

1 now with the introduction of evidence in the  
2 government's case. Mr. Mendelsohn, do you have a  
3 witness to call?

4 MR. MENDELSON: Your Honor, the United States  
5 calls Special Agent Deborah Lippay of the United States  
6 Capitol police.

7 THE COURT: Very well. Ma'am, please step up  
8 and be sworn.

9 DEBORAH LIPPAY,  
10 having been called as a witness for and on behalf of the  
11 Government, and after having been first duly sworn by  
12 the deputy clerk, was examined and testified as follows:

13 THE COURT: Please be seated.

14 DIRECT EXAMINATION

15 BY MR. MENDELSON:

16 Q Good morning, ma'am.

17 A Good morning.

18 Q Would you please introduce yourself to the  
19 Court by stating your full name and spelling it for the  
20 record?

21 A My name is Deborah Lippay. My first name is  
22 spelled D-e-b-o-r-a-h. My last name is spelled L-i-p-p-  
23 a-y.

24 Q Ms. Lippay, where are you employed?

25 A I am employed as a special agent with the

1 United States Capitol Police, Threat Assessment Section.

2 Q How long have you been employed with the United  
3 States Capitol police?

4 A I've been employed with the department for  
5 approximately five years.

6 Q How long have you worked in the Threat  
7 Assessment Unit?

8 A I've worked in the unit for approximately three  
9 years.

10 Q Special Agent Lippay, could you tell us about  
11 your duties as a special agent with the Threat  
12 Assessment Unit?

13 A My duties as an agent include the investigation  
14 of threatening and harassing communications directed  
15 toward members of Congress, their family members as well  
16 as staff members.

17 And I have experience in the enforcement of the  
18 laws of the United States to include the preparation and  
19 the service of criminal complaints, arrest and search  
20 warrants.

21 Q I want to direct your attention to the  
22 afternoon of May 20, 2003, were you on duty that day?

23 A Yes, I was.

24 Q What were your duties that day?

25 A I was handling my typical case load that day.

1 Q And what happened that day?

2 A Toward the close of the business day, I was  
3 assigned a case involving Senator Clinton's office.

4 Q Can you tell us exactly how you came to be  
5 assigned that case?

6 A I was advised that the senator's office had  
7 called regarding a case. And I -- prior to my being  
8 assigned the case, the office had transmitted to my  
9 office one voice mail message and one fax.

10 And once I was assigned the case, I then  
11 reviewed both the voice mail message and the fax.

12 Q And can you tell us about the voice mail  
13 message and the fax?

14 A Yes. I listened to the voice mail message, and  
15 it was left on the voice mail system of the senator's  
16 office by an individual named Ms. Sassower.

17 And in the message, Ms. Sassower stated that  
18 the senator's office had engaged in misconduct regarding  
19 a judicial nomination. And I also reviewed the fax  
20 which Ms. Sassower had written and had transmitted to  
21 the senator's office.

22 And in this fax, Ms. Sassower stated that she  
23 requested the opportunity rather to attend a hearing  
24 that was to be held on May 22nd in D.C. and she wanted  
25 to testify in opposition to a judicial nominee at the

1 hearing.

2           And she, in the same fax she also requested that  
3 the senator withdraw her nomination for this particular  
4 nominee.

5           Q     What did you do next, Agent Lippay?

6           A     As part of my, as part of my investigation I  
7 attempted to contact the senator's office to follow up.  
8 But by this time, it was after the close of business day  
9 so no one was available.

10          Q     And what happened after you weren't able to get  
11 in touch with the senator's office?

12           THE COURT: Then first thing, the next day, on  
13 May 21<sup>st</sup>, I had called the senator's office and spoken  
14 with a staff member who had actually dealt with Ms.  
15 Sassower. And --

16          Q     Can you tell us about that conversation?

17          A     Yes. According to the staff member, she  
18 expressed concern about behavior that Ms. Sassower had  
19 directed to the office.

20                Her immediate concern, however, was her belief  
21 that Ms. Sassower planned to attend this hearing that  
22 was to take place on May 22nd, and that Ms. Sassower  
23 would verbally disrupt the hearing, which is a violation  
24 of federal law to verbally disrupt a committee hearing.

25          Q     And what, what day was this and what, if you can

1 recall, what time you had this conversation with the  
2 Senate office?

3 A I believe I had the conversation in the morning  
4 of the 21st, the day before the hearing took place.

5 Q And what are the procedures that you follow as  
6 a result of conversations where Senate offices tell you  
7 about their concerns regarding citizens?

8 A We, my office will conduct an investigation and  
9 will assess the situation and follow up.

10 Q As a result of this conversation that you had  
11 with the senator's office, what did you do next, Agent  
12 Lippay?

13 A Because we were dealing with someone who was  
14 potentially going to disrupt the hearing, I prepared a  
15 flyer that contained information regarding Ms. Sassower  
16 and distributed the flyer to appropriate police  
17 supervisors who were in charge of the Building where the  
18 committee was gonna take place, that the hearing would  
19 take place.

20 Q After you prepared the flyer on the 21st of  
21 May, did any, did you do any further investigation? Did  
22 anyone contact you regarding the defendant?

23 A Yes. Later that day the senator's office  
24 called me, and they had received another voice mail  
25 message from Ms. Sassower.

1           And Ms. Sassower in this message stated that  
2 she wanted someone to call her back regarding this  
3 judicial nomination situation. And the staff advised me  
4 that they did not want to interact with Ms. Sassower any  
5 further on the situation.

6           So as the case agent for this case and as part  
7 of my investigation, I returned her call. And I --

8           Q     Let me interrupt, Agent Lippay. Do you recall  
9 around what time you called Ms. Sassower on the 21st of  
10 May?

11          A     I don't recall the exact time but I believe it  
12 was in the afternoon.

13          Q     So, go ahead.

14          A     When I called her I introduced myself, and I  
15 asked to speak with Ms. Sassower and she stated that  
16 that was she. And I, I explained the reason for my  
17 call. And she --

18          Q     I mean how did you explain, what did you say  
19 was the reason for your call?

20          A     Regarding her contact with the senator's office  
21 and I was returning her call regarding the nomination  
22 situation and wanted to find out if she planned to  
23 attend the hearing and disrupt the proceedings.

24          Q     Go ahead.

25          A     She then began to speak in a loud, forceful

1 continuous tone. I would describe it as almost in an  
2 angry tone. And when I attempted to ask her if she did  
3 plan to attend the hearing, she interrupted me  
4 continuously.

5 I was eventually able to ask a question and she  
6 confirmed that she was gonna attend the hearing. And I  
7 asked her if she planned to disrupt the hearing and she  
8 would not state whether or not she did plan to interrupt  
9 the proceedings.

10 And I advised her if she did do so, that's  
11 against the law and she would be arrested for that.

12 Q What happened next?

13 A She asked to speak with my supervisor, so I  
14 placed her on the line with Detective Zimmerman.

15 Q Now, Agent Lippay, what happened after you  
16 placed the defendant, you transferred the call to  
17 Detective Zimmerman?

18 A Nothing from my end that day.

19 Q Did you have an opportunity after your phone  
20 conversation with Ms. Sassower on the 21st to ever speak  
21 with or see her again?

22 A No, I did not speak with her after that. But I  
23 did see her the next day, on the 22nd, the day of the  
24 hearing.

25 As the case agent again and as part of, as

1 follow-up on my investigation, I responded to the  
2 hearing room immediately prior to the time that it  
3 began.

4           And I stepped into the hearing room and I  
5 observed Ms. Sassower to be seated in the back row of  
6 the room.

7           Q     Do you see the person that you saw that day in  
8 the hearing room in this courtroom today?

9           A     Yes, I do.

10          Q     Would you please identify that person by an  
11 article of clothing that that person is wearing and by  
12 where that person is seated within this courtroom?

13          A     Yes. She is sitting at the defendant's table  
14 with the blue blouse and the black jacket.

15               MR. MENDELSON: Your Honor, may the record  
16 reflect an in-court identification of the defendant,  
17 Elena Ruth Sassower?

18               THE COURT: Any objection? Ms. Sassower, any  
19 objection to the identification?

20               MS. SASSOWER: No.

21               THE COURT: Very well, so noted.

22               MR. MENDELSON: Your Honor, I have nothing  
23 further for Special Agent Lippay at this time.

24               THE COURT: Very well. Cross-examination, Ms.  
25 Sassower?



1 MS. SASSOWER: A great deal. I need a moment,  
2 Your Honor, to assemble --

3 CROSS-EXAMINATION

4 BY MS. SASSOWER:

5 Q Special Agent Lippay, although you have been  
6 called as a government's witness, you are also here  
7 pursuant to my subpoena.

8 MR. MENDELSON: Objection, Your Honor, to the  
9 defendant giving testimony.

10 THE COURT: No, overruled. I'll allow it.

11 BY MS. SASSOWER:

12 Q Is that correct?

13 A Yes, I did receive a subpoena for this hearing.

14 MS. SASSOWER: Can that be marked, Your Honor,  
15 have it marked as an exhibit?

16 THE COURT: Counsel, approach the bench please.

17 (Bench Conference)

18 THE COURT: The witness has just testified that  
19 she is here not only because she was called by the  
20 prosecution but pursuant to subpoena. Tell me how  
21 admission of the subpoena serves any purpose other than  
22 redundancy?

23 MS. SASSOWER: She was requested to bring  
24 documents. I want to ask her if she's brought anything.  
25 Jencks, Jencks, any written materials.

1 THE COURT: Very well. This is marked for  
2 identification?

3 MS. SASSOWER: I, I would like that to happen.

4 THE COURT: Well, I'm gonna tell you now that  
5 when we break for lunch, --

6 MS. SASSOWER: Yes.

7 THE COURT: -- anything that you seek to offer  
8 into evidence has to be marked. We can't wait for you  
9 to mark everything document by document.

10 MS. SASSOWER: Well, I don't, I didn't know.

11 THE COURT: Well, --

12 MS. SASSOWER: I'll do it during lunch.

13 THE COURT: Very well.

14 MS. SASSOWER: This is my first trial.

15 THE COURT: Do you have a copy of the subpoena  
16 and the notice of deposition attached thereto?

17 MS. SASSOWER: I can provide it, I can provide,  
18 I will provide copies.

19 THE COURT: Very well.

20 MS. SASSOWER: I have, I have copies of all  
21 documents and will provide them. I will take the lunch  
22 break to make sure they're marked.

23 THE COURT: Well, before you approach a witness  
24 with a document, the document must be seen by the  
25 opposition, --

1 MS. SASSOWER: Yes.

2 THE COURT: -- do you understand?

3 MS. SASSOWER: I had been instructed by Mr., by  
4 my  
5 legal adviser of that, yes.

6 (Open Court)

7 MS. SASSOWER: May I approach the witness with  
8 the document?

9 THE COURT: You may.

10 THE WITNESS: Thank you.

11 MS. SASSOWER: Thank you.

12 BY MS. SASSOWER:

13 Q Does this reflect the subpoena that you  
14 received?

15 A Yes, this is a copy that I received.

16 Q And it not only requests your personal  
17 appearance but documents. Have you brought -- is that  
18 correct?

19 A Yes, it does mention that documents should be  
20 brought.

21 Q Yes. And specifically, what it says is - and  
22 bring with you all documents, tangible objects and  
23 records relating to defendant's discovery demand of  
24 August 12, 2003, annexed herein, and related to  
25 defendant, the Center for Judicial Accountability Inc.

1 and defendant's request to testify before the Senate  
2 Judiciary Committee hearing on May 22nd, 2003.

3 Is that correct?

4 A Yes, it is.

5 Q Okay. What documents have you brought with you  
6 today?

7 A We provided documents, the necessary documents  
8 to the AUSA, to the prosecution.

9 Q AOSA?

10 A No, I'm sorry, AUSA.

11 Q What is that, A?

12 A We provided documentation --

13 Q What is it?

14 A -- to the prosecution, the Assistant U.S.  
15 Attorney.

16 Q Oh, Assistant U.S. --

17 A Yes.

18 Q -- Attorney.

19 A Yes.

20 Q Okay. What documents did you provide to the  
21 Assistant U.S. Attorney?

22 A We provided notes and other documents related  
23 to the case involving, including faxes that you had sent  
24 to our unit.

25 Q Thank you. When did you provide them to the

1 Assistant U.S. Attorney?

2 A We provided these documents to the Assistant  
3 U.S. Attorney on, on several dates. I don't know what  
4 these dates are offhand.

5 Q And you work for Capitol police.

6 A Correct.

7 Q And for a particularly important unit of the  
8 Capitol police, the Threat Assessment Section?

9 A I do work for the Threat Assessment Section.

10 Q And I imagine record keeping is enormously  
11 important for a police department and for a threat  
12 assessment unit?

13 A Yes, it is.

14 Q The notes that you turned over, where are they?  
15 Did you have copies? Did you preserve copies or you  
16 just turned over original documents?

17 A We provided copies to the Assistant U.S.  
18 Attorney's Office.

19 Q So you have, you being Capitol police and the  
20 Threat Assessment Section, has retained the originals?

21 A The originals being we typed the information to  
22 the computer. So as far as printouts, I suppose  
23 printouts would be considered copies and we provided  
24 copies to the Assistant, U.S. assistant attorney's  
25 office.

1 Q Well, I'm a little bit confused. When you say  
2 you typed information into the computer, did you type  
3 information to the computer from some handwritten notes?

4 A No, ma'am.

5 Q In response to -- you have stated that it was  
6 on several occasions that ~~you, that had~~, requested  
7 records were turned over to the assistant U.S. attorney?

8 A Correct.

9 Q The original document demand is August 12th,  
10 2003. Are you representing that throughout the course  
11 of these many months --

12 MR. MENDELSON: Your Honor, objection. May  
13 we approach?

14 MS. SASSOWER: -- you turned over --

15 THE COURT: Yes.

16 MS. SASSOWER: -- records?

17 (Bench Conference)

18 MR. MENDELSON: These are discovery issues  
19 that have been resolved long before trial.

20 THE COURT: I assume that at some point, even  
21 though the questioning seems to take much longer to get  
22 to the exact point, there's going to be a confrontation  
23 on the specific document.

24 MS. SASSOWER: Quite possibly.

25 THE COURT: The witness has already testified

1 that the documents have been turned over to the  
2 government. It seems to me that foundation having been  
3 laid, what we need to be in the business of now, Ms.  
4 Sassower, is directing attention to specific items, if  
5 that is how you're proceeding with your defense.

6 MS. SASSOWER: It is.

7 THE COURT: Very well.

8 (Open Court)

9 BY MS. SASSOWER:

10 Q So that the record is clear, the document, the  
11 first document presented was the subpoena to Deborah  
12 Lippay of the U.S. Capitol police with the appended  
13 August 12th, 2003 first discovery demand.

14 THE COURT: Identify for, identify for the  
15 record by what exhibit number.

16 MS. SASSOWER: I'm sorry, Your Honor. That was  
17 Exhibit 1. We have -- I have now marked Exhibit 2 which  
18 consists of a fax that I received on April 7th.

19 MR. MENDELSON: Your Honor, my apologies. We,  
20 we have an objection to only part of the introduction of  
21 this exhibit.

22 THE COURT: Approach.

23 (Bench Conference)

24 MR. MENDELSON: We have no objection to the  
25 introduction of the documents, the notes that Agent

1 Lippay took.

2 But the fax cover page that was sent to Ms.  
3 Sassower is not relevant to Agent Lippay's testimony nor  
4 is the date when Ms. Sassower received the documents has  
5 been resolved for trial. That document, the last four  
6 pages we have no objection to.

7 THE COURT: Well, if your objection is to the  
8 cover page and the letter from --

9 MR. MENDELSON: Those are not Agent Lippay's  
10 notes.

11 THE COURT: Right. Well, they aren't her notes  
12 and she would not be able to testify as to the  
13 origination of the fax cover sheet or the United States  
14 Attorney's letter where she can address the, the  
15 underlying documents.

16 So for purposes of an exhibit at this trial for  
17 this witness, these two documents here are not documents  
18 that this witness would be able to provide a foundation  
19 for.

20 And by these two documents I mean the fax cover  
21 sheet of the U.S. Attorney's Office and the letter from  
22 Ms. Liu to Ms. Sassower, dated April 7th. Ms. Lippay,  
23 witness Lippay is not identified as the recipient or the  
24 originator of either of these documents.

25 So, with regard to these two documents attached



1 as part of Exhibit 2 and as pertains to further inquiry  
2 of this witness, the objection is sustained.

3 In other words, Ms. Sassower, if you want to  
4 use Exhibit 2 with regard to this witness, the exhibit  
5 will be limited to the pages identified as the subject  
6 profile.

7 The page that has what appears to be a poor  
8 photocopy of your photograph and the final page which  
9 has another photograph and some handwritten notations

10 MS. SASSOWER: Absolutely, Your Honor, no  
11 objection. I just wanted to point out that I -- it was  
12 transmitted to me in this fashion and I thought it best  
13 to keep it intact.

14 THE COURT: I have made my ruling so with  
15 regard to --

16 MS. SASSOWER: No problem.

17 THE COURT: -- handing this to the witness --  
18 very well.

19 MS. SASSOWER: No problem, Your Honor.

20 THE COURT: Thank you.

21 (Open Court)

22 MS. SASSOWER: May I approach the witness with  
23 the document?

24 THE COURT: You may.

25 MS. SASSOWER: Thank you.

1 BY MS. SASSOWER:

2 Q I give you Defendant's Exhibit 2. You refer to  
3 having typed something into a computer, is this what you  
4 were referring to?

5 A Yes, ma'am.

6 Q Would you identify what it is?

7 A Yes. The document I have in hand consists of  
8 my typewritten case notes along with a -- also attached  
9 is a copy of the flyer that I distributed to the police  
10 supervisors and -- there's another document attached  
11 which is -- would you like me to describe what that is?

12 Q Well, was that part of what was circulated?

13 A No.

14 Q Where did that come from?

15 A This was part of our assessments of the case.  
16 And we have -- we maintain in our case jacket for this  
17 particular case.

18 Q Okay, good. Thank you. Now, where is that  
19 case jacket?

20 A The case jacket is stored in our unit. The  
21 material within that case jacket, copies were provided  
22 to the U.S. Attorney's Office.

23 Q What was provided, can you give --

24 A Copies of what you provided to me, along with  
25 copies of the faxes that you had sent to our office.

1 Q Does it have information pertaining to your  
2 investigation, your notes regarding your contacts from  
3 and to Senator Clinton's office?

4 A Yes, those notes are contained within this  
5 typewritten summary that I have in front of me that you  
6 provided to me.

7 Q Yes. But before you made this document, --

8 A Yes.

9 Q -- you had some other documents on which you  
10 were relying?

11 A I'm not -- if you could clarify that.

12 Q Yes. When you have phone conversations, don't  
13 you take notes?

14 A I take notes mainly after the phone  
15 conversation and I type it into the database.

16 Q You don't take contemporaneous notes.

17 A I type on the computer.

18 Q Are you saying that this is the procedure of  
19 Capitol police when you are calling a sus --when, when  
20 you are receiving information as to a threat, not to  
21 take copious detailed on-the-spot notes as to what is  
22 being said about the supposed threatening subject?

23 A No.

24 Q Or recording it with audio recording?

25 A To clarify, this case does not involve a

1 threat. And also, every agent is different in how they  
2 record their notes. Some record on notebooks, some  
3 record directly into the database. In this case, I  
4 recorded directly into the database.

5 Q Well, let's -

6 A It was a pretty straightforward case.

7 Q This might be semantics, but how did it get to  
8 the Threat Assessment Section if this case isn't about a  
9 threat? Why did it go to the Threat Assessment Section?

10 A Again, the Threat Assessment Section  
11 investigates threatening and harassing individuals or  
12 communications directed toward members of Congress,  
13 their staff members and family members.

14 The, when this case was referred, when I  
15 followed up with the senator's office on May 21st to  
16 clarify the situation, the staff member who had dealt  
17 directly with you mentioned that you had engaged in  
18 harassing behavior with the office. And that's the  
19 reason as to why they referred to the case to us.

20 Q So you deemed it something that was properly  
21 within the purview of the Threat Assessment Section  
22 because purportedly I had harassed Senator Clinton's  
23 office?

24 Q According to the staff member, that's the  
25 behavior that you engaged in with the staff and

1 therefore we were assigned the case.

2 Q And you're saying that the elite Threat  
3 Assessment Section of the elite U.S. Capitol police does  
4 not instruct its investigators to take notes of  
5 conversations coming in regarding threats,  
6 contemporaneous, detailed, on-the-spot, or does not have  
7 an audio recording mechanism where these kinds of  
8 communications are recorded so there would be no mistake  
9 about how serious they are?

10 THE COURT: Excuse me. Did you understand the  
11 question?

12 THE WITNESS: She's asking me if --

13 THE COURT: No, no, no, if you understood it,  
14 you can go ahead and answer it.

15 THE WITNESS: Can you repeat the question for  
16 me, ma'am, to clarify that?

17 MS. SASSOWER: Yeah.

18 BY MS. SASSOWER:

19 Q You're saying that you are not instructed --

20 A To take notes.

21 Q To take notes or that there isn't a, an  
22 automatic recording device that records communications  
23 reporting threat, harassment?.

24 A We are able to take notes, record our notes on  
25 the computer. We do have an audio recorder that we can

1 use to record messages.

2 Q All right. Let's for the moment move on to  
3 this, what you have identified as a subject profile to  
4 which a bulletin is annexed, with a single page that  
5 comes from some jacket file which you say is stored at  
6 the U.S. Capitol police.

7 Has the full contents of that jacket file been  
8 provided to the U.S. Attorney?

9 THE COURT: Excuse me just a second. Please  
10 hand me the document.

11 THE WITNESS: Yes.

12 THE COURT: Let the record reflect that the  
13 inquiry being made is of Defendant's Exhibit 2, which  
14 consists of four pages. And specific inquiry is being  
15 made of the attached final page, the fourth page of that  
16 exhibit. Thank you. Please proceed.

17 BY MS. SASSOWER:

18 Q Was the full content of this jacket from which  
19 this last page, which I assumed was part of what was  
20 circulated, was the full contents of that file turned  
21 over to the U.S. attorney?

22 A Yes, ma'am.

23 Q Did it consist of more than these one, two,  
24 four pages?

25 A The information that we turned over to the U.S.

1 attorney?

2 Q Yes, consist of more than four pages.

3 A Yes, ma'am. It also consisted of faxed  
4 material that you had transmitted to my unit.

5 Q Okay. Let's turn to the subject profile.

6 A Yes.

7 THE COURT: The record should reflect that the  
8 subject profile is a document that is contained within  
9 Defendant's Exhibit 2.

10 BY MS. SASSOWER:

11 Q Well, can you explain to me why when you stated  
12 that your contact with this case commenced on May 20th,  
13 sometime at the very end of the day, regarding a threat  
14 reported by Senator Clinton's office, your subject  
15 profile is dated May 19th, a day earlier? Why does May  
16 19th appear?

17 A May, to clari -- first of all, to clarify, this  
18 is not a threat case. Now to clarify the incident date,  
19 the incident date is the date that we use to record when  
20 the office was or came in contact with the subject that  
21 caused them concern. Subject meaning Ms. Sassower.

22 So the office informed us that on the 19th they  
23 had contact with Ms. Sassower, and that's the contact  
24 that caused them concern. So that's the date that we  
25 entered into what is called the incident date in the

1 file.

2 And May 20th is the date that I entered in terms  
3 of the date of my initial involvement in the case. So  
4 May 19th is the date of contact between the office and  
5 Ms. Sassower that caused them concern and May 20th is  
6 the date that I entered my notes.

7 THE JUDGE: Excuse me just a minute. Officer Lippay,  
8 our court reporter is attempting to transcribe  
9 everything that you say.

10 THE WITNESS: Okay.

11 THE COURT And sometimes you're a little too  
12 fast --

13 THE WITNESS: Yes.

14 THE COURT -- for her. So if you could slow it  
15 down a bit, --

16 THE WITNESS: I'll try.

17 THE COURT --I'd appreciate it.

18 THE WITNESS: Okay.

19 THE COURT: Thank you very much. Ms. Sassower?

20 MS. SASSOWER: Yes.

21 BY MS. SASSOWER:

22 Q Now, it says case type under incident date?

23 A Yes.

24 Q DOI, what does that mean?

25 MR. MENDELSON: Objection, Your Honor. This



1 hasn't been introduced into evidence.

2 THE COURT: Very well.

3 MS. SASSOWER: If the Court will excuse me, the  
4 prosecution will excuse me.

5 THE COURT: Approach the bench please.

6 (Bench Conference)

7 THE COURT: If you're going to question this  
8 witness about the specific contents of the document, you  
9 need to lay the foundation that the document is of her  
10 preparation.

11 MS. SASSOWER: Yes, thank you.

12 THE COURT: Once you've laid that foundation,  
13 then after she's acknowledged it as of her preparation,  
14 so you need to offer that exhibit into evidence, giving  
15 the government the opportunity to object to it for any  
16 reason that they so choose.

17 Then I will rule on its admission. It's only  
18 after that that you can then inquire specifically as to  
19 any item contained therein.

20 MS. SASSOWER: Thank you for your  
21 clarification, Your Honor.

22 THE COURT: Very well.

23 (Open Court)

24 MS. SASSOWER: I'm advised that I need to first

25 --

1 THE COURT: Ask the questions, please.

2 BY MS. SASSOWER:

3 Q Would you confirm that this subject profile and  
4 appended bulletin is something that you prepared?

5 A Yes, ma'am.

6 Q And it does in fact bear your name on top?

7 A Yes, ma'am, it does.

8 THE COURT: At this time would you like the  
9 document offered into evidence?

10 MS. SASSOWER: Yes, Your Honor, thank you.

11 THE COURT: Very well. Any objection?

12 MR. MENDELSON: No objection, Your Honor.

13 THE COURT: Very well, Defendant's Exhibit 2 is  
14 received in evidence. Please proceed.

15 BY MS. SASSOWER:

16 Q Now what is, it says case type DOI, what does  
17 that mean?

18 A Case type is how we classify the case. And  
19 this case was classified as a direction of interest,  
20 meaning a nuisance case as opposed to a threat case.

21 Q At what stage do you classify, do you give a  
22 classification?

23 A We give a classification to the case if we have  
24 enough information at the initial stages of the case.

25 Q And if it was going to be upgraded --

1 A Uh-huh.

2 Q -- from direction of interest, DOI to threat,  
3 okay, would that be reflected at some point in the  
4 subject profile --

5 A Yes, ma'am.

6 Q -- upgrade?

7 A Yes, ma'am, it would, although this case did  
8 not change its classification.

9 Q From direction of interest. Okay. Now it does  
10 indicate that the direction of interest I guess arises  
11 from Senator Clinton, is that correct? You reflected  
12 that on your subject profile here?

13 A If you can clarify that.

14 Q Well, the second category, it says direction of  
15 interest and it has Clinton, the name Clinton.

16 A Ah.

17 Q That means that it stemmed from Senator  
18 Clinton's office.

19 A Correct.

20 Q And when it says governmental body, Senate,  
21 what does that refer to?

22 A We, that's just another way of classifying the  
23 case. And Senator Clinton is a senator, so as far as  
24 governmental body, that could be listed as a House  
25 member or a Senate member.

1           And since she works on the Senate side, that's  
2 listed as Senate in the governmental body section.

3           Q     Okay, thank you for your clarification. Now  
4 the next section says contact and then it says agency  
5 contacted and it says USSS. What is that?

6           A     USSS stands for the United States Secret  
7 Service.

8           Q     United States Secret Service, United States  
9 Secret Service. And then date contacted is May 20, 2003  
10 -- well, when did you, when did you contact the Secret  
11 Service?

12           A     At what point -- you said you got the message  
13 late in the day, the assignment late in the day from  
14 Senator Clinton's office on May 20th, and so when did  
15 you contact the Secret Service?

16           A     I contacted the Secret Service on May 20th.

17           Q     May 20th.

18           A     2003, yes, ma'am.

19           Q     Okay. There are no times here, and again, this  
20 is important. You deal with important work where  
21 precision is critical.

22           THE COURT: Sustained. Ask the question, the  
23 question please.

24           BY MS. SASSOWER:

25           Q     All right. When you testified -- you said that

1 you were contacted after the clo -- I believe you had  
2 testified --

3 Is it correct that you testified that you  
4 received this assignment late in the day on May 20th?

5 A Correct.

6 Q It was so late that you could not make contact  
7 with the senator's office, is that correct?

8 A By the time I reviewed the material in hand,  
9 for instance, the voice mail message and the fax, the,  
10 and I attempted to make contact with the senator's  
11 office, it had, the business day had ended already.

12 Q Now, how did you get the voice mail message and  
13 the fax?

14 A Both items were transmitted to my office by the  
15 senator's office.

16 Q At what time?

17 A I cannot recall the time that they were  
18 transmitted.

19 Q Would the dockets in that jacket contain the  
20 time?

21 A The dockets in the jacket?

22 Q In that jacket that you said is in the storage  
23 but copies of which were given to the U.S. attorney, --

24 A No.

25 Q -- would they reflect the time?

1           A     The, if the time were listed, it would be  
2 listed in the notes that I have here. And I did not  
3 record the times that the voice mail message or the fax  
4 arrived in our office.

5           Q     Why won't you have the time?

6           A     It didn't pertain to the investigation, the  
7 time that we received the fax or the voice mail message.

8           Q     Okay. All right, let's move on. Oh, so you  
9 had reviewed, on May 20th, you reviewed the voice mail  
10 message and the fax. How many pages was the fax, by the  
11 way?

12          A     The fax that we received from the senator's  
13 office consisted of just one page that you transmitted  
14 to their office along with the cover sheet.

15          Q     You're representing that the fax that they sent  
16 to you consisted of a single page?

17          A     Along with a cover page, so two pages.

18               MS. SASSOWER   Excuse me. I have marked for  
19 identification Defendant's Exhibit 3 consisting of a May  
20 19, 2003 fax sent to Senator Hillary, Hillary Rodman  
21 Clinton, also addressed to Senator Charles Schumer as  
22 home state senators of New York.

23               And have marked as Exhibit Number 4 the fax  
24 sent to Senate Judiciary Committee Chairman Orin Hatch  
25 and ranking member Patrick Leahy of May 19th, this being

1 part of the transmittal..

2 THE COURT: Well, excuse me. What is the  
3 question that you are posing to this witness?

4 MS. SASSOWER: I show this --

5 THE COURT: Would you like to approach the  
6 witness with those documents?

7 MS. SASSOWER: Yes, may I approach the witness,  
8 Your Honor?

9 THE COURT: You may.

10 BY MS. SASSOWER:

11 Q Now, now, Ms. Lippay, you've identified that  
12 the reason that your subject profile report begins on  
13 May 19th is because, notwithstanding your contact or the  
14 contact between Senator Clinton's office and Capitol  
15 police, specifically the Threat Assessment Unit, was May  
16 20th, their concern related to something of May 19th,  
17 which you identified as a fax they had received on May  
18 19th, --

19 MR. MENDELSON: Your Honor, --

20 MS. SASSOWER -- is that correct?

21 MR. MENDELSON: -- objection.

22 MS. SASSOWER: Do I understand you correctly?

23 MR. MENDELSON: It's eminently confusing.

24 THE COURT: Excuse me. The, the objection is  
25 sustained. If you would --

1 MS. SASSOWER: Rephrase.

2 THE COURT: -- rephrase the question.

3 MS. SASSOWER: Yes, Your Honor.

4 BY MS. SASSOWER:

5 Q Is this the, is this the -- you've, you've  
6 identified the one-page May 19 fax that you received  
7 from Senator Clinton's office, which you identified as  
8 having also had a cover sheet of one page. That makes  
9 two pages, am I correct?

10 A Yes, ma'am.

11 Q Okay. Do you have a copy of that two-page  
12 document that you have brought with you or that the U.S.  
13 Attorney has from the copies of this case file that were  
14 made? Because --

15 THE COURT: Well, --

16 BY MS. SASSOWER:

17 Q Do you have a copy, so I know what you're  
18 referring to?

19 A We provided a copy to the Assistant U.S.  
20 Attorney's Office.

21 THE COURT: Very well.

22 BY MS. SASSOWER:

23 Q Does what I -- does the fax that I provided  
24 you, consisting of two documents, --

25 A The two documents here?



1 Q There are two May 19 faxes.  
2 THE COURT: Which have not been --  
3 MS. SASSOWER: Okay.  
4 BY MS. SASSOWER:  
5 Q Does any part of what I have provided to you  
6 resemble the fax that you say you received from Senator  
7 Clinton's office as being something that I sent?  
8 THE COURT: Do you understand the question?  
9 THE WITNESS: Yes, Your Honor.  
10 THE COURT: Very well, please answer.  
11 THE WITNESS: Yes, ma'am.  
12 MS. SASSOWER: Okay. What part have you read  
13 before, have you seen before?  
14 THE COURT: As contained in Exhibits 3 and 4?  
15 MS. SASSOWER: Yes.  
16 THE COURT: Or what documents?  
17 MS. SASSOWER: Yes. Thank you for the  
18 clarification, Your Honor.  
19 THE COURT: Very well.  
20 THE WITNESS: Ma'am, the first page --  
21 MR. MENDELSON: Your Honor, before the -- may  
22 we approach?  
23 THE COURT: Yes.  
24 (Bench Conference)  
25 THE COURT: There's been no foundation laid

1 that this witness originated the documents. However,  
2 the witness appears to be testifying that the contents  
3 she has seen before, so I am willing to allow her to  
4 testify as to what it is that she sees there that she's  
5 seen before.

6 But it seems to me that that is the extent of  
7 the examination. She's already testified as to what  
8 documents she generated, what documents.

9 MS. SASSOWER: Your Honor, she has not produced  
10 the document that she received from Senator Clinton's  
11 office, which she has curiously identified in a way that  
12 I have no clue as to what it is. I have proffered to  
13 her --

14 THE COURT: Lower your voice.

15 MS. SASSOWER: I have proffered to her what it  
16 should have been.

17 THE COURT: Well, the jury is not entitled to  
18 hear your testimony. What you can ask her is whether  
19 the document, the two-page document that she received  
20 contained X, Y, or Z. And presumably her responses will  
21 be no, no, no, no --

22 MS. SASSOWER -- Okay.

23 THE COURT -- or, --

24 MS. SASSOWER Okay.

25 THE COURT -- or whatever. I don't much care

1 what her response is. But there is a manner in which  
2 you have to extract from this witness what she received  
3 and any difference it bears to what you presented.

4 MS. SASSOWER: Thank you, thank you.

5 THE COURT: Very well.

6 MR. MENDELSON: Your Honor, I have two  
7 objections. One, the discovery issues have been  
8 resolved. I haven't objected as the defendant has  
9 continually asked about non-existent notes but I will do  
10 so.

11 THE COURT Well, what --

12 MR. MENDELSON: Everything had been turned  
13 over to the defendant, and that's been resolved pretrial  
14 including a one-page fax. Moreover, --

15 MS. SASSOWER: One-page.

16 MR. MENDELSON: -- the, the, the documents  
17 that Ms. Sassower I believe is going to ask the agent to  
18 read from are all hearsay. They're not her statements.  
19 They're Ms. Sassower's statements, and we would object  
20 that they be read into evidence.

21 THE COURT: Well, they're not going to be read  
22 into evidence. She is going to identify what part of  
23 this she has seen before.

24 MR. MENDELSON: How?

25 THE COURT: I have seen part of these documents

1 before without reading into evidence.

2 MR. MENDELSON: We have no objection to that.

3 THE COURT: Very well.

4 MR. MENDELSON: Okay.

5 (Open Court)

6 BY MS. SASSOWER:

7 Q What part of that fax have you seen before?

8 A In reference to the May 19, two thou, 2003 fax  
9 that you had addressed to Senator Schumer and Clinton --

10 THE COURT: Without reading the contents of the  
11 document, what part have you seen before?

12 THE WITNESS: The first page of the fax.

13 BY MS. SASSOWER:

14 Q Only the first page.

15 A Yes, ma'am.

16 Q May I have -- excuse me, the procedure. Does  
17 the Court wish to have only the first page marked into  
18 evidence?

19 THE COURT: Well, she didn't originate the  
20 document.

21 MS. SASSOWER: She received it.

22 THE COURT: Nevertheless, she's not the  
23 originator. She cannot lay the foundation for its  
24 preparation. It cannot be admitted through this  
25 witness.

1 MS. SASSOWER: Okay. I, may I approach the  
2 bench with the prosecution please?

3 THE COURT: Yes, please approach.

4 (Bench conference.)

5 MS. SASSOWER: This is going -- on April 9, in  
6 response to my letter with regard to the late production  
7 of the subject profile, I received correspondence from  
8 Ms. Liu which enclosed the one page being identified now  
9 by Special Agent Lippay.

10 And it says here, the cover letter, of course I  
11 had requested the fax in full, that the Capitol police  
12 is in possession of only one page of that fax.

13 I'm enclosing that page as well as the  
14 facsimile, two transmittal sheets, Senator Clinton's  
15 office. May that be introduced now into evidence from  
16 the 20<sup>th</sup>, and I will remove the related documents?

17 THE COURT: The, the, the document, the  
18 document that I have been asked to review is, is a  
19 facsimile transmittal sheet from the chambers of Senator  
20 Hillary Rodman Clinton of New York.

21 There is particularized information with regard  
22 to the sender, the recipient, the company, the date, the  
23 fax number, all the numbers and so forth.

24 The, there is a message contained here and  
25 there is a, the name of the apparent originator

1 identified as Liz. It also indicates that this  
2 document's been redacted.

3 Now having identified the document for the  
4 record, this document cannot be admitted into evidence.  
5 Certainly not through this witness because this witness  
6 did not originate the document.

7 MS. SASSOWER: She received it. Your Honor,  
8 it's directed to Capitol police who sent a copy to me.

9 THE COURT: Nevertheless --

10 MS. SASSOWER: And this is the first page that  
11 is represented as having been transmitted from Senator  
12 Clinton's office to the U.S. Capitol police on May 20th.  
13 And the incident --

14 THE COURT: What is the -- tell me what it is  
15 that you're attempting to have this witness testify to  
16 with regard to this document.

17 MS. SASSOWER: She is attesting that the basis  
18 for her action in generating a bulletin and the wording  
19 --

20 THE COURT: It was a letter and a fax cover  
21 sheet.

22 MS. SASSOWER: Right.

23 THE COURT: Right. And --

24 MS. SASSOWER: And a recorded voice mail  
25 message which she received on May 20th. Now this is

1 the --

2 THE COURT: Fax cover sheet.

3 MS. SASSOWER: The fax cover sheet.

4 THE COURT: And the one-page letter.

5 MS. SASSOWER: Right, exactly.

6 THE COURT: Very well.

7 MS. SASSOWER: Thank you.

8 THE COURT: I'll hear from the government.

9 MR. MENDELSON: Your Honor, the witness  
10 testified that she initiated her investigation as a  
11 result -- the witness, Agent Lippay --

12 THE COURT: Right.

13 MR. MENDELSON: -- testified she initiated her  
14 investigation as a result of the fax and the voice mail  
15 message.

16 THE COURT: Right.

17 MR. MENDELSON: That's the first argument.

18 THE COURT: Right.

19 MR. MENDELSON: This document, however,  
20 cannot be admitted, as the Court stated, through Agent  
21 Lippay.

22 THE COURT: That is correct. And that is my  
23 ruling. Agent Lippay can only provide the necessary  
24 foundation for entry into admission of evidence of the  
25 documents that she originated.

1 MS. SASSOWER: Okay. But, Your Honor, --

2 THE COURT Ms. Sassower, I, --

3 MS. SASSOWER -- possession,

4 THE COURT My --

5 MS. SASSOWER She was asked to bring documents.

6 Had she brought the documents, would we have been able  
7 to introduce that?

8 THE COURT: Let me address that issue right  
9 now. It seems to me that what is occurring here is the  
10 questioning of this witness about production of  
11 documents, that production having already occurred prior  
12 to trial.

13 To the extent that this witness testifies to, as  
14 she already has, that documents were produced to the  
15 government and to the extent that the government  
16 represents to this court that the documents that the  
17 government received have been turned over to Ms.  
18 Sassower, then that ends the discussion as to the  
19 receipt of Capitol police documents.

20 Is there anything further on that issue?

21 MS. LIU: Your Honor, for the record,  
22 everything that I received was turned over to Ms.  
23 Sassower. In fact, Ms. Sassower had asked for  
24 reproduced documents. She specifically asked all the  
25 evidence Ms. Sassower faxed before trial --



1 THE COURT And --

2 MR. MENDELSON: Your Honor, I have to ask a  
3 quick question. Is she entitled to ask why the subject  
4 profile came from this officer last week and not back in  
5 August when it was requested?

6 THE COURT: No, no, she's not. What would she  
7 have to do with the U.S. Attorney's Office handling of  
8 that case to the extent that -- well, I'll stop it right  
9 there.

10 She can testify as to when the material was  
11 turned over. We have that from her. As to what  
12 happened to the material after it was turned over to the  
13 United States Attorney's Office, she's not to speculate  
14 on that. Very well.

15 MR. MENDELSON: Your Honor, one --

16 MS. LIU: We'd like to note our standing  
17 objection to the witnesses that appear in this case  
18 being asked on documents that he or she did not  
19 originate.

20 THE COURT: So noted for the record. Very  
21 well.

22 (Open Court)

23 THE COURT: Ladies and gentlemen of the jury,  
24 we have reached a convenient point in the proceedings  
25 where we can take a break. And so I am going to excuse

1 you now for luncheon recess.

2 And as I informed you yesterday, and I was glad  
3 to see that you heard me, I'm going to give you an hour.  
4 So that means that at 20 minutes of two, you should be  
5 back. We will not resume however until 2 o'clock. So  
6 be judicious in your use of your grace period of 20  
7 minutes. Thank you very much.

8 (Thereupon the jury was excused for lunch at  
9 12:40 p.m.)

10 THE COURT: Very well. Ms. Lippay, you are  
11 still under oath and you're in the midst of cross-  
12 examination. So I am instructing you that you are to  
13 discuss your testimony that you've already given or that  
14 you anticipate that you might be requested to give with  
15 no one, including the attorneys involved or Ms. Sassower  
16 in this case.

17 THE WITNESS: Yes.

18 THE COURT: You understand that?

19 THE WITNESS: Yes.

20 THE COURT: Very well, thank you very much.  
21 We'll see you back here at two o'clock.

22 THE WITNESS: Great. Thank you.

23 THE COURT: You're welcome. All right, we're  
24 going to break for the luncheon recess and we'll resume  
25 promptly at two o'clock.

1 MS. SASSOWER: A moment, Your Honor?

2 THE COURT: Yes, what is it, Ms. Sassower?

3 MS. SASSOWER: So that I can understand the  
4 Court's direction to me.

5 THE COURT: Yes.

6 MS. SASSOWER: Would the Court wish me to mark  
7 those items that I am going to wish to introduce?

8 THE COURT: Yes. And let me say two things with  
9 regard to that. Number one, any time you are proceeding  
10 in a trial and particularly in a jury trial, you want  
11 the exhibits already marked for identification even if  
12 they are not entered into evidence, so that we can track  
13 what is being discussed by virtue of its exhibit number.

14 Number two, the fact that you will identify  
15 these documents does not mean that I will automatically  
16 admit them into evidence. Very well. Anything further?

17 MS. LIU: Nothing from the government, Your  
18 Honor.

19 THE COURT: Very well, thank you. We'll be  
20 back at two o'clock.

21 (Thereupon, the Court recessed at 12:40 p.m.)

22 (Thereupon, the Court reconvened at 1:55 PM )

23 THE COURT: Please be seated.

24 THE CLERK: United States vs. Elena Sassower,

25 M4113-03.

1 THE COURT: Very well. Any preliminary  
2 matters? Yes.

3 MS. SASSOWER: Yes, Your Honor. By way of  
4 clarification, are you permitting as an exhibit the  
5 transmittal of May 20th from Senator Clinton's office  
6 cover sheet with a one-page of the May 19 fax?

7 THE COURT: Your question is, am I permitting  
8 it, am I -

9 MS. SASSOWER: As an exhibit.

10 THE COURT: -- allowing you to en -- as an  
11 exhibit, certainly it should be marked. And to the  
12 extent that you have questioned or intend to question  
13 the witness as to whether this was the information she  
14 received, I've ruled on that.

15 Whether or not that exhibit is admissible into  
16 evidence through this witness, I believe I've also ruled  
17 on that, and it is not.

18 MS. SASSOWER: It's not.

19 THE COURT: It is not admissible through this  
20 witness. She didn't create either one of the documents,  
21 neither the cover sheet nor the, nor the, the actual  
22 letter itself.

23 MS. SASSOWER: Okay.

24 THE COURT: She is unable to authenticate its  
25 preparation. She would only be able to testify that she

1 received it, which she has already testified to.

2 MS. SASSOWER: And in that, in that, on that  
3 basis, she, I cannot introduce it as an exhibit, that  
4 she received this?

5 THE COURT: It will not be admitted into  
6 evidence, that document, because it hasn't been  
7 authenticated. This witness has identified it, she's  
8 seen it.

9 MS. SASSOWER: Okay.

10 THE COURT: She doesn't know anything about  
11 its preparation.

12 MS. SASSOWER: May I question her about the  
13 document?

14 THE COURT: The contents? If she didn't create  
15 them, I don't know how she could --

16 MS. SASSOWER: If she received it. She acted  
17 on it.

18 THE COURT: Well, she's not going to testify as  
19 to the content of it, however. So --

20 MS. SASSOWER: But she read it.

21 THE COURT: Yes, she's read it.

22 MS. SASSOWER: Okay. So I can testify, I can  
23 ask her about --

24 THE COURT: I believe that you've already --  
25 let me see if I can -- unless there is some

1 identification of this document that has not already  
2 occurred, namely that this witness has seen it, this  
3 witness recalls it as being the information that she  
4 received, and this document as I understand it, was one  
5 of the bases for her proceeding forward.

6 I've allowed that. That information is already  
7 in evidence and I believe unobjected to. The issue  
8 becomes whether that exact document may be admitted as  
9 evidence through this witness.

10 MS. SASSOWER: I will --

11 THE COURT: It may not.

12 MS. SASSOWER: I will move on.

13 THE COURT: Very well.

14 MS. SASSOWER: To speed things.

15 THE COURT: Mr. --

16 MR. MENDELSON: Mendelsohn.

17 THE COURT: -- Mendelsohn.

18 MR. MENDELSON: Your Honor, two issues. One,  
19 for ease of the Court and for ease of opposing parties,  
20 would it be possible for the parties to be required to  
21 submit exhibit lists to the Court and to opposing  
22 counsel perhaps tomorrow morning?

23 THE COURT: Well, certainly that's the  
24 preferred way to proceed so that we don't have  
25 unnecessary exchanges concerning information not seen

1 prior to the time of its offer for introduction into  
2 evidence.

3           It's very difficult to know what Defense  
4 Exhibit 1 is unless it's already been identified. Then  
5 any objections could be made and we could very easily be  
6 through that.

7           To wait until we're in trial, in the  
8 examination, identifying exhibits and then having  
9 argument, it consumes a lot of time. I'm trying to  
10 avoid that. So, an exhibit list would be preferred.  
11 Yes, if that answers your question.

12           MR. MENDELSON: One more question from Ms.  
13 Liu.

14           MS. LIU: Your Honor, this concerns once again  
15 the Drew evidence that we discussed earlier.

16           THE COURT: Right.

17           MS. LIU: In her cross-examination of Special  
18 Agent Lippay, Ms. Sassower has made reference once again  
19 to the 1996 arrest.

20           THE COURT: Yes.

21           MS. LIU: And events flowing therefrom. We  
22 would ask this Court to allow us to ask about that '96  
23 arrest and that incident on redirect as well as in  
24 rebuttal.

25           THE COURT: Well, certainly it would be a

1 different issue had there not been any mention made of  
2 the 1996 arrest until the defense case.

3 The answer would be simpler then. Here we  
4 have a case where the 1996 evidence has been admitted  
5 through, some of it has been admitted through the  
6 witness that's currently on the stand.

7 As a matter of judicial economy, it seems to me  
8 that the follow-up questioning on redirect as to that  
9 1996 arrest would be appropriate.

10 MS. LIU: Thank you, Your Honor.

11 THE COURT: Very well. And let me make sure  
12 that we're all clear here. Let's assume for the sake of  
13 this discussion that with the next witness who may have  
14 participated in the 1996 arrest and know of it, but on  
15 cross-examination no mention is made of it, I will  
16 expect that there will be no redirect examination on  
17 that issue.

18 MS. LIU: That's understood, Your Honor.

19 THE COURT: Very well.

20 MS. SASSOWER: May I, Your Honor?

21 THE COURT: Ms. Sassower.

22 MS. SASSOWER: Your Honor, it is incumbent upon  
23 me to advise the Court that Sergeant Lippay's testimony  
24 was materially incomplete, because it was Sergeant  
25 Lippay who brought up the 1996 arrest in the phone



1 conversation that she initiated with me.

2 THE COURT: Well, --

3 MS. SASSOWER: And this was the subject of such  
4 discussion that I demanded to speak with Detective  
5 Zimmerman as her supervisor.

6 THE COURT: Ms. Sassower, let me, let me say  
7 this to you. What seems to be lost here and what I keep  
8 attempting to reiterate, is that information that is  
9 accumulated during the course of discovery is not  
10 necessarily admissible at trial.

11 To the extent that there was discussion of the  
12 1996 arrest, at least in theory, it has no bearing on  
13 the arrest in 2003 and therefore it should be kept out.  
14 I've ruled on that.

15 Through this witness, however, information  
16 pertaining to the 1996 arrest has now been brought  
17 before the jury. I am now confronted with a dilemma.

18 Evidence that I previously ruled would only  
19 come in during rebuttal has now been introduced by  
20 virtue of your cross-examination.

21 The question that the prosecution raises is  
22 simply this. Why do we have to now wait until a  
23 rebuttal case when this issue has been brought out, not  
24 by us but by the defense.

25 And on that basis, the defense will be allowed

1 on redirect to address the 1996 arrest as it is, as it  
2 pertains to Officer Lippay.

3 MS. SASSOWER: You're talking about the  
4 prosecution not the defense.

5 THE COURT: That's what I meant.

6 MS. SASSOWER: Okay. Again, I wish to clarify  
7 that the 1996 arrest came up because it was put forward  
8 by Capitol police in the conversations they had with me  
9 by phone.

10 It was the basis of the threats that were made  
11 to me by Sergeant Lippay and Detective Zimmerman, and it  
12 is reflected by my May 21st fax. That --

13 THE COURT: And if I wasn't clear before, I  
14 will be so now and we will conclude discussion on the  
15 issue. None of that matters unless and until it is  
16 introduced through a witness at trial as testimony.  
17 Once that occurs, it becomes a matter that the  
18 prosecution rightfully wishes to address in redirect.

19 Therefore, the information pertaining to Officer  
20 Lippay's involvement or not in the 1996 arrest will be  
21 the subject of redirect examination if the prosecution  
22 so chooses. Very well.

23 (Thereupon, the jury returned to the courtroom  
24 at 2:05p.m.)

25 THE COURT: When we left we were in the cross-

1 examination of Officer Lippay by Ms. Sassower. Very  
2 well. Will you please bring Officer Lippay back?

3 (Thereupon, Special Agent Lippay resumed the  
4 witness stand.)

5 THE COURT: Please be seated and please recall  
6 that you are still under oath.

7 THE WITNESS: Yes.

8 THE COURT: If I have misstated your title, you  
9 are Special Agent Lippay and not Officer Lippay.

10 THE WITNESS: Yes.

11 THE COURT: Very well. I apologize.

12 THE WITNESS: That's okay.

13 MS. SASSOWER: Yes. I will for the moment  
14 return to the subject profile that you have identified  
15 that you prepared. May I approach?

16 THE COURT: Yes.

17 BY MS. SASSOWER:

18 Q This is marked as Defendant's Exhibit 2.

19 A Yes.

20 MS. SASSOWER Is it in evidence, Your Honor?

21 THE COURT: Did you move, did you seek to move  
22 it into evidence.

23 MS. SASSOWER: I would request since the witness  
24 identified that she prepared it.

25 THE COURT: Very well. Any objection?

1 MR. MENDELSON: No, Your Honor.

2 THE COURT: Very well. It's received in  
3 evidence.

4 BY MS. SASSOWER:

5 Q The subject profile itself, the text is  
6 subject profile?

7 A Yes, ma'am.

8 Q And there are essentially four dates  
9 representing May 19th, May 20th, May 21st and May 22nd,  
10 is that correct?

11 A Yes, ma'am.

12 Q You have identified that May 19th refers to the  
13 fact that the fax that you received from Senator  
14 Clinton's office on May 20th, May 20th was dated May  
15 19th?

16 A From what I recall, May 19th is just the date  
17 that they, that this case become, became of concern to  
18 them. I don't recall if it specifically pertains to  
19 that fax.

20 Q But Senator Clinton's office did not contact  
21 you until, when I say you, Capitol police, until late in  
22 the day on May 20th, the time you do not know.

23 A I was assigned the case late in the day May  
24 20th. I do not know the time that the senator's office  
25 contacted my unit regarding the case.

1 Q Before testifying here today, did you review  
2 any documents, including the subject profile, so as to  
3 refresh your recollection, detective?

4 A Yes, ma'am.

5 Q And what documents did you review?

6 A I reviewed my case notes that I had in front of  
7 me.

8 Q I'm sorry, the case notes being this two-page  
9 text of the subject profile?

10 A Yes, ma'am.

11 Q Any other documents?

12 A I believe I reviewed, I just took a look at the  
13 flyer that I created along with the fax that the  
14 senator's office transmitted to our office on May 20th.

15 Q Which you identified as a cover sheet and a  
16 one-page fax transmitted by that cover sheet.

17 A Correct.

18 Q Okay. Let's go directly to your case notes,  
19 abstract section, dated May 20th. It states --

20 MS. SASSOWER: Excuse me, may I confer with my  
21 legal adviser? Could we have the husher please?

22 (Pause)

23 BY MS. SASSOWER:

24 Q Okay. Does, does this recitation that you  
25 prepared as to how this matter came to you, refresh your

1 recollection as to why you received this matter?

2           You received this matter not directly from  
3 Senator Clinton's office, correct, initially?

4           A     Correct. I was notified about the case from my  
5 office.

6           Q     Your office.

7           A     Correct.

8           Q     And specifically Special Agent Turner?

9           A     Correct.

10          Q     What is her rank as compared to yours?

11          A     She is a detective as well as a special agent.

12          Q     Are you a detective?

13          A     I am a special agent.

14          Q     What is the difference?

15          A     In order to achieve the rank of detective, a  
16 test is required. However, my department no longer  
17 offers the rank of detective.

18                 In order to achieve the rank of special agent,  
19 you have to attend a two-month criminal investigative  
20 training course in Georgia and we also receive  
21 additional yearly training in threat assessment.

22          Q     Okay. So essentially, she has a little bit  
23 more by way of credentials than you?

24          A     In terms of a title, she is at a higher title  
25 than me.

1 Q Okay. Is she considered one of your  
2 supervisors?

3 A In the absence of my sergeant, who is our  
4 acting supervisor, the person with the most seniority  
5 takes over as the acting supervisor.

6 And if she was most senior at the time, then  
7 yes, she would be an acting supervisor.

8 Q It says that Liz Kelly, who was the office  
9 manager for Senator Clinton's D.C. office, telephoned  
10 Special Agent Turner regarding a phone call and fax  
11 received from Sassower.

12 Do you know whether Special Agent Turner was  
13 specifically contacted by Liz Kelly or was it just a  
14 call that Special Agent Turner happened to receive?

15 A I don't have that information so I can't give  
16 you an answer.

17 Q Okay. Then you indicate that you got the case  
18 because of schedu, because of scheduling conflict.

19 Did you mean by that that Special Agent Turner  
20 was unavailable, she was on other assignments? She had  
21 the scheduling conflict and therefore you got the case?

22 A I can't recall the reason why she could not  
23 take the case, but I was assigned the case.

24 Q It says here that Special Agent Lippay made a  
25 copy of the voice mail message in which Sassower directs

1 her message to a staff member of Senator Clinton's  
2 office.

3 Now I understood from your testimony that you  
4 did not speak to Senator Clinton's office until the  
5 following day, May 21st, because you had gotten the  
6 assignment late in the day.

7 So I'm a little bit confused. When did you  
8 make a copy of the, this voice mail message?

9 A The copy was made on May 20th, 2003.

10 Q Who made the copy?

11 A I made the copy on May 20th.

12 Q But you did not speak to Senator Clinton's  
13 office on May 20, isn't that your testimony?

14 A That's correct.

15 Q You didn't speak with Senator Clinton's office  
16 but you were able to make a copy of the voice mail  
17 message that I had left with Senator Clinton's office on  
18 May 20th?

19 A That's correct. They had forwarded the message  
20 to our voice mail box.

21 Q As well as this cover sheet and one-page fax.

22 A They had faxed the two-page fax to our office.

23 Q Okay. So when you got this assignment you made  
24 a copy of the voice mail message that I had left with  
25 Senator Clinton's office on that very day.



1           A     Yes.

2           Q     And where is the copy of that voice mail  
3 message?

4           A     I advised the Assistant U.S. Attorney's Office  
5 that the copy of the voice mail message cannot be  
6 located.

7           Q     Cannot be located. When did you discover that  
8 it could not be located?

9           A     From what I recall, discovery was made in the  
10 summer of 2003 when we were advised, when we obtained  
11 the file to review it.

12                     And we were advised by the U.S. Attorney's  
13 Office that the case, that they needed material from the  
14 case file for this trial.

15           Q     Well, what is the procedure of Capitol police  
16 and the elite special Threat Assessment's Unit procedure  
17 for preserving evidence?

18           A     Well, I took the necessary steps to maintain  
19 the audio tape in the file. I probably labeled the tape  
20 and then I placed the audio cassette tape inside a white  
21 Capitol police envelope as I typically do.

22                     I labeled the white envelope, sealed it with  
23 tape, then I stapled the envelope containing the tape to  
24 the case jacket. I forwarded the case jacket to my  
25 supervisor for review.

1           Once it's reviewed, then the case jacket is  
2 placed inside the filing cabinet located within our  
3 unit. And I did not remove the envelope nor the tape  
4 from the case jacket and I do not know of anyone who  
5 did.

6           Q     Very well. You said in your testimony -- in  
7 your direct testimony you did not identify that you had  
8 made a copy of that voice mail message.

9           A     Can you clarify that please?

10          Q     When you testified on the direct case you did  
11 not say <sup>Q5</sup> part of our investigative procedures we make  
12 copies of potential evidence and we made a copy of that  
13 voice mail message that we received from Senator  
14 Clinton's office.

15                    You did not identify that there had been a tape  
16 of that voice mail message?

17          A     If I did not mention it, then I did not mention  
18 it. But I included that information in my case notes.

19          Q     Okay. Yes, you're absolutely correct, it  
20 appears on the subject profile. You did tell the jurors  
21 that the voice mail message stated that the senator's  
22 office, Senator Clinton's office had engaged in  
23 misconduct.

24                    Do you remember anything about, else about  
25 what that first voice mail message had said? Who was

1 that message left for?

2 A I do not recall who the message was left for.  
3 And the message, you had stated that the office had  
4 engaged in misconduct.

5 Q In fact, your subject profile, which you did  
6 say you reviewed prior to your testimony, is much more  
7 specific. You say, is this correct, if you recall,  
8 Special Agent Lippay made a copy of the voice mail  
9 message in which Sassower directed her message to a  
10 staff member.

11 You don't identify which staff member. But  
12 you do go on to say, and spoke in a calm and coherent  
13 tone.

14 You forgot to mention on your direct testimony  
15 that my voice mail message did not sound like somebody  
16 who was unbalanced or angry or loud. But I spoke in a  
17 calm, coherent tone.

18 That's what you wrote in your subject profile  
19 which is, let us say contempo, more or less, we don't  
20 know exactly when it was written, we will find out  
21 perhaps. But it's more or less a contemporaneous  
22 document, your impression at that time.

23 THE COURT: Counsel, approach the bench please.

24 (Bench Conference)

25 THE COURT: All right. I am trying to allow

1 you as much latitude as possible, but questions should  
2 be succinct.

3 MS. SASSOWER: Okay.

4 THE COURT: They should be to the point. They  
5 should not be compound. So don't ask several questions.  
6 End one question and get right to the heart of your  
7 ending.

8 MS. SASSOWER: Thank you, thank you.

9 THE COURT: Very well.

10 (Open Court)

11 THE COURT: Ms. Sassower.

12 BY MS. SASSOWER:

13 Q Did you write contemporaneously with the  
14 hearing of the voice mail message that I left for  
15 Senator Clinton's office, that I spoke in that voice  
16 mail message in a calm and coherent tone?

17 A Yes, I did.

18 Q You further say in your subject profile that I  
19 identified that members of the senator's staff engaged  
20 in misconduct regarding a judicial nomination.

21 But you indicate that in the voice mail  
22 message I did not provide information as to the nature  
23 of that misconduct, is that correct, to your  
24 recollection of what the message said?

25 A Yes, ma'am.

1 Q You further state, and you did not identify  
2 this in your direct testimony either, that in my voice  
3 mail message I stated, obviously in a calm coherent  
4 tone, that I would, quote, Sassower would like to  
5 discuss the misconduct with the staff member and  
6 provided her call back number."

7 Is that correct? As you recollect that voice  
8 mail message, is that correct? Is that what it stated,  
9 that I wish to discuss the specifics of the misconduct  
10 and left my call back number?

11 A Those are what my notes state, yes.

12 Q And that would be your recollection as well.

13 A I cannot recall at this time the voice mail  
14 message, but my notes I would say are accurate. They're  
15 an accurate summary of the call.

16 Q Okay. You go on to indicate, to state that Ms.  
17 Kelly, the office manager of Senator Clinton, faxed to  
18 Capitol police a copy of the fax. By the way, TAS,  
19 what's TAS, Threat Assessment Section?

20 A Yes, ma'am.

21 Q Oh. So when -- Threat Assessment Section, that  
22 cover sheet and the one-page fax. And then you write --

23 MR. MENDELSON: Your Honor, may we approach?

24 THE COURT: Yes.

25 (Bench Conference)

1 MR. MENDELSON: It appears to the government  
2 that the defendant's intention is to go through this  
3 entire summary profile line by line by line. If the  
4 summary profile has been introduced into evidence, then  
5 the jury should be able to review it as an exhibit in  
6 evidence.

7 But to ask this witness line by line by line  
8 does not seem relevant to this, to this case.

9 MS. SASSOWER: May I just be heard?

10 THE COURT: Yes.

11 MS. SASSOWER: As I indi, as I stated, Sergeant  
12 Lippay's testimony was materially misleading and  
13 incomplete. And I am trying to highlight the respects  
14 of which she collected salient details.

15 As for example, my tone, the professional  
16 nature of the callback and wishing to speak about the  
17 misconduct.

18 THE COURT: While it's true that the government  
19 is entitled to its examination in the manner in which it  
20 saw fit, Ms. Sassower also has the opportunity to  
21 establish any inconsistencies or lack of clarity with  
22 regard to the documents.

23 So on that basis, I've given her latitude to  
24 bring these issues of apparent discord, to bring this to  
25 the attention of the jury by way of her questioning.

1           However, I will say this. It seems to me that  
2 undue time is being consumed in two ways. The first is,  
3 as I instructed you just a minute ago at the bench, your  
4 questions have to be more direct, focused and succinct.  
5 We don't need elaboration. We don't need any opinions  
6 injected into the questions.

7           MS. SASSOWER: I see. I try not to --

8           THE COURT: And in addition to that, it seems  
9 to me that at some point in time I'm going to have to  
10 ask you would you please get to the heart of your  
11 inquiry.

12           MS. SASSOWER: Yes.

13           MS. LIU: Your Honor, --

14           THE COURT: Just a minute. Mr. Goldstone, Mr.  
15 Goldstone.

16           MR. GOLDSTONE: I'm sorry.

17           MS. LIU: I just wanted to note one point.  
18 There's at least one instance in which during her  
19 questions Ms. Sassower made a statement to Agent Lippay  
20 that was not in her direct testimony.

21           I don't have a problem of course with Ms.  
22 Sassower rooting out any perceived inconsistencies  
23 between Agent Lippay's direct testimony and what's  
24 written in this report.

25           But I think the proper way to do that is to ask

1 her whether she tes, testified on direct, rather than  
2 make the statement that she did not do so which is  
3 argument.

4 THE COURT: Very well.

5 MS. SASSOWER: Thank you, thank you for the --

6 THE COURT: The objection is sustained.

7 MS. SASSOWER: Thank you, thank you for the  
8 instruction, Your Honor.

9 THE COURT: All right.

10 (Open court).

11 BY MS. SASSOWER:

12 Q You made an assessment after hearing the voice  
13 mail message, did you not, an evaluative assessment?

14 A I made a very initial assessment of the case.  
15 I, once I had gathered additional information from the  
16 senator's staff the following day, I was able to make a,  
17 --

18 Q No, no.

19 A -- a more complete assessment.

20 Q No, no. In your subject profile, based only on  
21 the voice mail message and the fax that you were  
22 reviewing on May 20th, before you had any conversation  
23 again with Senator Clinton's office, before you had ever  
24 spoken to me, you made an assessment, what was that  
25 assessment?



1           It's reflected in the subject profile, is it  
2 not?

3           A     The assessment was, the case was categorized as  
4 basically a, as I mentioned before, a nuisance case.

5           Q     Is it not correct that you wrote in your  
6 subject profile, quote, no threats or harassing language  
7 were contained in either the voice mail message nor the  
8 fax?

9           A     Correct, that's what my notes say. However,  
10 the senator's office had more information. I had to  
11 find out what that was.

12          Q     Oh, okay. And your subject profile indicates  
13 that you did call the senator's office, does it not?

14          A     On which day?

15          Q     On May 20th?

16          A     Yes, ma'am, I did call them.

17          Q     And what time does your -- there is a time,  
18 what time does your subject profile indicate you called  
19 the senator's office?

20          A     I called the office at 7:45 p.m.

21          Q     And it states you called, quote, to determine  
22 the officer's concern regarding Sassower's behavior, is  
23 that correct?

24          A     Yes, ma'am.

25          Q     And the reason was -- is it fair to conclude

1 that the reason you followed it up so promptly with  
2 Senator Clinton's office is that based upon your hearing  
3 of the voice mail message and your reading of the fax,  
4 there was no threat, there was no harassment, so what  
5 was the problem? You wanted clarification from Senator  
6 Clinton's office?

7 A That is correct.

8 Q Then you go on to say that you had found that  
9 Sassower has a prior record with the Threat Assessment  
10 Section that involves two cases that occurred. You cite  
11 a 1992 case and a 1996 case.

12 How did you -- you then say details regarding  
13 the 1992 case are not available. In 1996, it appears as  
14 though Sassower was arrested at the Dirksen Senate  
15 Office Building for disorderly conduct, no specific DOI?  
16 DOI is direction of interest.

17 A Correct.

18 Q Okay. How did you determine that I had this,  
19 this prior record? What did you do?

20 A We have prior cases stored in our database and  
21 I found that information under your name.

22 Q And with regard to the 1996 arrest for  
23 disorderly conduct, you had no further information as to  
24 what the disorderly conduct consisted of?

25 A Correct, they had no additional details about

1 that.

2 Q Okay, moving on. You recommended, based upon  
3 your investigations of my prior so-called criminal  
4 record, --

5 Oh, is it correct, is it correct, am I correct  
6 to assume that the, the reason your subject profile  
7 indicates that you recommended that this case remain  
8 open was because you didn't have complete information?

9 A I needed to obtain additional information,  
10 additional details from the senator's office.

11 Q Now we are on the next day..

12 A Yes.

13 Q May 21st. It says that you received a phone  
14 call from Ms. Kelly, who is the office manager for  
15 Senator Clinton. No time was given. Do you, would any  
16 notes that you have indicate the time?

17 A No, time is not included in my case notes here.  
18 But I recall, as I couldn't get a hold of them the prior  
19 evening, I gave them a call the next morning.

20 Q Well, no, this, this entry by you does not  
21 indicate that you called again. It indicates that Ms.  
22 Kelly called you.

23 A I apologize. They would have called in the  
24 morning.

25 Q Okay. But the time, you would not have noted

1 it anywhere?

2 A No, ma'am. The time of the call was not  
3 pertinent to the case.

4 Q You were not instructed by way of procedure to  
5 keep a log of what time you get calls because it may be  
6 relevant?

7 A No, ma'am.

8 Q You write that Ms. Kelly informed you, "the  
9 subject" "stalked" and "harassed" associates of the  
10 Senate's legal counsel. Ms. Kelly referred Special  
11 Agent Lippay to Leecia Eve who was the subject of the  
12 stalking and harassment.

13 What did Ms. Kelly say I had done that  
14 constituted stalking and harassment? How did she  
15 summarize --

16 A I cannot -

17 Q -- what I had done?

18 A I cannot recall that information.

19 Q So she said, simply she gave the conclusion  
20 that I had stalked and harassed Senate staff and  
21 referred you to Senator Clinton's counsel who was the  
22 subject of the stalking?

23 A I believe Ms. Eve had asked Ms. Kelly to give  
24 us a call about this case and for us to speak with Ms.  
25 Eve.

1 Q So the previous day when the office manager for  
2 Senator Clinton's D.C. office called, Liz Kelly, you're  
3 saying she called at the request of Leecia Eve, the  
4 counsel?

5 A I believe so, yes.

6 Q Okay. Your, your subject profile indicates,  
7 states that you telephoned Ms. Eve. Can you recite,  
8 could you recite what Ms. Eve told you?

9 A From my case notes?

10 Q From your case notes please.

11 A Yes. I'll just read from my case notes. SA  
12 Lippay telephoned Ms. Eve who stated that Sassower  
13 presents herself in a --

14 THE COURT: You have to --

15 THE WITNESS: Oh, I'm sorry, yes. I'll speak  
16 slowly.

17 THE COURT: Begin again please.

18 THE WITNESS: Sure. SA Lippay, SA standing for  
19 special agent, telephoned Ms. Eve who stated that  
20 Sassower presents herself in a professional manner but  
21 does not act in a rational manner. Just let me know  
22 when you want me to finish.

23 Q Why don't you conclude that paragraph.

24 A Sure. Sassower has sent approximately six  
25 boxes of documents to the Judiciary Committee regarding

1 her interest in the nomination of Judge Wesley.

2 Q Now, what, what did, how did Ms. Eve explain  
3 what she was talking about when she said I present  
4 myself in a professional manner but I don't act in a  
5 rational manner? What was she referring to?

6 A I don't recall, as I did not include it in my  
7 notes.

8 Q Did you not think it relevant in what way I was  
9 not rational?

10 A At the time I did believe it was relevant, yes.

11 Q So why didn't you include it in your notes?

12 A I cannot say at this time why I did not include  
13 it in my notes at the time.

14 Q Was an example of what was not rational about  
15 me, that I had sent approximately six boxes of documents  
16 to the Judiciary Committee regarding my interest in the  
17 nomination of Judge Wesley?

18 Was it because I had sent boxes of material to  
19 the Senate Judiciary Committee, not rational?

20 MR. MENDELSON: Your Honor, objection, calls  
21 for speculation.

22 THE COURT: Sustained.

23 BY MS. SASSOWER:

24 Q What was supposed to be understood -- what was  
25 the significance of your including in your subject

1 profile that I had sent approximately six boxes of  
2 documents to the Senate Judiciary Committee regarding  
3 Judge Wesley's nomination?

4 A I believe Ms. Eve wanted to relay the fact that  
5 you had made numerous telephone calls and sent numerous  
6 boxes of information to the committee regarding this,  
7 the nomination of this particular judge.

8 Q And did she indicate what I had said about  
9 those six boxes, what was in those six boxes?

10 A I do not recall what she may have stated about  
11 those boxes.

12 Q And you wouldn't have asked her well, what is  
13 the significance of those six boxes as you understand it  
14 from Ms. Sassower?

15 A I cannot recall if I asked her that question.

16 Q Let's go on. And would you, you write - Ms.  
17 Eve advised that Sassower is not an attorney although  
18 she tends to give such an impression. What was Ms. Eve  
19 saying?

20 MR. MENDELSON: Objection, Your Honor.

21 THE COURT: Sustained.

22 BY MS. SASSOWER:

23 Q What did you mean, what did you understand when  
24 you wrote that?

25 A That's just a comment that Ms. Eve had made

1 that would give us a profile of your behavior.

2 Q Well, did Ms. Eve ever say to you that I  
3 claimed to be an attorney?

4 A I can only recall what I included in my notes,  
5 ma'am.

6 Q Your notes do not reflect that Ms., Ms. Eve  
7 told you that Elena Sassower is holding herself out as  
8 an attorney, is that correct?

9 A According to my notes, Ms. Eve advised that you  
10 attempted to give such an impression.

11 Q In what way?

12 A I cannot recall in what way.

13 Q It, it, did you ask her --

14 A I cannot recall if I did.

15 Q -- in what way does Ms. Sassower attempt to  
16 give the impression that she is an attorney?

17 THE COURT: Excuse me. Once your question is  
18 placed, allow the witness an opportunity to respond.  
19 The court reporter can't transcribe two people at one  
20 time.

21 MS. SASSOWER: Thank you, Your Honor.

22 THE COURT: Very well.

23 MS. SASSOWER: I apologize.

24 THE COURT: Ms., I'm sorry, Special Agent  
25 Lippay please.



1 THE WITNESS: No, I'm sorry, I cannot recall.

2 MS. SASSOWER: Would you tell me the basis of

3 the shocking information --

4 THE COURT: Sustained.

5 MS. SASSOWER: Would you explain the mention in

6 the next paragraph where you got it?

7 MR. MENDELSON: Objection, Your Honor,

8 relevance.

9 THE COURT: Approach.

10 (Bench Conference)

11 THE COURT: May I see the exhibit? Which

12 paragraph are you speaking of? The objection is

13 sustained. That information is not pertinent to the

14 proof of the elements or the defense thereto.

15 This information will not be received in

16 evidence in any form in this, in this court. And given

17 that I have seen this document before this document is

18 produced to the jury, I'll have that information

19 redacted. Understood?

20 MR. MENDELSON: Yes.

21 MS. SASSOWER: Well, --

22 MR. MENDELSON: Your Honor, one of the jurors

23 might have been raising his hand.

24 THE COURT: Very well. I'll check in a minute.

25 Do you need a break, I'll give you a break? Do you need

1 a break? Do you need one?

2 (Open Court)

3 THE COURT: Counsel, Exhibit 2, I gave it to one  
4 of you please.

5 MS. SASSOWER: Oh, I'm sorry.

6 MR. MENDELSON: Thank you.

7 THE COURT: Now, the court reporter obviously  
8 needs a break. She's transcribed a lot and so we're  
9 going to take a recess of 15 minutes. Let me just make  
10 sure that we understand each other.

11 I saw someone raising their hand out of the  
12 corner of my eye. I couldn't tell whether you were  
13 stretching or whether you wanted to speak with me about  
14 a break.

15 If you want, if you need a break, please don't  
16 be shy about raising your hand so that I can acknowledge  
17 you and allow one to be taken. All right? Very well.  
18 We'll be back at three sharp. (

19 (Thereupon, the jury returned to the juryroom at  
20 2:45 PM)

21 THE COURT: Special Agent, we'll be in recess  
22 for 15 minutes, so if you would just step out. I want  
23 to speak with -- I haven't excused anyone yet.

24 MS. SASSOWER: I'm sorry.

25 THE COURT: Those of you participating in this

1 case, understand that it is my job to make rulings of  
2 law. I've already ruled with regard to matters that  
3 would be kept out, the subject of the motion in limine.

4 I'm then confronted with a document which has  
5 been offered into evidence without objection which  
6 contains the very information, the type of information  
7 that I excluded during the ruling on the motion in  
8 limine.

9 For any further submissions of documentary  
10 evidence, I want them perused carefully for purpose of  
11 redaction, so that there is no opportunity for the jury  
12 to be prejudiced by their contents.

13 Any questions along that line should be  
14 brought to me as a preliminary matter. Do I make myself  
15 clear?

16 MS. SASSOWER: Yes, Your Honor.

17 MS. LIU: Yes, Your Honor.

18 THE COURT: Very well, thank you. We'll be  
19 back at three o'clock.

20 (Thereupon, the Court recessed at 2:46 p.m.)

21 (Thereupon, the Court reconvened at 3:00 PM.)

22 MR. MENDELSON: One preliminary issue before  
23 the jury comes in.

24 THE COURT: Very well.

25 MS. LIU: Your Honor, both Mr. Mendelsohn and I

1 have noticed that Ms. Sassower occasionally makes  
2 comments to herself after the witness has answered one  
3 of her questions.

4 In particular, we noticed that when Agent Lippay  
5 was asked whether or why she didn't write down the time  
6 of the phone call, Ms. Sassower whispered to herself oh,  
7 boy.

8 Now both of us have heard it. We don't know  
9 whether the jurors can hear it as well, but we would  
10 like the defendant to be admonished not to make those  
11 comments.

12 THE COURT: Very well. It's important that the  
13 jury not be prejudiced one way or the other in this  
14 case. The goal here is not only to have a trial but to  
15 have a fair trial presided over by a fair and impartial  
16 jury.

17 I don't want anything to occur in this case  
18 that might in any way prejudice the jury. And certainly  
19 editorial commentary, either after a question is asked  
20 and an answer given, or as a component of a question  
21 itself could prejudice a jury, could prejudice this  
22 jury.

23 Therefore, I'll say this again, I've said it at  
24 the bench. Questions should be succinct, direct. There  
25 should be no editorializing within the call of the

1 question. And in similar fashion, once the witness  
2 gives a response, there will be no editorial commentary  
3 by any questioner. I hope that's clear.

4 MS. SASSOWER: Yes, Your Honor. May I address  
5 that section of the subject profile which you have  
6 prescribed me from questioning Ms. Lippay about?

7 THE COURT: Yes.

8 MS. SASSOWER: What is the basis? I, I, I  
9 cannot ask why she believed my mother to be deceased?

10 THE COURT: That had absolutely nothing to do  
11 with the proof of the elements in this case or with any  
12 conceivable defense to those elements.

13 MS. SASSOWER: She said to having done the  
14 investigation.

15 THE COURT: Yes, and all components of that  
16 investigation are not worthy of introduction into  
17 evidence in this trial.

18 MS. SASSOWER: And she falsely stated.

19 THE COURT: Well, Ms. Sassower, I've ruled on  
20 this point. Your objection is noted for the record.

21 MS. SASSOWER: Thank you.

22 THE COURT: We will move on. Are there any  
23 other preliminary matters?

24 MS. LIU: None for the government, Your Honor.

25 THE COURT: Very well. Ms. Sassower, any other

1 preliminary matters.

2 MS. SASSOWER: My objections are all noted.

3 THE COURT: Are there any other preliminary  
4 matters, Ms. Sassower?

5 MS. SASSOWER: No, Your Honor.

6 THE COURT: Very well.

7 (Thereupon the jury returned to the courtroom  
8 at 3:05 p.m.)

9 THE COURT: Ms. Sass -- I'm sorry, Mr.  
10 Mendelsohn, please, please go get Special Agent Lippay.

11 (Thereupon, Special Agent Lippay resumed the  
12 witness stand.)

13 THE COURT: Thank you. Very well, Ms.  
14 Sassower.

15 BY MS. SASSOWER:

16 Q Is it not -- your conversation with Leecia Eve,  
17 Senator Clinton's counsel, came after you had concluded,  
18 based upon your hearing of that voice mail message of  
19 May 19th and the one-page fax that has been transmitted  
20 under a cover sheet, there was nothing threatening and  
21 harassing, is that correct?

22 A It was not my final conclusion. I had to  
23 follow up with the senator's office for more  
24 information.

25 Q So you spoke with Ms. Eve. And am I correct to

1 understand from your subject profile that Ms. Eve had  
2 told you that I had made other calls and sent faxes to  
3 the senator's office regarding Judge Wesley's  
4 nomination?

5 A Yes, ma'am.

6 Q Did you ask her whether she had tapes of those  
7 calls or if she could provide you with samples of those  
8 faxes so that you could make a determination about them  
9 as you had made a determination of the previous voice  
10 mail and fax?

11 A I do not believe I asked her that question.

12 Q What did -- you wrote that Ms. Eve and Josh  
13 Albert, another colleague, met with her, meaning  
14 Sassower, this week for 40 minutes during which time  
15 they allowed her to vent.

16 What kind of meeting was that? What did they  
17 say about the meeting to you? What did Ms. Eve say  
18 about the meeting that I had had with her and Josh  
19 Albert for 40 minutes length?

20 A Would you like me to summarize the, what I had  
21 in my notes?

22 Q Would you be kind enough?

23 A From what the staff had reported to me, they  
24 met with you for approximately 40 minutes, during which  
25 time you expressed your concerns.

1           And toward the end of the meeting you had asked  
2 the staff members if the senator planned to withdraw her  
3 nomination for this particular state judge. And they  
4 informed you that the senator had no plans to withdraw  
5 her nomination.

6           You then asked them if you could meet with the  
7 senator and they replied that you would not be able to  
8 meet with the senator. At that point, according to the  
9 staff, everybody you spoke with, you began yelling at  
10 those staff members.

11           Q     Did they, did Ms. Eve state that this 40-minute  
12 meeting was in person or by phone?

13           A     I cannot recall.

14           Q     Did you ask her whether she has a tape of the  
15 meeting?

16           A     No, I did not ask her that question.

17           Q     Did the voice mail message that you had heard  
18 May 19th, I'm sorry, excuse me, of May 20th, that was  
19 the fax.

20                     The voice mail message that I had left on May  
21 20th, did it make reference, as you recall, to that  
22 meeting with Leecia Eve and Josh Albert?

23           A     I cannot recall, ma'am.

24           Q     When I was complaining about misconduct of the  
25 staff, did I identify who were the misbehaving staff



1 about which, about whom I wished to complain in that May  
2 20th voice mail message and the context of that  
3 misconduct?

4 A According to my notes, in your voice mail  
5 message you stated that members of the senator's staff  
6 engaged in misconduct regarding a judicial nomination.  
7 Sure, misconduct regarding a judicial nomination.

8 Q Did I identify where, in what context that it  
9 was a part of the meeting?

10 A I cannot recall, ma'am.

11 Q All right. On what, did Ms. Eve tell you that,  
12 -- on what basis did Ms. Eve tell you, according to your  
13 subject profile, that she believed that Sassower may  
14 travel to D.C. in an attempt to verbally disrupt  
15 tomorrow's hearing?

16 On what basis did she say that? Did she  
17 express why she believed, the basis for her belief that  
18 I would disrupt the hearing?

19 MR. MENDELSON: Objection, Your Honor.

20 THE COURT: Sustained.

21 BY MS. SASSOWER:

22 Q After your phone conversation with Leecia Eve,  
23 Senator Clinton's counsel, your subject profile reflects  
24 that you went about trying to get a photo of me, is that  
25 correct?

1 A That is correct.

2 Q And you called the New York Department of Motor  
3 Vehicles to get my photo?

4 A That is correct.

5 Q But they required a subpoena, is that correct?

6 A Yes, ma'am, that's correct.

7 Q So then what happened?

8 A At that time Detective Zimmerman had located  
9 the, your arrest photo from 1996 that we have on file.

10 Q Okay. Let's just back up for one moment.  
11 Before you went about getting this photo, calling New  
12 York long distance to get a photo of me, this was  
13 because you had already determined you were gonna put  
14 out a bulletin on me?

15 A At that, at that point I had assessed the  
16 situation. And based on factors that were involved, it  
17 was believed that you would travel from New York down to  
18 Washington, D.C. in order to attend the hearing and that  
19 there was a probability that you would become disruptive  
20 in the hearing.

21 Q Aren't you missing a step?

22 A May you clarify that, ma'am?

23 Q Didn't you think maybe you should speak to me  
24 as to what my intentions were before you went about  
25 getting my photo and putting out a bulletin on me?

1           A     Based on the information provided by the staff  
2 who had interacted with you, we had cause to believe  
3 that you would attend the meeting and potentially become  
4 verbally disruptive.

5           Q     But according to your testimony, Ms. Eve was  
6 not specific as to why she believed I might be  
7 disruptive?

8           A     Ma'am, I cannot recall what she may have said  
9 regarding the specifics.

10          Q     How did -- you write that Detective Zimmerman  
11 located my photo from my 1996 arrest. How did Detective  
12 Zimmerman come into this picture? I thought you had the  
13 assignment.

14          A     Other agents are, they also become involved in  
15 a case if assistance is required.

16          Q     Did you require assistance?

17          A     Yes, ma'am.

18          Q     Was this a difficult case?

19          A     Detective Zimmerman knew how to obtain a copy  
20 of your photo from that 1996 arrest.

21          Q     But you've been with the Capitol police for  
22 five years, you surely know how to access photos from  
23 past arrest.

24          A     Ma'am, he had the ability to do so and he  
25 offered to do that for me.

1 Q Did you -- okay. Did you have any information  
2 about the 1996 arrest at that point other than that I  
3 was arrested for disorderly conduct and I had a photo on  
4 file?

5 A The only information I had, ma'am, is what's  
6 contained in the arrest card that, that you included in  
7 this packet for me.

8 Q The arrest card which presumably has the  
9 picture underneath my, from 1996, says disorderly  
10 conduct. It doesn't say where, in what context, just  
11 disorderly conduct.

12 A I believe that I obtained information regarding  
13 the location of the arrest from our 1996 file in the  
14 threats database.

15 Q I see. And what was the location of my arrest  
16 in 1996 for disorderly conduct?

17 A I understand that the location of the arrest  
18 was in the Dirksen Senate Office Building.

19 Q Where in the Dirksen Senate Office Building?

20 A I understand that it occurred in the hallway.

21 Q In the hallway.

22 THE COURT: Do you have any further questions  
23 for this --

24 MS. SASSOWER: I do, I do.

25 THE COURT: -- witness?

1 MS. SASSOWER: I do. I will defer that  
2 particular question for a break so I can get the  
3 document based upon what you said. Okay, moving on  
4 then.

5 BY MS. SASSOWER:

6 Q So you created the bulletin according to the  
7 subject profile?

8 A Ma'am, can you clarify that for me please?

9 Q Yes. You testified -- oh, yes. You called it  
10 a flyer. You testified that you prepared a flyer on me  
11 on May 21st. That would be this page annexed to the  
12 subject profile?

13 A Yes, ma'am.

14 MR. MENDELSON: Your Honor, would the record  
15 reflect that the defendant is referring to page 3 of  
16 Defense Exhibit Number 2?

17 THE COURT: Yes, so noted.

18 MS. SASSOWER: Thank you, Your Honor. Thank  
19 you, Mr. Mendelsohn.

20 BY MS. SASSOWER:

21 Q And after you included my picture and physical  
22 description, you <sup>noted</sup> ~~noticed~~ not only that I may disrupt the  
23 judicial nominee's hearing of May 22nd but, quote, may  
24 also attempt to verbally harass Senator Clinton who will  
25 attend the hearing.

1           Now, where in your subject profile is there any  
2 indication from Ms. Eve to you of her concern that I  
3 might verbally harass Senator Clinton?

4           A     That information I believe is not included in  
5 my case notes. But that was a concern of the staff as  
6 well, due to the numerous contacts you had with the  
7 office and your, you seemed to have an intense passion  
8 about the senator, wanting the senator to withdraw her  
9 nomination for this particular state judge.

10          Q     You also state in your bulletin that I was  
11 arrested in June of 1996, quote, for disorderly conduct  
12 when she disrupted a hearing that was being held in the  
13 Dirksen Senate Office Building.

14           Is it not your testimony that I was arrested in  
15 the hallway?

16          A     If I can clarify. I believe there was a  
17 disruption in the hearing room but you were escorted  
18 into the hallway where the actual arrest took place.

19          Q     Now in your subject profile, the only time you  
20 talk about the June 1996 arrest, you say it was for  
21 disorderly conduct, no specific DOI.

22          A     Yes.

23          Q     So you had no information that the disorderly  
24 conduct had anything to do with disruption of a hearing.

25          A     According to my case notes, I didn't include

1 that information in there.

2 Q Well, where did that information come from are  
3 you alleging?

4 A That information -- at this time I cannot  
5 recall where I obtained that information.

6 MS. SASSOWER: Your Honor, I need a break to  
7 pull out --

8 THE COURT: Counsel please approach.

9 (Bench Conference)

10 THE COURT: As in any trial, this Court is  
11 concerned about the undue consumption of judicial and  
12 other resources. We are not going to take breaks to  
13 allow you to prepare for examination.

14 MS. SASSOWER: I'll pull it out --

15 THE COURT: And, and this examination should  
16 come to its conclusion in 15 minutes. It's simply  
17 lasted too long. Too much time has been consumed  
18 unnecessarily.

19 And I'm gonna give you 15 more minutes with  
20 this witness and then be prepared to go on to something  
21 else. Very well.

22 (Open Court)

23 MS. SASSOWER: Thank you. I'd like to have  
24 marked the arrest report from 1996, U.S. Capitol police,  
25 marked for identification Exhibit 16. Oh, is that

1 yours? Is that my exhibit? May I approach the witness?

2 THE COURT: You may.

3 MS. SASSOWER: Thanks. Is this --

4 MR. MENDELSON: Objection. I'm gonna object  
5 before any questions are asked regarding this document,  
6 Your Honor.

7 THE COURT: Counsel approach.

8 (Bench Conference)

9 THE COURT: You know the -- I'm sorry. The  
10 1996 matter keeps recurring in this case and now we have  
11 the arrest record being offered as an exhibit.

12 And what I want is a proffer from the defense  
13 as to how it is that you intend to -- what is it, what  
14 is your intention with regard to establishing the  
15 relevancy of the 1996 arrest record with --

16 MS. SASSOWER: When she --

17 THE COURT: -- this, this witness?

18 MS. SASSOWER: When she, when she put out a  
19 bulletin she identified that I was arrested for  
20 disorderly conduct in 1996 for disrupting a hearing.

21 The arrest record, which she said was the basis  
22 for that information, has been now provided and it shows  
23 that I was not arrested in connection with any request  
24 to testify in 1996.

25 When she called me the following day, she told



1 me emphatically that in 1996 I had been arrested for  
2 requesting to testify.

3 And I was vehement in saying that was not the  
4 reason why I was arrested, so much so that I requested  
5 to speak to her supervisor, Detective Zimmerman.

6 THE COURT: Now, Mr. Mendelsohn, it seems to me  
7 the exhibit is being offered to essentially impeach the  
8 prior testimony with regard to what occurred in 1996.  
9 Apparently, this witness was under the impression that  
10 there was an arrest and has testified to that.

11 And I presume, not having read every line of  
12 this subject profile, there's an indication in there  
13 that an arrest occurred in 1996.

14 Ms. Sassower's position is that there was no  
15 arrest. And I assume that would be the sole purpose for  
16 bringing this issue to this witness' attention.

17 Mr. Mendelsohn?

18 MR. MENDELSON: The question is whether or not  
19 the defendant was arrested in 1996. We have no  
20 objection to that question.

21 However, Agent Lippay was not there in 1996.  
22 She has no personal information other than having read  
23 this document which is hearsay. And therefore, she is  
24 not the appropriate witness to testify as to the 1996  
25 arrest.

1 THE COURT: Well, this, this will be the  
2 inquiry. The witness will be asked whether she reviewed  
3 this document in 2003 in preparing the subject profile.

4 Any further testimony rests or dies on the  
5 response to that question. If she says yes, if she says  
6 yes, she relied upon it; then the next question being -  
7 looking at this document, there's no indication of an  
8 arrest, is there? And there will be no response to  
9 that.

10 MS. SASSOWER: For requesting to testify.

11 THE COURT: There will be no further, there  
12 will be no further inquiry into this document. She's  
13 impeaching her witness by her arrest information, and  
14 that's fair game. Okay, anything further?

15 MR. MENDELSON: No, Your Honor.

16 THE COURT: Very well.

17 MS. SASSOWER: Thank you, Your Honor.

18 (Open Court)

19 BY MS. SASSOWER:

20 Q Is the police report that I, the copy of the  
21 police report that I've handed you, a copy of the  
22 document that you examined before you put out this  
23 bulletin on me.

24 A Ma'am, I don't recall ever having seen this  
25 document before.

1 Q Well, what was the document that you relied on  
2 when in your bulletin you stated that I was arrested in  
3 1996, quote, when she disrupted a hearing that was being  
4 held in the Dirksen Senate Office Building?

5 A I believe that I obtained that information from  
6 our threats database, which contained the abstract from  
7 our 1996 case involving your arrest.

8 Q Do you have a printout of that?

9 A No, ma'am.

10 Q Was it printed out?

11 A No, ma'am.

12 Q Was it provided to the U.S. Attorney in  
13 connection with the discovery in this matter?

14 A No, ma'am.

15 Q Is it --

16 A I'm sorry, ma'am, did you ask me a question?

17 Q Is it your testimony that you had never seen  
18 that arrest record from 1996?

19 MR. MENDELSON: Objection, asked and answered.

20 THE COURT: Sustained.

21 BY MS. SASSOWER:

22 Q In your bulletin, your last item, is that the  
23 Center for Judicial Accountability is a one-person  
24 organization headed by Sassower. Where did you get that  
25 from?

1           A     I believe I obtained that information from  
2 online sources.

3           Q     What online sources?

4           A     I can't recall at this time. Also, I believe  
5 that information was also provided to us by the  
6 senator's staff.

7           Q     Senator Clinton's staff --

8           A     Yes, ma'am.

9           Q     -- told you that the Center for Judicial  
10 Accountability is a one-person organization.

11          A     Yes, ma'am.

12          Q     And when you went online, you didn't find any  
13 other names associated with the Center for Judicial  
14 Accountability?

15          A     From what I recall, additional names were found  
16 relating to that organization, but I understand that  
17 those names are not, are not, were not at the time  
18 associated with the organization.

19          Q     Which names?

20          A     I cannot recall at this time.

21          Q     And you have no notes.

22          A     I have no other information pertaining to that  
23 issue. It was not relevant to the case.

24          Q     Okay. You delivered the bulletin to who, --  
25 after you generated this bulletin, what did you do with

1 it?

2 A After I generated the bulletin, I distributed  
3 color copies to our Senate detail office. That's where  
4 the police supervisors are located who handle the  
5 committee hearings and the Building where the hearing  
6 was gonna take place.

7 Q And, I would like to introduce Defendant's  
8 Exhibit for identification 7, if you would identify, as  
9 an example of what you're referring to.

10 Would you identify what that document is  
11 please?

12 A Yes, ma'am. The first page is a fax cover  
13 sheet that I had addressed to an agent on the senator's  
14 protective detail. And the second page is a copy of the  
15 bulletin distributed to Capitol police personnel.

16 And the third page is a bulletin that is  
17 different from the police bulletin that does not contain  
18 personal identifiers of Ms. Sassower. It contains a  
19 photograph along with physical identifiers.

20 And that was distributed to the senator's  
21 office staff. And that was done in the event that Ms.  
22 Sassower attempted to respond to the senator's office  
23 and engage in verbally disorder, disorder or engage in a  
24 disorderly manner in the office, in verbal manner. And

25 --

1 THE COURT: Let, I'm sorry. Let me remind you  
2 to slow down your pace.

3 THE WITNESS: Yeah, I'm sorry.

4 THE COURT: Very well.

5 THE WITNESS: One of the main goals of the  
6 Capitol police is to provide protection for staff  
7 members while they're on the Hill.

8 And if Ms. Sassower attempted to respond in the  
9 senator's office and engage in a disorderly manner, we  
10 want to provide the office with as much information as  
11 possible so that they can take their own precautions.

12 If they're alone in the office and they notice  
13 her walk in the door, try to get another staff member  
14 with them to provide them with emotional, physical  
15 protection

16 BY MS. SASSOWER:

17 Q But at this point you had not even spoken to me  
18 as to what my concerns were, what my intentions were.

19 A Correct.

20 Q Is that your usual procedure, not to promptly  
21 contact the suspect?

22 A It depends upon the case. Each case is  
23 different. And as I mentioned before, in this case we  
24 had enough cause to believe that you were going to  
25 travel from New York down to Washington, D.C. in order

1 to attend the hearing.

2 Q To attend the hearing.

3 A And possibly engage or become verbally  
4 disruptive during the meeting.

5 Q But from your hearing of the voice mail message  
6 I had left and through your reading of the fax, you  
7 didn't think there was anything threatening or harassing  
8 there.

9 A Correct, in that that was the initial --  
10 initially, no threatening or harassing language was  
11 found on the voice mail message or the fax.

12 That's why the case remained open and that's why  
13 I followed up with the senator's office the following  
14 day after reviewing the voice mail message.

15 Q And the senator's office provided you with no  
16 documents or records to substantiate what they told  
17 you --

18 MR. MENDELSON: Objection.

19 MS. SASSOWER: -- that I was stalking and  
20 harassing.

21 MR. MENDELSON: Asked and answered, Your  
22 Honor.

23 THE COURT: Sustained. Wrap it up please, Ms.  
24 Sassower.

25 BY MS. SASSOWER:

1 Q All right. It was only after you had issued  
2 the bulletin that you got another call from Ms. Kelly of  
3 Senator Clinton's office, right?

4 A Yes, ma'am.

5 Q And what did she tell you?

6 A Ms. Kelly notified my unit that you had left a  
7 voice mail message for the office. And you requested a  
8 callback from the Senator's office regarding the  
9 judicial nomination situation.

10 And if you want to call, the staff advises that  
11 they did not wish to interact with you any further  
12 regarding this situation.

13 Q And you made an audio copy, according to your  
14 subject profile, you made an audio copy of that voice  
15 mail message too.

16 A Yes, I did make a copy of that voice mail  
17 message and I placed it on the same audio cassette as,  
18 as the first message was placed. So both messages were  
19 on one audio cassette.

20 Q So you had generated this profile even before  
21 you heard the second message. To your recollection, was  
22 there anything not calm and coherent about that message?

23 A I do not have anything listed on my notes in  
24 terms of your demeanor during that call. So I cannot -

25 Q But --



1 A -- provide a response at this time.

2 Q -- if there had been threats, if there had been  
3 harassment, you would have noted that, right?

4 A I'm sure I would have, yes.

5 Q Sure, you would have.

6 THE COURT: Very well.

7 MS. SASSOWER: Then you called me.

8 THE COURT: Excuse me. The matter that I  
9 previously discussed at the bench is now effective. So  
10 to the extent that there is one remaining question,  
11 we'll have that and then redirect by the government.

12 MS. SASSOWER: I will -- with all respect, I  
13 will direct that question and then I would ask to put an  
14 objection on the record.

15 THE COURT: Your objection is noted for the  
16 record. Simply ask your question please.

17 MS. SASSOWER: Okay.

18 BY MS. SASSOWER:

19 Q Is it not a fact that the reason -- strike  
20 that. Your subject profile states that when you finally  
21 called me during our conversation I, quote, denied being  
22 arrested in 1996, although this investigator has on file  
23 the subject's United States Capitol police arrest photo.

24 Is that a correct, accurate statement of what I  
25 denied?

1 A That's what my notes states, ma'am.

2 THE COURT: Very well.

3 MS. SASSOWER: Are your notes correct and  
4 accurate?

5 THE COURT: Excuse me, that was the final  
6 question.

7 MS. SASSOWER: Why?

8 THE COURT: Please be seated. Redirect  
9 examination.

10 REDIRECT EXAMINATION

11 BY MR. MENDELSON:

12 Q Just two questions, Special Agent Lippay. Did  
13 you turn over absolutely all your notes to the U.S.  
14 Attorney's Office before trial in this case?

15 A Yes, sir.

16 Q Had you ever heard of, seen, or spoken with the  
17 defendant before May 20th, 2003?

18 A No, sir.

19 MR. MENDELSON: Thank you. I have nothing  
20 further.

21 THE COURT: Very well. Thank you, Special  
22 Agent Lippay.

23 THE WITNESS: Shall I just leave the papers on  
24 the --

25 THE COURT: Just leave them there. And if we