going through my mind at the time.
Q Is there anything else you recall from that conversation with Mr. Pagliano?
A No.
Q And how long, roughly, did that conversation last?
A Five, ten minutes maybe.
Q And was this a passing in the hallway conversation, or a phone call?
A I think I went into his office.
Q Okay. And then with respect to Ed Bruner, your deputy, Mr. Bruner, tell me about your conversation with him.

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A I have no recollection if I even had a conversation with him that day.
Q Okay.
A He certainly would have been a person I would have been likely to tell at some point, but I don't remember when.
Q At any point during that afternoon did you think about getting back on the phone with one of Ms. Schroer's references to find out if they had any clue that this was going on?
A No.
Q Were you curious about whether they knew?
A Yes.
Q So why did you decide not to follow up with any of them?
MS. RUSSELL: Objection. Calls for speculation.
BY MS. McGOWAN:
Q You can answer.
A I wanted to hear first what the finding was going to be from the office of personnel

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security. It was kind of pointless to do anything before I got advice from that office.
Q And to the extent it would have been pointless, why do you think it would have been pointless?
A Because given what Cindy told me the subsequent day, I didn't need know any more information.
Q But at that moment in the afternoon, before you had the meeting with Ms. Wilkins, did it occur to you that you might be able to learn something from these references that would be relevant to your conversation the next day?
A Not if -- the security clearance was, you know, the big ball out there. It was the foremost consideration in my mind. Until I had an answer to that question, I was not going to pursue anything else.
Q Did you talk to any other Library employees that afternoon about Ms. Schroer, or the situation generally?
A Not that I recall.

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Q Did you call any family members or friends to discuss what happened, either sort of in general terms or perhaps more specifically?
A Not from work.
Q Did you talk to family members later outside of work?
A Uh-huh.
Q Okay. Who did you talk to?
A My sons.
Q Okay. Tell me about those conversations.
MS. RUSSELL: I'm going to object on relevance grounds.
But you can answer.
THE WITNESS: On relevance grounds?
MS. RUSSELL: You can answer.
THE WITNESS: I think I said you're not going to believe what happened to me today. You know the gentleman's whose resume I showed you some time ago that you were quite impressed with? He told me today that he wanted to start work as a woman.

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BY MS. McGOWAN:
Q And you have more than one son?
A I have twin boys.
Q Okay. And were you having this conversation with both of them together, or were there different conversations with each of them?
A I can't remember.
Q And how old are your sons?
MS. RUSSELL: Same objection.
But you can answer.
BY MS. McGOWAN:
Q Are they adults, or are they under 18? Are they minors?
A They're adults.
Q And are either of them anyway affiliated with the military?
A Yes.
Q Okay. How so?
A Members of the Pennsylvania National Guard.
Q And I can do son A and son B, or I could call them by their names, whichever you prefer.

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A Son A and son B.
Q Okay. Son A --
A I don't know which one is which. That's the problem.
MR. ESSEKS: Pick one. You can do initials.
BY MS. McGOWAN:
Q How did son A react?
A They both reacted very strongly: No way. How can someone who goes through that experience decide that he wants to become a woman? I said well, it's something I certainly don't understand.
Q And when you mentioned that you had shared Ms. Schroer's resume with them, when had you done that?
A Probably over the Thanksgiving holiday. They were college students at the time, so they probably would have been home for Thanksgiving.
Q And what had their reaction been to Ms. Schroer's resume?
A Wow, this looks like someone who had

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great experience, you know, both at an operational level and a planning and strategic level.
Q During your conversation with them at that time over Thanksgiving, was there any conversation about, you know, wow, what's he like? You met him, you know, what kind of guy is he?
A No. I think they may have asked me how he did in the interview. And I said very well.
Q Did you share any other resumes with them?
A Uh-huh.
Q And is that something that you frequently do when you're hiring a new position, or was that --
A No --
Q -- unique to this one?
A -- it was kind of unique to this position, because of the military background of several of the people, because they were contemplating what kind of military occupation especially they might want to go into.
Q And did you share with them Mr. Rollins' resume?

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A Yes.
Q And what was their reaction to Mr. Rollins' resume?
A Very solid, as well.
Q Is it fair to say that they were more impressed by --
A Probably more wowed by the special forces, although Rollins was in delta force, so --
Q And the -- Ms. Schroer was in the special forces, so it was her resume that you were talking about as the one that they were more wowed by; is that right?
A Uh-huh. I think because of his -- the long duration of his career, whereas Mr. Rollins had a shorter stint in the military.
Q So when did you talk to them?
Going back to December, sort of --
A I don't remember if it was that night or if it was later. I'm not sure when they got home for Christmas break.
Q Okay. So just so I'm clear, was it a

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phone conversation, or was it an in-person conversation?
A I think it was in-person.
Q And did this conversation take place before your meeting with Ms. Wilkins?
A I don't know.
Q Do you remember if it took place before you had made your decision about the application?
A I think so, but I – I wouldn't swear by that.
Q I wanted to ask you as far as your sons' reaction.
When they asked, you know, roughly more or less how could someone who's been through all these experiences turn into a woman, you know, were you thinking something similar at that point?
A Uh-huh.
Q And did you talk at all about that with your sons?
A I said it's something that he obviously has to feel very strongly about to do, because it takes courage to do what he did, or is doing. I

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said I don't know that I will ever understand the reasons or at least to appreciate them, but he obviously feels very strongly about it.
Q And at any point between your lunch meeting and when you left for the day, or even at home I guess later, did you try and find out any more information about transgender people, either on the Internet or things like that?
A I did. I did look up some Internet sites.
Q So where did you look?
Did you go to Google or --
A Yes.
Q Okay. And what did you find?
A I found a couple of articles about the process and some of the surgeries.
Q And do you remember sort of who -- sort of what the source was of the material that you found on the Internet? Was it an individual, or an organization?
A It was an organization, but I don't remember what it was.

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Q Okay. How many different websites would you say that you visited?
A Just about two.
Q Are you familiar with an organization called the Harry Benjamin International Gender Dysphoria Association?
A No.
Q Did you come across the acronym HBIGDA, H-B-I-G-D-A, in your Internet search about transgender people?
A I don't recall.
Q Do you remember roughly sort of what -- if there was a title or a caption to the pages that you looked at?
A No.
Q And so what did you learn from that information?
A That it could be a lengthy process, that it was not something that was done lightly, that it involves working with a psychological -- a psychiatrist or psychologist who evaluates the individual and is in constant or regular contact

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with them, that it involves hormone treatment first, that typically if the individual wants to complete the transgender migration the second step would be to present full-time as a female for a year. And then the third stage would be the various surgeries.
Q Was this information on the Internet sort of all in text form, or were there pictures that you recall seeing?
A I think the articles that I read, as I said -- it was only a couple -- was all text.
Q And before reading this information, how did you feel about this whole idea of, you know, having this surgery to change your body from male to female? Did it seem a little freaky to you?
A As I said, I don't understand why someone would do it. But I respect him for what he wants to do.
Q Did reviewing this information make you feel as though it was maybe less weird than you might have initially thought?
MS. RUSSELL: Objection to the form.

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You can answer if you understand.
THE WITNESS: It helped me understand the process better.
BY MS. McGOWAN:
Q Did reading that information make you feel as though the treatment for transgender people was perhaps more mainstream than you had expected, or suspected?
A If it made me feel anything, it was, wow, this a long and ongoing process that could be quite time-consuming.
Q Did any of the information on the website that -- the websites that you read talk about sort of, you know, the clinical diagnosis aspects for people who are transgender, either by talking about gender identity disorder or gender dysphoria?
A I remember reading gender -- yes, the identity disorder, yes. I remember reading something about that.
Q Prior to reading that information, did you know that being transgender was something that

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actually had a medical term?
A I did not.
Q Did you think of it more as a lifestyle concern at that point?
A Probably, yes, to the extent I thought about it.
Q Okay. So that evening after leaving work, other than your sons, did you speak with anyone else about this situation with Ms. Schroer?
A I can't remember.
Q Okay. I'm going to turn now to the next day.
A Okay.
Q Describe what happened the next day with -- which is we're talking now about December 21st, 2004 -- with respect to any conversations or meetings that you had about Ms. Schroer.
A Okay. The previous day, I believe late in the day before I went home, I got an e-mail from Kent Ronhovde asking if I was available to meet at 9:00 o'clock the following day with Cynthia and Bessie Alkisswani.

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Q Okay. Anything else?
A At the meeting was also Bessie's deputy Kathy Deese, and Kent.
Q Up until this point, had you had any interaction with Ms. Alkisswani?
A Professionally?
Q About the Schroer situation?
A No.
Q And did it strike you as unusual that she had been asked to attend the meeting?
A No. She's the head of our workforce development. She's ultimately responsible for postings.
Q Did you have any conversation with Mr. Ronhovde before the meeting about what Ms. Alkisswani knew or might need to know in advance of the meeting?
A No.
Q And so did the meeting take place at 9:00 a.m.?
A Yes, it did.
Q So I have the lineup of the meeting as

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you, Ms. Wilkins, Ms. Alkisswani, Ms. Deese, and Mr. Ronhovde; is that correct?
A Right.
Q Anyone else?
A Not to my recollection.
Q How long did the meeting last?
A Maybe an hour and 15 -- hour, hour and 15 minutes.
Q So who started -- well, where was the meeting, first of all?
A In Kent's office.
Q And so who started the discussion? Did Mr. Ronhovde kick things off?
A Uh-huh.
Q Okay. And what did he say to start off the conversation?
A He said we're -- I don't recall exactly what he said. He introduced the meeting. He said these are the facts. Charlotte, why don't you lay out what happened, which I briefly did at the lunch the other day. And then I said and I went down to Cynthia's office and Cynthia wanted to do

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some homework yesterday afternoon and read up on the ramifications for this for personnel security. And what did you find, Cindy?

Q What did you say by way of sort of the background information?

Sort of what did you lay out as far as --

A I said we have a vacancy announcement. We interviewed 18 people. We have a couple of very good candidates. I was ready to select or to make a recommendation that Mr. Schroer be the position -- the person for that position. I said I got a call from him last Friday asking me to get together to have lunch or coffee, and that he mentioned at the time that there was something that he wanted to tell me.

So I stopped writing the recommendation at that point. And we had lunch. And he revealed to me that he would like to start work as a woman. And so I said so that immediately raised concerns to me about whether he could get a security clearance in a timely fashion. And I went down to

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see Cindy. And, Cindy, what can you tell me?

Q Did you ever indicate in this meeting that Ms. Schroer was still your top choice for the position, or did you describe it only in the past tense that she had been, prior to your lunch, your first choice?

A In the past tense.

Q So did you feel in any way as though you were going into this meeting and going to bat for Ms. Schroer?

MS. RUSSELL: Objection to the form.

THE WITNESS: No. I was there to seek professional opinion.

BY MS. McGOWAN:

Q So at no point did you make any comment along the lines of the fact that, you know, you really were trying to see if we could make this work with Ms. Schroer?

A No. I wasn't on one side or the other: I want to make it work or I don't want to make it work.

Q What were people's reaction to your

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description of the situation?

A I think they had heard it from someone else prior to the meeting. I think probably Dan had talked to Kent. I don't know. Because they all seemed to be aware of it to some extent.

Q Did everyone at the meeting seem completely unphased, like this was a run-of-the-mill conversation?

A No. It was a new situation for each of us.

Q Did anyone suggest or say anything to indicate that they were confused by, you know, either what you had said or what Ms. Schroer meant about her transitioning from male to female?

A No, I don't recall that.

Q Did anyone make any jokes, nervous jokes about this strange situation you were finding yourself in?

MS. RUSSELL: Objection to the form.

You can answer.

THE WITNESS: I don't recall jokes being made.

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BY MS. McGOWAN:

Q During the meeting, did anyone indicate that they were familiar with transsexuality?

A No.

Q And during the meeting, did anyone indicate that they knew who was transsexual?

A I'd like to amend that. Kathy Deese.

Q And what did she say?

A When she was with a previous agency, she had a situation in which someone who was already hired had decided to undergo a transgender migration, and that the agency had to accommodate

Q And so the agency accommodated that request?

A Yes.

Q What agency was that?

MS. RUSSELL: Relevance.

But if you know you can answer.

THE WITNESS: I'd be speculating. I'd be guessing. I have a pretty good idea, but I'm not sure.

BY MS. McGOWAN:

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Q Recognizing that it may not be the right one, what agency do you think it is?
A Department of the Army.
Q Did she mention how long ago this situation was?
A No.
Q And did she describe at all what the agency did to accommodate this person?
A Special bathroom facilities.
Q Did she mention at all whether this employee was in a position involving a security clearance?
A No.
Q And how did Ms. Deese present this information?
And by which I mean did she say, hey, I -- you know, I know people who dealt with this before and it wasn't a problem, or did she convey it in a different way?
Sort of how did she --
A I would say in a neutral way. It just -- maybe a question was raised: Has anyone

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ever encountered a situation like this before? And she described the situation.
Q And so just to make sure I'm clear about sort of this piece of the conversation, is there anything else that Ms. Deese said about how that situation had been handled?
A Not that I can recall.
Q Did anyone react to this information with a comment about what relevance it might or might not have for the situation you were grappling with?
A No. As I recall, shortly after that Cindy came in and we got into the personnel security aspects.
Q So this conversation with Ms. Deese occurred when Ms. Wilkins was not in the room?
A I believe so.
Q And was it prior to the beginning of the meeting, the formal beginning of the meeting?
A I think it was 9:00 o'clock. I think maybe Cindy was late to the meeting.
Q And at any point after Ms. Wilkins

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joined the meeting, did anyone make reference to the transgender employee that Ms. Deese had discussed?
A Not that I recall.
Q And did anyone else mention sort of any knowledge that they had about transsexuality or transgender people?
A No.
Q Did you mention at the meeting describing the situation that Ms. Schroer had shown you pictures of her dressed as a woman?
A Yes.
Q And did anyone ask what those pictures looked like?
A They may have.
Q Do you remember how people asked?
A No, I don't.
Q Did anyone ask whether or not she actually looked like a woman, in your opinion, in those pictures?
A Again, they may have but, I have no --
Q Did anyone express any concern about

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whether or not Ms. Schroer would actually look like a woman if she dressed as such?
A I think that was about the furthest thing from people's minds at that point.
Q So after laying out sort of these background facts, what happens next?
Is that when Ms. Wilkins begins to speak?
A Uh-huh.
Q Okay. So what did she say?
A She tells us that she's done some research into the regulations and findings. She said that she could not make a determination whether -- at this time whether or not Diane Schroer could get a clearance.
She did tell us that the requirement for the psychological fitness for duty would be a first step; that when that process was completed, based on the results of the fitness test, a determination would be made, A, to initiate a security investigation or, B, not to go any further.

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She also told us that given what Schroer had told us, that she would not waive clearance for him to start the job until a security clearance determination were made.

Q And what were the reasons she gave for her determination that she would not waive the pre-appointment security clearance investigation requirement?

A She just said under the circumstances of what he told you.

Q Did Ms. Wilkins indicate that she had reason to believe that in light of this information, Ms. Schroer now presented a threat to national security?

A No.

Q Did she indicate that there were any concerns about Ms. Schroer's psychological stability?

A No. That would have to be determined.

Q And did Ms. Wilkins discuss the impact or the significance of the fact that Ms. Schroer was currently holding a top secret security

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clearance?

A Well, she said that that would not be relevant to Diane.

Q And why did she say it would not be relevant?

A Because Diane doesn't have a clearance.

Q And what --

A Diane didn't exist in this point, in a legal sense, or in a sense of security clearances.

Q But to the extent that there was a security clearance filed with respect to David Schroer, did Ms. Wilkins explain why that file would not provide her with sufficient information to determine that a waiver was appropriate?

A She just said that Diane Schroer would need a separate clearance.

Q Did she say that Diane Schroer would need a separate clearance because the individual had a different name?

A I believe so. I mean, I think she used that analogy at one point, that if I become Charles Preece. I mean, it's not simply the name

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change. And when I got married, I didn't lose my clearance when I changed my last name. But it was the fact that he was transgendering.

Q And so in Ms. Wilkins' view, Diane Schroer was a completely different person upon whom -- for whom there was in relevant security information that she had available to her to evaluate?

A You'd have to ask Cindy that question. She was basing her adjudgments based on the regulations that she had familiarized herself with.

Q Is that the impression that she gave to you during your conversations?

A What was the impression?

Q That Diane Schroer was a blank slate about whom there was no information, such that she couldn't look at the information about David Schroer to make an assessment of the security clearance concerns?

MS. RUSSELL: I'm going to object to the form.

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But you can answer if you understand.

THE WITNESS: She didn't tell us whether there's a connection or not. That was -- it was the premise that the procedure would have to start with scratch -- from scratch, and that it would begin with a psychological fitness test.

BY MS. McGOWAN:

Q Did anyone at the meeting ask why it would need to start from scratch?

A No.

Q Did it make sense to you that it would have to -- the process would have to start from scratch?

A It didn't surprise me at all, no.

Q And why did it not surprise you?

A Because changing sex is a pretty big deal. And the fact of the psychological fitness determination did not surprise me at all. In fact, I knew that because David told me.

Q The fact that changing gender is a big deal still leaves me with the question of why did you think that the prior security clearance

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information about David Schroer would no longer be relevant?
A Because he was Diane Schroer, or becoming Diane Schroer. And for all I know, it may have been relevant at some point down the line. I don't know the answer to that question.
Q Did anyone -- or, well, what did Ms. Wilkins say with respect to the timing of all this?
And by "all this," I mean the security clearance process that she was telling everyone would be required?
A She was not specific about how long it would take, but she said it would be a lengthy process.
Q And when she said that she would not waive the pre-appointment investigation for Ms. Schroer, did anyone push back at all and ask her why not?
A She said under these circumstances, the office would not waive. She's the expert in this area, so --

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Q And what were the consequences of Ms. Wilkins saying that she would not waive the pre-appointment security clearance investigation requirement?
A What were the consequences of that?
Q Sure.
A Pretty much sealing in my mind that I would go with the other candidate. Because at the time, it would very likely be taken to complete this process.
Q At any point, did anyone -- so with respect to sort of -- with respect to Ms. Wilkins saying that she would not grant the waiver, I want to make sure that I understand sort of what that means with respect to the position.
If Ms. Wilkins says, I'm not going to grant a waiver, does that mean that this person cannot be hired for the position, or did it mean that were the person hired for the position, they would not be allowed to have access to any classified information?
A It means the latter. But if I say that

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a TS clearance is required to do the position from the outset, and the person does not have or cannot get that clearance, then if -- if he failed the clearance, if he were not given a clearance, he could have been fired for failing to pass the exam.
My determination not to go forward with him was based on say he is successful, say he does get through psychological fitness determination, say a decision is made by the personnel security office to go ahead and instigate a clearance. When that is all done, if they grant him a clearance, that was not going to happen, in my judgment, within a year. And I did not want to wait that long to bring somebody on board.
Q And did Ms. Wilkins tell you that she expected the process would take a year?
A No. She was never specific as far as time. She referred to it as lengthy. It's based on experience that I have, particularly post 9/11, for how long it takes to get a TS clearance.
Q Were there any responsibilities of the

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terrorism specialist position that could be performed without a top secret clearance?
A Yes.
Q What percentage of the work can be done without a top secret clearance?
A A large percentage can be done. The question is at what level of sophistication. And for a GS-15 analyst, we're expecting them to be out there in the public policy community, with the movers and shakers, with the committees in Congress. And they're going to need a clearance to talk in those circles on counterterrorism policy.
Q When you say that a large percentage can be done, recognizing this is not a science, sort of what --
A Research --
Q -- percentage --
A -- their research. They'll be researching from open sources. They'll also be going out in their research to talk to people in the policy community. Some of those people they

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will be talking with on a classified level.
Q So is it the case that 100 percent of the work can be done without a clearance, but it won't be as sophisticated as we would like, or only 75 percent of the work can be done, and there's this whole category of 25 percent that you just can't do anything on without a clearance?
A It's both. It's both of those things. You won't get access to some meetings if you don't have the clearance.
Q And so I'm not a hundred percent sure how you can --
A You can do --
Q -- have both --
A -- research from secondary sources.
Q Right. And so that's --
A And those sources might not be classified. So you can do some work. You can't do it at the level as if you were interacting with people in the policy community, if you were talking to members of Congress, if you were sitting in on classified briefings that were

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supplied by other agencies.
Q So as between the two options I presented, you'd say it's the first option, which is the work can -- 100 percent of the work can be done, but it would be done -- some of the work would be done with less sophistication because an individual did not have access to top secret -- or access to classified information; is that right?
A Yeah, I mean, you might be able to produce GS-12 work. I don't know that you can produce GS-15 work in this field.
Q With respect to an applicant for a position like this, that was the top choice but had no prior security clearance history, would it have also taken, in your estimation, a year for them to have run through the process?
A Probably a little bit shorter time, because we're not talking about the psychiatric fitness for duty. But I'm finding nine months is pretty typical for new folks who are coming in who don't have a clearance.
Q So you think it would actually take --

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have taken less time for a candidate with no prior security clearance than it would have taken for someone like Ms. Schroer, which -- a person who had a security clearance filed for a couple of decades, but had the transgender information, as well?
A Well, if they were going to start from scratch, yes.
Q And did Ms. Wilkins specifically tell you how long it took --
A She was not specific at all.
Q Just to get my question out.
A Oh, sorry.
Q Did she tell you how long it took -- or she expected it would take to run someone through the security clearance process from scratch?
A She kept characterizing that it would be a lengthy process. She was not specific.
Q And did Ms. Wilkins actually use, you know, roughly the equivalent terms of starting from scratch?
A The terms -- I can't remember the exact

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terms she used. She said first there would be the fitness for duty. If a decision was made to go ahead, we would initiate a background investigation.
Q And so you don't recall whether or not she actually used the term "start from scratch" with respect to what would be required for --
A I doubt she did. That's more my vernacular than it is hers.
MS. RUSSELL: Sharon, we've been going for 90 minutes, I believe.
MS. McGOWAN: Okay. Do you want to maybe take a five-minute break?
MS. RUSSELL: Is this a good time?
MS. McGOWAN: Sure. Let's take a break.
(Recess)
BY MS. McGOWAN:
Q So now we're back from our break. And we were talking about this meeting at 9:00 a.m. on December 21st. We were talking about what Cynthia Wilkins' report back was.
Did at any point she suggest a need to

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get information from the health services office?
A The health service office would be responsible for setting up and arranging the fitness for duty.
Q But with respect to the conversation you were having there that morning at that meeting, did anyone suggest a need to bring in someone from the health services office?
A No.
Q Were there -- what else did Ms. Wilkins say about the security clearance process that we haven't yet discussed?
A I've told you what I remember.
Q Okay. Were there -- well, what did Ms. Alkisswani say during this meeting?
Did she react at all to this information?
A I really don't recall. People were asking questions. And I don't recall specifically what they were. The message from Cindy is what I took away from that meeting.
Q Were there any discussions in the

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context of this meeting, about Ms. Schroer's trustworthiness?
A There could have been. We discussed other issues beyond security.
Q What issues did you discuss?
Tell me about those conversations.
A I think they're again limited to the ones we talked about before: Trust, contacts.
Q And did you raise the trust and contacts point, or did you someone else?
A I can't remember. I think we were all thinking the same thing.
Q And what did you say in that meeting regarding this issue of trustworthiness?
A Well, I did say that I felt set up, and I didn't know if I could trust someone who tried to deceive me.
Q And what kind of reaction did you get to that comment?
A I understand.
Q And do you recall in particular any people specifically expressing that sentiment?

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A No.
Q And sort of how did you articulate this concern about contacts in that meeting?
A That I was concerned that by changing sex and identity, that the contacts that he had, particularly in the military, would not know who he was to them; and they might -- they might not be as helpful.
Q And did you talk at all in that meeting about the negative reaction of military people to Diane, who is now this transgender person?
A No, other than to say that some people might be understanding and others might not.
Q Was there any discussion about the reaction or what the reaction might be of other Library employees to the fact that Ms. Schroer was transitioning from male to female?
A No. We talked about the bathroom question a little bit.
Q Okay. And what did you say there?
A That we would have to make special accommodations for at least a period of time.

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Q Do you remember who raised that point?
A No.
Q Was there any discussion at that point about the example of the Department of the Army that Ms. Deese had previously discussed?
A I don't remember where the linkage was, and if that's where it came up, or whether it came up separately from what Kathy was talking about, that she said there was special accommodation made.
Q And was there any discussion about how easy or difficult it might be to accommodate this bathroom concern?
A No. I mean, it was so minor. We realized there was much bigger issues. We didn't dwell on this one.
Q Were there any discussions about how the members of Congress might react if they figured out they were interacting --
A Right.
Q -- with a transsexual --
A Right.

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Q -- woman?
A Yes. That came up.
Q Tell me about that.
A Just raised, as I mentioned about -- a couple of hours ago -- the issue of credibility. Again, like the military, that some people may be very tolerant of the knowledge and the information, and other people may think that damages the individual's credibility.
Q Do you remember who else in the conversation engaged in the discussion of this point?
A Well, Cindy pretty much stuck to security, personnel security issues. And Bessie, Kent, and I were having more of a free ranging discussion. But I don't remember who raised what.
Q Was there any discussion at this meeting about things that one might be able to do to speed up the security clearance process for Ms. Schroer if you decided to go forward with her?
A No.
Q So, for example, did you propose that

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Ms. Wilkins have a meeting with Ms. Schroer?
A No.
Q Did you suggest that Ms. Schroer look at David Schroer's security file?
A Pardon?
Q Did you suggest or did anyone suggest that Ms. Wilkins pull and review the security file for David Schroer?
A No.
Q Did you or anyone suggest that Ms. Schroer meet with the health services office?
A No.
Q Did you or anyone else suggest Ms. Schroer meet with any other member of the Library staff?
A No.
Q Did you or anyone else ask whether or not there was anyone at the Library who had dealt with a similar situation regarding a transitioning applicant?
A No.
Q Did anyone make any other suggestions

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along those lines of things that one might want to do before moving on to the next step?
A No.
Q Okay. Did you or anyone suggest calling Ms. Schroer to get some more information to factor into your decision-making process?
A No.
Q Did Ms. Wilkins or anyone else suggest that they were interested in finding out whether or not Ms. Schroer had reported any of this information about her transition to the entity currently holding her clearance?
A No.
Q So how were things left at the end of the meeting?
A Things were left that we should talk to the general counsel's office.
Q And who made that suggestion?
A I don't know for sure, but probably Kent.
Q And was there any discussion at the end of that meeting about the decision that was going

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to be made regarding Ms. Schroer?
A No. I think we wanted to -- I mean, my decision was pretty close to -- my decision was pretty final then. I was ready to move on.
Q And what were your reasons for deciding that you wanted to move on?
A The time, the uncertainty as to whether the clearance would ultimately be granted. That was the 90 percent factor.
Q The issue of credibility and contacts, was that a reason?
A They probably go about five each, yeah.
Q Okay. And I absolve you from the fact that we have reached 100.
Are there any other reason, with whatever percentage that you want to attach to them, that factored into your --
A Well, we discussed credibility before.
Q Okay. And by credibility, just to be clear, we're talking about both being able to interact with members of the military who might be hostile to her as a transgender person, and

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credibility with members of Congress?
A Primarily the latter.
Q Primarily the latter? Okay.
A Right. Contacts with the military, credibility with the members.
Q Okay.
A But the operational needs of the division were such that I needed to have someone on board months before we are now, or where we were at the present time, in December.
Q And did you have in your mind, in that meeting with Cynthia Wilkins, an amount of time beyond which you were unwilling to go with respect to how long the clearance would have taken?
For example, if Cynthia Wilkins said it'd probably take about six months, sort of was there an amount of time in your mind where beyond which it was just not going to be worth your while anymore?
A I really wanted someone to start in January.
Q And how important was it for you that

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the person could start in January with full clearance?
A I wanted the person to be able to start the new session of Congress, which beings at the end of January.
Q And so if Cindy had come back, or in this meeting and said, you know, I actually think it's not going to be a problem, but I need two weeks to figure it out?
MS. RUSSELL: Objection. Calls for speculation.
But you can answer it if you understand.
THE WITNESS: I wouldn't have believed it, but -- if she said that and it were two weeks, we probably would have gone through the process.
BY MS. McGOWAN:
Q Notwithstanding the residual concerns about credibility and contacts?
A I'm not saying I would have selected her for the job, but -- I mean, at that point, knowing what I did, it's foolish to speculate about two weeks because. That's totally unrealistic. I

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probably would have gone with the other candidate, who did not have any of those issues.
Q And just to be clear, even if Cynthia Wilkins had come back and said two weeks, you probably would have gone with the other candidate? Am I understanding you correctly?
A Yes. Yes.
MS. RUSSELL: Same objection. Calls for speculation.
THE WITNESS: I mean, I would have had to do – prepare the recommendation. The PAR would have had to be generated. And then it would have gone to Cindy's shop. And then it would have gone to the fitness for duty. And then it would have gone for the investigation. So, no, at this point I was -- at this point, I pretty much made up my mind.
BY MS. McGOWAN:
Q So recognizing that Cynthia Wilkins is, you know, the person who was giving you her assessment of how long it would take, I just want to be sort of clear I understand, you know, where

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you were at that point.
If Cynthia Wilkins had come to the meeting and said to you this is information that I want to take a look at; but in light of the fact this person's, you know, got a prior work-up, I think that it'll take me about two weeks to figure out whether or not, you know, this is a problem, am I correct that you're saying that even if she had said two weeks to you, you would not have gone forward with Ms. Schroer?
MS. RUSSELL: It's the same objection.
THE WITNESS: I really feel you're asking me to speculate on something that is completely unrealistic.
BY MS. McGOWAN:
Q Unrealistic or not, if that had been what Ms. Wilkins, as the personnel security officer, came back and said I can give you an answer in two weeks --
A I don't know what I would have done.
MS. RUSSELL: Asked and answered.
But you can answer.

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BY MS. McGOWAN:
Q Well, actually, I haven't yet gotten an answer out yet, so --
A I don't know what I would have done.
Q And as far as if Ms. Wilkins had come back with the I can give you an answer about the security clearance issue in two weeks, is part of your uncertainty about whether or not you would have gone forward with Ms. Schroer or not because of these credibility and contact concerns that were in your mind, as well?
A It was the time and the operational requirements. She had given me an answer about what would be required. And based on that, I made a decision to go to the other candidate.
Q Right. And I'm asking if she had said that it would have taken only two weeks of time to give you an answer on whether or not this person could continue to maintain their top secret security clearance, would the other concerns that you had had about credibility and contacts led you to still make the same decision to not go forward

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with Ms. Schroer?
MS. RUSSELL: I'll object. Asked and answered.
But you can answer the question again if you understand it.
THE WITNESS: These other factors are contributing factors. The main reason was the operational factor. I don't know what I would have done if she said that preposterous thing.
BY MS. McGOWAN:
Q And so I recognize that we're talking sort of in the hypothetical, but I'm trying to sort of isolate this factor of the amount of time that it would have taken, and take that out of the equation.
In a world where Cynthia Wilkins told you that it would not take a long amount of time to resolve the security clearance issues, would you have gone forward with Ms. Schroer as the applicant for the terrorism specialist?
MS. RUSSELL: Again, it calls for speculation. And it's been asked. And it's been

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answered.
MR. ESSEKS: No, I'm sorry. It hasn't been answered.
MS. RUSSELL: It has been answered.
THE WITNESS: It has been answered with I don't know what I would have done.
MS. RUSSELL: And that is an answer. You may not get the answer that you want, but that is the answer. That is her answer.
MR. ESSEKS: Why don't we just try this again, and then see if we can get an answer on this.
MS. RUSSELL: Asked and answered.
MR. ESSEKS: You can make the objection. That's fine. But once you make the objection, I'd appreciate you be quiet so that the witness can answer.
MS. RUSSELL: She has answered the question.
MR. ESSEKS: I think this exchange is done. Thank you.
MS. RUSSELL: I would prefer that you

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move on, because she has answered the question.
BY MS. McGOWAN:
Q I actually think that the question is still open. And so this will be my attempts to move on after this point. You've identified four factors. And I'm asking if -- or three or four factors, depending.
Once the factor of the amount of time was taken out of the equation, would you have decided to go forward with Ms. Schroer or not, depending on these other two concerns that you've identified?
MS. RUSSELL: Calls for speculation, asked and answered.
You can answer it a fourth or fifth time.
THE WITNESS: My answer is I don't know what I would have done.
BY MS. McGOWAN:
Q And is the reason you don't know because you were not certain whether or not your anxiety about the credibility and contact issue would have

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rendered Ms. Schroer less effective than Mr. Rollins?
MS. RUSSELL: Objection. Calls for speculation. And it's confusing.
BY MS. McGOWAN:
Q Do you understand my question? Because I can ask it again.
A Go ahead.
Q Okay. In a world where the timing issue has been taken out of the equation because Ms. Wilkins says to you in two weeks I can give you an answer up or down about whether or not this candidate can satisfy the top secret security clearance, you thus far have said, in different ways, although not consistently, that you're not sure what you would have done in that situation. And my question is, is what you are not sure about the question of whether or not your concern about Ms. Schroer's credibility with members of Congress and her ability to maintain contacts with the military due to their lack of understanding about transgender issues made her a

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weaker candidate than Mr. Rollins?
MS. RUSSELL: It's the same objection. Also, I'm objecting to the extent that it mischaracterizes your testimony, and it's confusing.
BY MS. McGOWAN:
Q Do you understand --
A It certainly makes her a weaker candidate, because it's -- there's so many contributing factors.
Q Okay.
A So even if you take one and hold it in isolation, these other factors were certainly strong, would have influenced and factored into my decision whether or not to proceed, or to offer it to the other candidate.
Q And where there would be absolutely no difference in time between how long it would take to run Ms. Schroer through the security clearance process and Mr. Rollins, is it your testimony that Mr. Rollins was a stronger candidate because he did not present the same concerns about

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credibility with members of Congress, and contacts in the military?
MS. RUSSELL: It still calls for speculation.
But you can answer if you understand.
THE WITNESS: I don't understand. I'd like to stay with my previous answer, that even holding time and security clearance out of the question, I'm --
BY MS. McGOWAN:
Q The other question is --
A The question isn't just the time of the clearance. The question is ultimately could he get the clearance. We don't know that there's an answer to that. So it's not the whether it's two weeks or two days or two years. We have the additional factor of, one, how long it's going to take; and, two, the degree of certainty that he might not be able to get that clearance. So that's a big unknown.
Q Okay. So that's how we had our four factors. There was the time factor and the

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uncertainty factor.
I'm saying holding those factors constant --
A I understand.
Q -- as between Ms. Schroer and Mr. Rollins, is it your testimony that Mr. Rollins is -- was a stronger candidate because he would not have presented credibility concerns or concerns about his ability to maintain military contacts?
A He's looking a lot better, yeah.
Q Do you recall what time you wrapped up your meeting with Mr. Ronhovde and the others?
A 10:00 to 10:15.
Q What did you do then?
A Went out and smoked a cigarette.
Q And what were you thinking at that point?
A What I was thinking was that given what I had learned, I would like to offer the position to Mr. Rollins.
Q And why was that?

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A Because of the length of time to take to get a security check, because of the uncertainty of the security check, because of the credibility issue, because of the mistrust issue, all the factors that we have listed time and time and time again.

Q And we've thus far broken out the credibility issue being credibility with Congress was –

A The contacts. And the contacts is the other thing.

MS. McGOWAN: I'm going to show you a document that we can mark Exhibit 28. Oh, I'm sorry. It was a document that was already previously marked as Exhibit 14.

THE WITNESS: (Witness examined document).

BY MS. McGOWAN:

Q Do you recognize -- well, actually, let me identify the document. It's a document that was previously marked as Exhibit 14, Bates-stamp number 206. At the top says, Charlote Preece

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draft re terrorism position.

Do you recognize this document?

A Yes.

Q Okay. What is it?

A At the end of the meeting with Bessie, Kathy, Kent, and Cindy, Kent asked me to draft something for the general counsel to look at of what I would tell Mr. Schroer when I told him I would not go forward with his recommendation.

Q And did he explain to you why he wanted you to draft up an e-mail?

A To show to the general counsel's office.

Q And when did you begin drafting this e-mail?

A Probably -- this has a 10:54 on it. After the meeting.

Q Do you have any idea of roughly how long it took for you to type this e-mail?

A Fifteen minutes.

Q Did you talk with anyone as you drafted the e-mail?

A We had talked about it a little bit at

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the meeting.

Q And had anyone offered you any suggestions for how to phrase your comments to Ms. Schroer?

A No. This was a very preliminary draft, first cut.

Q And how did you select the people that you sent the e-mail to?

A They were the people at the meeting.

Q Did you send this to anyone else in a separate message?

A I don't think so. I can't remember if we took a paper copy, or if this was sent to the general counsel's office.

Q And did you get any e-mail responses from anyone when you sent this e-mail?

A No.

Q Did you get any kind of feedback regarding this e-mail?

A Yes, when we went to the general counsel's office.

Q Do you recognize the handwritten

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comments on this paper?

A Yes.

Q Whose handwriting is that?

A Mine.

Q When did you write these comments?

A Probably in the meeting with the general counsels.

Q And then I'm going to show you a document that was previously marked 15. In a moment. I'm sorry.

In this document, Exhibit 14, the last line of that first paragraph you say here that, I have concerns a that the transition you are in the process of might divert your full attention away from the mission of CRS.

Is this an issue that you discussed at that meeting with Mr. Ronhovde and the others?

A Yes, I believe it did come up.

Q And what was that discussion?

A That both the surgeries, the time off, as well as undergoing such a complex and painful process could divert his attention, full-time

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attention away from his duties on the job.
Q Were you concerned about the time that Ms. Schroer would need to be out of the office exclusively, or also --
A No, the time and the psychological distraction.
Q And why did you have this concern about psychological distraction?
A Because I assume it's a pretty traumatic process, from what I've been led to believe.
Q And did you think that Ms. Schroer would be more distracted as a result of her undergoing this process than she had been up until that point in her life?
A I have no way to make that comparison.
Q And so what was your basis for thinking that she would be distracted from her duties?
A Well, I've had a couple of surgeries. And I must say that it distracted me. I spent some time thinking about it, thinking how it would go.
Q Were you working at CRS at the time of

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those surgeries?
A Yes.
Q And do you feel as though you were not able to perform your duties fully while you were --
A Well, I had to recover. So I had to take time off.
Q Did you have a concern that Ms. Schroer was going to need to take time off?
A Yes.
Q During your lunch meeting, did you have any conversations with Ms. Schroer about her need to take any time off for any surgeries she might be completing?
A No. Not that I recall.
Q During your meeting with Mr. Ronhovde and the others, did anyone suggest following up with Ms. Schroer to find out what her plans were with regard to having surgeries?
A No.
Q Looking at now what was marked document Exhibit 15 in a prior deposition.

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A (Witness examined document).
Q This document, again, document Number 15, Exhibit Number 15, Bates-stamped number 205 at the top says, Charlote Preece version two.
Are you familiar with this document?
A Yes.
Q What is it?
A It is a draft of the response that I was going to -- that I did give to Mr. Schroer later that day.
Q And when did you draft this response?
A After our discussion with the general counsel.
Q And did you talk with anyone as you drafted the e-mail?
A Well, I drafted it, I believe, in my office.
Q And was anyone there with you as you drafted --
A In my office?
Q Yes.
A No.

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Q Okay. And other than Ms. Alkisswani and Mr. Ronhovde, did you send the e-mail to anyone?
A Well, if there's no one else in the "to" line, I doubt it.
Q And were there any other people at the meeting with the Office of General Counsel besides Ms. Alkisswani and Mr. Ronhovde?
A Myself and the folks from the general counsel's office.
Q And why did you not send this e-mail to the other participants of the discussion with the general counsel?
A I don't know. I don't have a recollection of whether I took a hard copy up, whether I talked to somebody on the phone about it.
Q Do you recognize the writing, the handwritten comments on this document?
A Yes.
Q Whose handwriting is it?
A Mine.
Q Okay. And when did you write these

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comments?
A I imagine this was based on feedback.
Q Do you recall who the feedback was from?
A No, but it sounds like Kent. But I'm not positive of that.
Q Did he call you with his feedback, or did he send you an e-mail?
A I don't know which. I assume he called me. If I've written it down, I assume he called me. Otherwise, if he'd sent me an e-mail, I would have an e-mail copy of it.
Q Why did you change "complexities" to "responsibilities" in that first full line of text in the e-mail?
A Because I wanted to get at the seat -- the level of the position, that this was a GS-15 level, that the contacts were an important component of the job, that being able to interact at a sophisticated level with policymakers was an important aspect for the job.
Q Was this an edit that Mr. Ronhovde had suggested, or was it an edit that you made

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spontaneously?
A I believe it's an edit that I made.
Q Looking at these two e-mails together, were there any other e-mails in this chain?
A Not that I'm aware of.
Q Did you ever -- were you ever asked to look for other e-mails that might have been part of this chain?
A I was asked to search my whole hard drive.
Q And when was that?
A I think it was after the June lawsuit.
Q Okay. And does your e-mail system automatically save sent -- or save messages?
A I don't know. I believe it does, but I do not know. I'm not a -- you have to get a computer person in for that.
Q In this document here, which is Exhibit 15, you talk about -- you make reference to a discussion with general counsel.
You can you tell me about that discussion?

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A Yes. I got a call from Kent, that he and Bessie would be meeting in the general counsel's office at 11:00, if I could join them.
Q Okay. And what happened then?
A We had a discussion of how I should let the applicant know if I did not want to select him.
Q And at the --
A And --
Q I'm sorry. Go ahead.
A Also talked about were there any legal reasons that would put the Library in an awkward position if I withdrew the recommendation of Mr. Schroer.
Q And what was that discussion?
A What was that discussion? What was I told?
Q What was said?
A That we could -- basically, that we could -- we weren't under legal obligation to hire Mr. Schroer.
Q Anything else?

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MS. RUSSELL: Objection. This may be privileged information. I believe you asked what was she told at the meeting with the counsel's office? Was that your question?
MS. McGOWAN: Yes. That's the question.
MS. RUSSELL: And I'm going to object on privilege grounds.
MS. McGOWAN: This is a conversation that we've already explored. And there are -- there's correspondence reflecting this conversation. So I believe the privilege has been waived with respect to this meeting.
MR. JAMES: No. You've never asked about what advice she received. You did ask about the meeting. You did ask what she -- each of the people in those meetings said, and with regard to everyone except the lawyers.
MS. McGOWAN: Okay.
MR. JAMES: You did not ask for the advice.
MR. ESSEKS: Even with Ms. Alkisswani?
MR. JAMES: You did not. And we were

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ready to object then. But you asked what she said, you asked what Kent said, and you asked what Ms. Preece said. You never asked what --

MR. ESSEKS: We didn't ask about what the lawyers said?

MR. JAMES: No.

MS. McGOWAN: Okay.

BY MS. McGOWAN:

Q And so what did everyone, other than Mr. James and Ms. Dowd, say in the context of this meeting, as part of recounting the conversation?

Sorry. That's a little --

Going into this meeting -- let me start there -- going into this meeting, was there any discussion about the fact that you had more or else less made up your mind what you thought you were going to do?

A I had pretty much made up my mind about what I wanted to do.

Q And so what was the point of this meeting with the office of general counsel staff?

A To find out if this situation could

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potentially get the Library into legal trouble.

Q And was there any discussion about what you should or should not say in the course of your conversation with Ms. Schroer?

A Again, to answer that question, I would have to be saying what legal counsel told me.

Q Well, putting aside what legal counsel told you, were there any other conversations -- you know, did you ask, for example, you know, should I say things in a certain way, and what feedback would --

A How should I phrase this?

Q Uh-huh.

A Yes.

Q And did you get feedback from the nonlawyers in the room, Ms. Alkisswani and Mr. Ronhovde?

A I had already gotten their input.

Q Okay. And so at some point in the meeting did you announce that you knew what your decision was going to be?

A Yes.

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Q And tell me how you communicated that information.

A Given the combination of all the factors that we outlined, I do not feel comfortable going ahead with recommendation with Mr. Schroer. I have another strong candidate. And I would like to move ahead with the recommendation on him as quickly as possible.

Q And did you, in this meeting, you know, outline what each of those four factors were?

A Yes. We talked about all the factors.

Q And was there any additional discussion about each of the four factors that you identified?

A I think I was asked to elaborate what did I mean by mistrust, what did I mean by contacts. So I would elaborate on those.

Q And if you can tell me how you explained what you meant.

A I don't know that it's different than what I've already told you. The credibility had to do with the members. Contacts had to do with

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his ability to capitalize on the contacts he made as a man in the armed services. Trust was my perception of would I be able to trust him after this late in the day revelation on Monday. Security clearance was based on Cynthia's advice.

Q And how did you leave things at that meeting?

A That I would call Mr. Schroer later that day and give him the news.

Q Did anyone else agree to do anything at the end of that meeting?

A Do anything? No.

Q Do anything with respect to the Schroer matter: Write a memo? Call anyone?

MR. JAMES: And your question is anyone other than the lawyers?

MS. McGOWAN: Right.

THE WITNESS: No.

BY MS. McGOWAN:

Q And so what did you do between the end of that meeting and when you ultimately spoke to Ms. Schroer next?

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A I would have to look at my calendar.
Q Was there anything preventing you from calling Ms. Schroer right away?
How did you decide when you were going to make that phone call?
A I don't know. I said I would call him sometime that day. I don't know if I wanted to think about what I was going to say. I don't know if I had a meeting intervene. I assume I ate lunch.
Q Did you talk to anyone --
A But it --
Q Oh, I'm sorry.
A -- I didn't say, whatever time I called him, that 3:48 was a magic number. It just --
Q Did you talk to anyone between the meeting and actually calling Ms. Schroer about how you were feeling about the situation?
A I think I may have talked to Steven. And Francis may have been back by that time, as well. At some point I talked to Francis. I don't know exactly when.

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Q And tell me what you remember about that conversation.
A That they thought it was the right decision.
Q And did they say why?
A Well, given the needs of the organization, that we needed somebody on board, we needed them now.
Q And in that conversation, did you discuss each of the four or five -- I guess right now five -- concerns that you had talked about in your prior two meetings?
A We discussed mostly what Cynthia Wilkins had told me at the meeting, and the timing.
Q Did you discuss at all your concern about contacts or credibility?
A I don't remember if I did or not. But, again, the timing was the nail in the coffin, so to speak.
Q And with respect to the contacts and credibility factors, did either Mr. Bowman or Mr. Miko express, you know, their opinion about

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whether or not they shared your concern?
A Yes, particularly in the contacts end, uh-huh.
Q And do you remember who?
A Steve.
Q And what did he say?
A That he would be surprised if he were able to utilize those contacts as Diane.
Q Did he say why? Was it because of his perception of how the military folks would react, or --
A That they wouldn't know who Diane Schroer is, and would -- you know, presumably, he would be open about it and say, oh, I used to be David Schroer. As I said, some may have been sympathetic, and said, oh. And others may have said, I don't know you anymore.
Q And what about Francis Miko?
Am I right, Francis Miko was potentially going to be Ms. Schroer's supervisor?
And if I'm right, this is, you know, probably the first time that you've talked about

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it with him since he was not in the office the previous day.
What did he say to you?
A He was equally surprised.
Q And did he share his views with you about your decision to not go forward with Ms. Schroer as the applicant of choice for the position?
A Yes.
Q What did he say?
A He basically shared my views that, certainly based on what Cindy told us, that we needed somebody to do the work.
Q Anything else that you guys discussed?
A Not that I recall.
Q Okay. And other than Steve and Francis -- Steve Bowman and Francis Miko, do you recall anyone else that you spoke to about Ms. Schroer prior to calling her?
A No.
Q Okay. So roughly when did you call Ms. Schroer?

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A I don't remember. I -- sometime in the afternoon, 3:00 or 4:00.
Q And tell me about that conversation. How long did it last?
A It was very brief.
Q Okay.
A Basically, it's the language in this e-mail.
MR. ESSEKS: You're referring to Exhibit --
THE WITNESS: Exhibit 15.
MR. ESSEKS: Thank you.
THE WITNESS: I mean, I did tell David that it was a difficult decision. And then I think I read this language.
BY MS. McGOWAN:
Q And by "this language," can you read to me --
A The typed language, Given the level and responsibilities of the position, I don't think that this is a good fit. It's been a difficult decision. But given the immediate needs of

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Congress, I've decided not to go forward with the recommendation.
Q And is that roughly what you said to open the conversation?
A Uh-huh.
Q Actually, is your recollection that this is basically verbatim what you said in the conversation?
A Uh-huh.
Q How did Ms. Schroer respond on the phone?
A Well, a pause. And he said I'm very disappointed. And I said it was a difficult decision. I thanked him for his interest in the position. And I said good-bye.
Q At any point in the conversation did you say anything about the amount of time that it would take to complete the security clearance process as part of why you had made your decision?
A I didn't give him any reasons why I made my decision.
Q Okay. And do you recall, you know,

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thanking Ms. Schroer for her honesty?
A Yes.
Q Did you make any other comments or express any other views to Ms. Schroer about, you know, concerns that you had had about her trustworthiness?
A No.
Q Did you mention anything to Ms. Schroer about her -- the contacts and credibility concerns that you'd had?
A No.
Q Did you say anything to her about her gender transition being a distraction?
A No.
Q Why not?
A I was advised not to elaborate on the reasons behind my decision.
Q And why not?
A Pardon?
Q Why not?
MS. RUSSELL: Objection.
BY MS. McGOWAN:

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Q Okay. Were you advised not to give any additional reasons by anyone other than legal counsel?
A No.
Q Okay. Roughly, how long did the conversation last?
A A minute or less.
Q How did you feel after you hung up the phone?
A I had empathy for David the person. I do feel that he -- it takes courage to go through what he's going to do. But I felt that I made the right decision for the institution.
Q And what did you do next?
MS. RUSSELL: Objection. Vague.
BY MS. McGOWAN:
Q After hanging up the phone, what did you do next with respect to the terrorism specialist position?
A I pulled Mr. Rollins' application. And we had already done reference checks on him. We did them simultaneous. And I called Mr. Rollins

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and asked him if he were interested in the position.
Q And since he's working at CRS, I assume he said yes; is that correct?
A He did.
Q Okay. And as a result of that conversation, what were your next steps with respect to filling the position?
A To write a recommendation for John Rollins.
Q And why was Mr. Rollins not originally your first choice for the position?
A I believe I told you. During the interview, with the things that made Mr. Schroer special, I thought Mr. Schroer was a little more creative and imaginative in his answers in the interview.
Q Did the reason you selected Mr. Rollins over Ms. Schroer have anything to do with Mr. Rollins' prior work experience being more stronger or more relevant than Ms. Schroer's?
A Both of the work experience was strong.

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Mr. Rollins' experience was more diverse.
Q And in being more diverse, was that a -- was that something about his application that made it stronger than Ms. Schroer's, or was that roughly a wash?
A They were roughly equal, I would say. I think if you look at the scoring, you will see that they scored very closely.
Q I'm going to show you a document that was previously marked 16.
A (Witness examined document).
Q And this is a document that was Bates-stamped number 772. It's a memorandum from Cynthia Wilkins to Bruce Krafte. And it's dated January 4th, 2003, although I'd represent to you that as a result of our conversation with Ms. Alkisswani on Monday, she confirmed that that was a typo and that that was actually a memo that was likely January 4th, 2005.
A Oh, yes. I'm sorry. Yes.
Q This memo appears to be a memo to Ms. Wilkins from Bruce Krafte requesting a waiver

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of the full field background investigation of Mr. Rollins.
Does that seem right to you?
A Yes. That's typical.
Q Okay. My question is, if Mr. Rollins -- well, do you know if Mr. Rollins, at the time he applied, had a top secret security clearance?
A Yes, he did.
Q Okay. If so, do you know why the request for a waiver of the pre-employment security clearance investigation was necessary in his case?
A It still takes some time when you're -- it's not a straight transfer. It's not like the agency, the home -- the hiring agency holding the clearance and transferring it to the Senate for the purpose of a briefing. If it's for the purpose of a hire, there is some time that it takes the new agency to do that. And I, again, would defer to Cindy on the process.
Q Okay. And do you know roughly how long it takes to transfer a clearance in a hiring

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situation like that?
A I don't. But I do know that -- that he was using his clearance fairly early on. Within a month or so he had his -- attended his first classified briefing.
Q And when you say within a month, is that within a month of the day that he started work at CRS, or is it within a month of when you hired him?
A It was within a month from when he started. It could have happened sooner. He could have been on board. I just don't know. I don't have these dates.
Q And do you know -- do you recall what date Mr. Rollins started?
A I believe it was the first week in February, the end of the first week in February.
Q I'm going to show you a document that was previously marked Exhibit 8.
A (Witness examined document).
Q Do you recognize that document?
A (Witness examined document).

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Q Is this document the request for personnel action for Mr. Rollins?
A Yes, it is.
Q Okay. And where it says "effective date" on that, on the document, under part B, where there's a handwritten 2/6/05, is that consistent with your recollection of when Mr. Rollins started at CRS?
A Yeah. I think the 6th might have been a Sunday, and the 7th was a Monday. So he probably would have started on a Monday.
Q Other than filling out the PAR for Mr. Rollins, what other paperwork did you need to fill out to complete the hiring process for the terrorism specialist position?
A I just needed to draft the letter of recommendation, and sign off on the referral list.
Q Okay. We talked about the referral list before, but I just want to show it to you again to ask you a question.
In this is Exhibit 12.
A (Witness examined document).

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Q Is this the final referral --
A Yes.
Q -- form?
Why did -- well, are you -- who filled out the disposition codes on this form?
A I did.
Q And am I correct that you filled it out on the 29th of December 2004?
A Yes.
Q Why did you choose the code NSWE for David Schroer?
A That's typically the code we use when we don't select an applicant, unless they withdrew.
Q To the extent that there are other codes listed here, such as there's NSRC, NSORG, and NSO, why did you decide not to use any of those codes with respect to Mr. Schroer, David Schroer, Diane Schroer?
A Because I've never used them. I mean, I could have.
Q And so with respect to NSWE, the fact that that code reflects not selected due --

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because previous work experience not as relevant as candidate selected, you felt as though that was a appropriate code to use than any of the other codes listed?
A No. I could have used another code. I just have never used another code before. So this was just habit.
Q Okay. And did you contemplate making a notation in the comment form regarding your concern about any of the issues that we've discussed previously, whether timing, credibility, or contacts?
A No.
Q Have you ever recommended a person whom you knew was a transsexual for a position at CRS?
A No.
Q Do any transsexual people work for you at CRS?
A That work for me, no.
Q And are you aware of any transsexual people who work for CRS as a whole?
A I'm not aware of any.

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Q Would you ever hire a person whom you knew to be a transsexual for a position involving a security clearance?
MS. RUSSELL: Objection. Calls for speculation.
But you can answer.
THE WITNESS: I don't know. I'd have to weigh all the factors. And I would have to get advice from the same people that I sought it from in this situation.
BY MS. McGOWAN:
Q Do you know of any -- or have you ever encountered any transsexual employees at the Library of Congress as a whole?
A The Library? No.
Q During your meeting with the Office of General Counsel, did anyone make reference to the fact that there were other transsexual employees at the Library?
A I believe that question was asked.
Q And at -- do you recall what the --
A Answer was? Yes.

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Q And at any point did you or anyone suggest contacting the supervisor of those transsexual employees to find out, you know, how they had dealt with any issues that might have arisen?
A No.
Q Did you ask whether or not any of these other transsexual employees at the Library of Congress had security clearances?
A No.
Q I'm going to show you a document that we will mark Number 28.
(Deposition Exhibit No. 28 marked for identification
BY MS. McGOWAN:
Q And this is a document that we received from the Government in discovery. And it's Bates-stamped number 199 to 204. There's one page which is a cover letter. And this next two pages is the resume of David Schroer. And then page 202 and 203 is titled, Chronology and Discussion Summary of Events. And then page 204 is a

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document that begins, Memorandum of Record, and then has Marc Alderman's name at the bottom?
A Uh-huh.
Q Do you recognized these documents?
A Yes.
Q When have you seen them before?
A I was mailed a copy by Mr. Schroer.
Q The date on this letter is January 20th, 2005.
Do you recall receiving it roughly around that time?
A In general, yes.
Q I want to turn to page at 202 and 203.
A Uh-huh.
Q I ask you to review it to refresh your recollection of what it says.
And then if you can identify for me what statements in this chronology do you disagree with?
A (Witness examined document).
MR. JAMES: Solely on this page?
MS. McGOWAN: On this page, and then on

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page 203.
THE WITNESS: (Witness examined document). I have no problem with Tuesday, December 7th. If I have a problem so far with 15, it would be I would -- rather than say selected for the position, I probably told him -- because I'm very careful in my terminology -- that I was prepared to recommend him for the position.
BY MS. McGOWAN:
Q Okay.
A (Witness examined document). The rest of that paragraph for that day is fine.
Q Okay. And then Thursday, December 16th?
A (Witness examined document). Again, processing paperwork, I probably said, begin preparing the letter of recommendation. I don't usually say two to three weeks. I usually say two to four weeks, but I could have said two to three. And he did ask if we could --
Q Okay.
A Yes. And I just would amplify that just to discuss the job. And he also told me there was

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something he wanted to tell me.
Q Okay. Anything else?
A So something in between. There's something I'd like to discuss with you.
Q Anything else regarding the 16th of December?
A (Witness examined document). Uh-huh.
Q Okay. Monday, December 20th, which is on page 202 and 203?
A (Witness examined document). The creative thinker I agree with. The balanced in a wider area of expertise, I don't know.
Q When you say you don't know, is it you don't --
A Recall --
Q -- you're not sure --
A -- saying that, yes.
Q Okay.
A I told him I would like to finish doing the recommendation, yes, preparing the recommendation, that afternoon. But not with HR. After I prepare the recommendation, it goes to the

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director. And then CRS prepares the PAR. And then the PAR starts winding its way through the office.
Q Okay. Anything else?
A (Witness examined document). That looks good, okay, at least to the bottom of the page. (Witness examined document). I think that's pretty accurate.
Q Okay.
A (Witness examined document). I don't know if those are the exact words, or if they're closer to the words that appeared on the earlier. But that's certainly the tenor of what I said and the duration of what I said.
Q And with regard to the "how do I hire you," or are you also referring to the "for a loop," and --
A Certainly the --
Q -- with regard to also the throwing you "for a loop," or are you -- are we still talking about December 20th at this point, or --
A I'm okay with December 20th.

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Q Okay. So it's December 21st, that's what you were saying, you're generally okay with this?
A It's the tenor of that, yes. I think it's probably closer to the language on -- whatever exhibit that was -- 15.
Q The comment about a long and restless night, does that --
A Yeah, that rings true.
Q Okay. Great. And then turning to the next page, page 204. This is a paragraph by Marc Alderman. And I ask you to just read that. And let me know if there's anything in his narrative that you take issue with.
A (Witness examined document). That, yes, they're accurate. I don't take issue with it.
Q I'm sorry?
A I don't take issue with it. Again, with the exception of the language that she had already offered Dave Schroer the job. That, I would take issue with. I cannot, in my position, offer anyone a job. I can recommend.

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Q And what's your recollection of how you might have communicated sentiments along those lines to --
A That I'm prepared to recommend David.
Q -- how you would have communicated sentiments along those lines to Mr. Alderman?
A That I was prepared to write a recommendation for Mr. Schroer's candidacy.
MS. McGOWAN: We're very close to the end. Can we take a five-minute break. And then we'll wrap up. Is that okay?
THE WITNESS: May I ask how close to the end you think we --
MS. McGOWAN: I would think that we're within -- we can go off.
(Recess)
MS. McGOWAN: I'd like to show you -- this is a document we'll mark as Exhibit 29.
(Deposition Exhibit No. 29 marked for identification
BY MS. McGOWAN:
Q This is a document that was produced by

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the Government in discovery, Bates-stamped number 1 and 2. It's a memorandum from you, Charlote Preece, dated January 24, 2005.
Do you recognize this document?
A Yes.
Q What is it?
A It was a response that I should keep some kind of record of what I remembered from the events.
Q And I see there's a date on there of January 24, 2005.
Is that when you prepared it, or did you are prepare it over the source of a couple days?
A I recall working on it a couple of days, and then being advised to cease work on it.
Q And why did you prepare this document?
A Because the CRS legal counsel thought it would be a good idea.
Q And looking at the bottom of page 2, it appears to cut off?
A Yes.
Q Is there -- are there additional pages

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to this document?
A No. I was told to cease work on it. And I did no more work on it.
Q So this is the end of the document --
A That's correct.
Q -- as created by you?
And the instructions you received about ceasing work on this, who did those instructions come from?
MS. RUSSELL: Objection.
MS. McGOWAN: Okay. That answers my question. I was trying to figure out who it was, trying to figure out whether there was any more to know.
MR. JAMES: Just let you know --
MS. McGOWAN: I could tell, as Jessie and Julia started to perk up, I was getting an answer to my question.
BY MS. McGOWAN:
Q Did you prepare any other chronologies or memoranda like this?
A No.

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Q Did you ever discuss this document with anyone?
A No. I prepared this based on my recollection. Did I -- did I -- please repeat your question.
Q Sure. I was asking if you discussed this memo with anyone. And I break it down into two pieces.
One, did you discuss it with anyone in the course of preparing it and actually putting the information into the memo?
And then the other piece would be did you say discuss the memo in general, your preparation of it?
And if there are discussions that -- only discussions you had with legal counsel, then I don't need to know that. I'm only looking for discussions that you may have had not with legal counsel.
A Just with legal counsel.
Q Okay. Thank you.
What is your view about whether

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Ms. Schroer is a man or a woman?
MS. RUSSELL: Objection. Lacks foundation.
But you can answer.
BY MS. McGOWAN:
Q Do you have a view about whether Ms. Schroer is a man or a woman?
A If I ran into Ms. Schroer today, I would call her Ms. Schroer. I would call her Diane.
Q And would you consider Ms. Schroer a woman?
A I would consider her a person in transition.
Q On the day that you had lunch with Ms. Schroer, on December 20th, on that day, what did you consider Ms. Schroer to be, a man or a woman?
A A man.
Q Okay. And after your conversation at lunch, did your view change about whether Ms. Schroer was a man or a woman?
A Well, he told me he was transitioning,

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so I probably still considered him as a man at that point, because he hadn't changed his name yet.
Q And at what point would you feel that Ms. Schroer was now a woman?
A When the process is completed.
Q And in your mind, based on the information that you have, when is that point?
A When his surgeries are completed.
Q On December 20th, when -- at your meeting with Ms. Schroer, who you viewed to be man, did it seem strange to you that man would want to dress in women's clothing?
A Yes, it seems strange to me. But a lot of things seem strange to me.
Q And at any point during -- between the time when you learned about Ms. Schroer's transition until the point at which you made your decision to not go with -- not to recommend her and to call her, you know, at any point did you visualize, you know, Ms. Schroer, looking as she did in the pictures she showed you, standing in

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front of Congress and looking like a fool?
A Looking like a fool? Why would you say that?
MS. RUSSELL: I'm going to object to the form of the question.
But you can answer if you understand.
THE WITNESS: I don't understand the intent behind the question.
BY MS. McGOWAN:
Q Sure. And my question is, you know, at -- my recollection of your testimony was that when you saw the pictures of Diane in that portfolio, Ms. Schroer at that time looked like a man in women's clothing.
And I'm wondering, you know, at any point were you concerned about sort of what the reaction would be of someone who looked like a man in women's clothing standing in front of Congress and trying to be taken seriously?
A That did cross my mind.
Q Did it strike you as strange that someone like Ms. Schroer, with her military

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background, would want to wear makeup?
MS. RUSSELL: Objection. Relevance.
But you can answer if you understand.
THE WITNESS: It didn't surprise me that someone who is in the process of transitioning would want to wear makeup. That makes sense to me.
BY MS. McGOWAN:
Q But with respect to Ms. Schroer, who was a man in your mind, did it feel strange to you to think of Ms. Schroer as a man putting on makeup?
A Not if he was trying to look like a woman.
Q Did it feel strange for you to imagine Ms. Schroer wanting to wear pumps or high heel shoes?
A Again, not if he was transitioning to a woman. I find it strange that anyone wants to wear pumps.
Q That, I can agree with, for sure.
Would you say that wearing makeup is a masculine thing to do?

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MS. RUSSELL: Objection. Relevance.
But you can answer.
THE WITNESS: If you're an actor, if you have got skin complex problems.
BY MS. McGOWAN:
Q Outside of people wearing makeup for professional or skin acne or other related dermatological-related reasons, would you consider wearing makeup to be a masculine or a feminine thing?
A A feminine thing.
Q And wearing high heel shoes, would you consider that to be a masculine or a feminine thing?
MS. RUSSELL: It's the same objection.
But you can answer.
THE WITNESS: I've seen men in platform shoes. High heels, if we're talking about spikes, I associate that with a feminine thing.
BY MS. McGOWAN:
Q And with respect to wearing long hair or wigs, do you associate that as being or masculine

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or feminine?
A Long hair I don't associate -- I associate with both sexes. Wigs, men wear toupees.
Q And the hair style that Ms. Schroer was wearing in the photos that you saw, am I correct that that was a long hair style?
A That was a wig, yes.
Q And would you describe that as a feminine style of hair?
A Yes, it was. The style was feminine, yes.
Q And in that photo, am I right you saw Ms. Schroer, who you knew to be and thought to be a man, wearing what you considered to be a feminine hairstyle?
A Yes.
Q And women's shoes; is that right?
A I believe he had boots on, if I'm not mistaken.
Q Okay. And a feminine style of clothing; is that right?

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A Yes.
Q And makeup that would be described as feminine makeup?
A Yes.
Q And how did you think others in CRS would react to seeing those pictures?
MS. RUSSELL: Objection. Lacks foundation.
BY MS. McGOWAN:
Q For example, you know, what, in your estimation, do you think Steven Bowman's reaction would have been to that picture, those pictures?
A I think people would have surmised that it is a male dressed in women's clothing and wearing makeup.
Q Okay. With whom, if anyone, did you speak in preparation for this deposition?
A Primarily --
MS. RUSSELL: I'm sorry, Sharon, I missed the question.
MS. McGOWAN: Oh, sure. That's okay.
BY MS. McGOWAN:

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Q I was asking, did you speak with anyone in preparation for your deposition?
A Yes.
Q And with whom?
A These three people here.
Q Okay. Anyone else?
A For awhile, Evelio Rubiella.
Q Okay. Anyone else?
A Kent Ronhovde.
Q And what did you and Kent talk about?
A Mostly status reports, that would be when -- general counsel's office would give us status reports of where we are. And there were others present for that, as well, those status reports.
Q And did you speak with Ms. Alkisswani?
MS. RUSSELL: Objection. Vague. Do you mean --
BY MS. McGOWAN:
Q I'm sorry. Did you speak with Ms. Alkisswani in preparation for this deposition?
A No. I mean, apart from some of these

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group status meetings, we didn't have one-on-one conversations about this case.
Q And did you review any documents in preparation for this deposition?
A Say that again, please.
Q Sorry. Did you review any documents in preparation for this deposition?
A I skimmed over most of the documents that I had in my possession.
Q Okay. And what were those documents?
A There was a chronology that was prepared, a lot of the information that you presented today, the interrogatories I looked at.
Q And with respect to documents that weren't discussed as exhibits today, can you tell me what you looked at?
A The structured interview guide.
Q Okay. Anything else?
A I did say the chronology of what happened when.
Q And by the chronology, are you referring to this document in front of you, or a different

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document?
And by that, I mean Exhibit --
A Exhibit 29.
Q -- Exhibit 29.
Are you referring to that document, or a different document?
A That document, and there's a one-page chronology that I believe was prepared by somebody in workforce that had dates when the announcement went up, when it went down.
Q Okay. Any other documents that you reviewed that we haven't discussed today?
A Those sets of interrogatories, those first EEO complaints.
Q And did you review any deposition transcripts in this case?
A I don't have any.
Q Okay. Anything else?
A That's all I recall.
Q Okay. Do you remember receiving a letter from me asking you to preserve all documents related to the Schroer matter?

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A I certainly remember being told to do that; but, yes, I think I did.
MS. McGOWAN: I have two documents that we'll mark as 30 and 31.
(Deposition Exhibit No. 30 and 31 marked for identification.)
BY MS. McGOWAN:
Q Document 30 -- well, document 31 is a document that was produce by the Government in discovery. It's been Bates-stamped number 714, and then document 30 is a copy of the text of a letter that I represent to you that I sent on March 7.
A Uh-huh.
Q Do you recall --
A Yes --
Q -- receiving --
A -- I do recall.
Q -- a letter to this affect from me?
A Uh-huh.
Q Okay. And looking at Exhibit 31, there

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is an e-mail where you make reference to receiving correspondence from me, Sharon McGowan.
A Uh-huh.
Q Is this letter, Exhibit 30, the correspondence to which you were referring?
A Yes.
Q Okay. What did you do after receiving this March 7, 2005, letter from me?
MS. RUSSELL: I'm going to object, vague.
But you can answer if you understand.
BY MS. McGOWAN:
Q Did you communicate --
A That to them, yes. And I gave them a copy of the letter.
Q Okay. In addition to Kent Ronhovde and Dan Mulhollan, did you give this letter to anyone else, a copy of this letter to anyone else?
A I don't think so.
Q Do you recall showing it to anyone else?
A No.
Q Do you recall having any conversations

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with anyone about the letter, other than Mr. Mulhollan and Mr. Ronhovde?
A I do remember being advised not to destroy any documents that I had created.
Q And when was that?
A I don't know.
Q Do you recall if you had received that instruction prior to receiving this letter from me on March 7, 2005?
A I think so, yes.
Q Okay. Did you hold onto a copy of this letter from me?
A I would have to go back and check. I don't know.
Q Do you remember throwing it out?
A No.
Q Do you know who might have a copy of this letter?
A I could only speculate.
Q And who do you think might have a copy of the letter that I sent to you, the original?
A The original?

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Q Yes.
A I would assume that the general counsel's office has copies of this. I don't know that for a fact, but --
Q Did you retain the original, or did you hand the original over the someone?
A I don't know.
Q After you were informed not to destroy any documents, what steps did you take to preserve documents?
A I created a file.
Q And what is in that file?
Well, first of all, is it a hard file, or is there an electronic file that you're talking about for --
A A hard file. I printed things out off of my hard drive, and put them -- the few things that I have in my hard drive in this file.
Q And at that time, did you go into your e-mail and do some kind of search?
A Yes.
Q Okay. And how did you search?

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What did you search for?
A Schroer, and I -- and terrorism analyst, or terrorism position, something to the affect.
Q And roughly how many documents did that search produce?
A Very few. I produced the chronology that I started, with something memo to the record. And it produced the beginnings of the draft of the letter of recommendation. It produced some exchanges with Mr. Schroer on providing references.
Q Okay. Did you go through all of your e-mails?
A Yes.
Q And roughly how many e-mails did you find when you looked?
A Not many.
Q Okay. And --
A Three, four.
Q And so --
A With regard to exchange between Mr. Schroer and myself.

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Q Right. Were there other e-mails between you and other Library employees about the terrorism specialist hiring process?
A Well, for example, the request for an extension deposition.
Q And did you save all of those documents, as well?
A No. I'm not sure I saved those.
Q Were you asked to?
A Specific -- no. I mean, I was asked to save things that were pertinent to the case.
Q Okay. And did you --
A But --
Q I'm sorry. Go ahead.
A I was going to say, but it is on record that I asked for an extension of the case. Whether I personally have that one in my file, I don't know.
Q Did you get any explanation about what documents might be pertinent to the case?
I don't know need to know what the instructions are; but I'm wondering did anyone

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explain to you the kinds of documents that you should be looking for?
A Just all documents relevant to hiring for this position.
Q Okay. And at any point did you ask for clarification of what that would encompass?
A I think I discussed it with general counsel's office a bit, yes.
MS. McGOWAN: We've discussed some hiring actions and matters of employees involving security clearances. And Ms. Russell and I have discussed determining whether or not there are any documents sort of relating to those matters. And our understanding is that we will submit those requests to you.
And in the event that there are documents responsive to that request, we can discuss whether or not there is a need for having just a brief discussion about what is in those documents; but, otherwise, I have asked you all the questions that I have for today. So thank you, very much for being here.

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MS. RUSSELL: Before we go off the record -- well, we may have a few questions. But can we just have a moment?
MS. McGOWAN: Sure.
(Recess)
MR. ESSEKS: I just want to put on the record the fact that we had an exchange of information with your witness. And I just want to let you know. Your witness asked if she needed to keep the notes that she was taking. And we told her --
MS. McGOWAN: I suggested that she should, but --
MR. ESSEKS: And then we said you really should talk to your counsel. So I just wanted that to be on the record that we had that. We also said that in light of the fact that those notes, your witness suggested, might well help to remember who people A through B are, might be helpful.
MS. McGOWAN: Right.
MR. JAMES: Off the record, please.

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(Discussion off the record)
EXAMINATION BY COUNSEL FOR DEFENDANT
BY MS. RUSSELL:
Q I just have maybe one or two questions about a question that Ms. McGowan posed to you earlier, and that is the factors that went into your decision to reconsider your recommendation about Ms. Schroer. And you noted that using 100 as a guide, you said security clearance 90 percent, and then credibility 5 percent, and then contacts 5 percent.
Now, isn't it true that you also were concerned about Ms. Schroer's possibly deceiving you or her deception?
A Yes.
Q And isn't it true that you were also concerned about her ability to focus on the job?
A Yes.
Q Given her surgeries?
A Yes.
MS. RUSSELL: Okay. I have no other questions.

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MS. McGOWAN: Okay. So we're done. Thank you.

(Whereupon at 5:40 p.m., the deposition of CHARLOTTE P. PREECE, was adjourned.)

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ACKNOWLEDGEMENT OF DEPONENT

I, CHARLOTTE P. PREECE, do hereby acknowledge I have read and examined the foregoing pages of testimony, and the same is a true, correct and complete transcription of the testimony given by me.

_____ _____
Date CHARLOTTE P. PREECE

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2007

_____
NOTARY PUBIC

My Commission Expires:

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CERTIFICATE OF NOTARY PUBLIC

I, BARBARA A. HUBER, CSR, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in stenotypy and thereafter reduced to print under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, furthermore, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

_____
BARBARA A. HUBER, CSR
Notary Public, in and for the District of Columbia
My Commission Expires: March 16, 2007