

1 need you to come back for any reason, we'll be in touch  
2 through the U.S. Attorney's Office. Thank you very  
3 much.

4 (Thereupon, the witness was excused.)

5 THE COURT: Another witness, Mr. Mendelsohn?

6 MS. LIU: Your Honor, the government calls  
7 William Zimmerman to the stand.

8 THE COURT: Very well. Thank you, Ms. Liu.  
9 Good afternoon, sir. Please step up and be sworn.

10 Thereupon,

11 WILLIAM ZIMMERMAN,

12 having been called as a witness for and on behalf of the  
13 Government, and after having been first duly sworn by  
14 the deputy clerk, was examined and testified as follows:

15 THE CLERK: Please have a seat.

16 THE COURT: Very well. Ms. Liu, please  
17 inquire.

18 DIRECT EXAMINATION

19 BY MS. LIU:

20 Q Sir, would you please state your full name and  
21 spell your name for the record, please?

22 A It's William Zimmerman Z-i-m-m-e-r-m-a-n.

23 Q And, sir, where do you work?

24 A I'm a detective with the United States Capitol  
25 police.

1 Q How long have you been a detective with the  
2 United States Capitol Police?

3 A I've been a detective since 1990. I've been on  
4 the department, it will be 22 years in May.

5 Q And what are your duties as a detective with  
6 the United States Capitol police?

7 A Currently, I'm assigned to the investigations  
8 division specifically the Threat Assessment Section.  
9 The duties and responsibilities of the Threat Assessment  
10 Section is primarily threats against members of Congress  
11 but also inappropriate behavior, what we call directions  
12 of interest.

13 Q And was that your assignment back in May of  
14 2003?

15 A Yes, ma'am.

16 Q Detective, I'd like to direct your attention to  
17 May 21st 2003, do you remember that day?

18 A Yes, ma'am.

19 Q Detective, was there a time on that day when  
20 you came into contact with a person who you came to know  
21 as Elena Sassower?

22 A Yes, ma'am.

23 Q And how was it that you came into contact with  
24 Ms. Sassower?

25 A Agent Lippay had been working a case with the

1 senator's office, and had had contact with Ms. Sassower.  
2 And while she was having a conversa, telephone  
3 conversation with Ms. Sassower, what was reported to me  
4 is that Ms. Sassower wanted to speak to Agent Lippay's  
5 superior.

6 As the sergeant was not in at that time, in his  
7 absence I become the acting sergeant, so I was first  
8 supervisor and I took the call.

9 A And who was it who told you that Ms. Sassower  
10 wanted to speak to Agent Lippay's supervisor?

11 A Agent Lippay.

12 Q And what did you do next?

13 A I asked Agent Lippay for a short ide, short  
14 briefing on what, what was it about. She told me that  
15 the, Ms. Sassower had contacted the senator's office and  
16 had made some statements about coming to the Judiciary  
17 Committee and now she wanted to speak to her supervisor.  
18 So I, I took the call

19 Q And did you in fact speak with Ms. Sassower?

20 A I did. I identified myself and asked what the  
21 problem was.

22 Q How did you know that the person you were  
23 talking to was Elena Sassower?

24 A I, I addressed her as Ms. Sassower and Agent  
25 Lippay told me it was Ms. Sassower on the phone. And at

1 the beginning I identified myself and she identi -

2 I'm not sure if she actually said my name is  
3 Elena Sassower, but I addressed her as Ms. Sassower.  
4 There was no objection.

5 Q And what did you say to Ms. Sassower?

6 A I asked Ms. Sassower what, what the problem  
7 was, what we could do to assist her. Ms. Sassower at  
8 this point went on to discuss her views about the  
9 judiciary in the state of New York, specifically one of  
10 the judges that were coming up to, as being nominated at  
11 a hearing.

12 Q Now, do you recall Ms. Sassower's tone as she  
13 was having this discussion with you?

14 A Ms. Sassower was very passionate about her  
15 issue. She would become not necessarily argumentative  
16 but would want to hear exactly what she wanted to hear  
17 for, a way of explaining it.

18 No matter what I would try to say, she wanted  
19 to discuss her views and, and nothing else.

20 Q Did she express an interest in coming down to  
21 the Judiciary Committee hearing?

22 A She did.

23 Q And what was your response to that?

24 A That she's certainly welcome to come to the  
25 Judiciary Committee and that, you know -- at parts of

1 the conversation, and I apologize, it was a very long  
2 time on the phone with Ms. Sassower on, on two specific  
3 occasions. So I don't mean to jump around.

4 But we, I discussed that she, she has a right as  
5 a, as a constituent in the State of New York to contact  
6 a member of Congress. However, it had come to my  
7 attention that they had given her a time and she wanted  
8 to testify at the hearing.

9 And as she has a right to request to testify at  
10 the hearing, the Committee and the senators have a right  
11 to pick who they want to testify, and she was not chosen  
12 to testify and she did not care for that.

13 Q When you say she did not care for that, what  
14 specifically was her response to your telling her or  
15 explaining to her what you just said on the stand?

16 A She would just go into the, her dislike or her  
17 -- the, the, her, the word I can only think of is  
18 dislike about the judiciary in the State of New York,  
19 specifically one of these, the judges that were being  
20 nominated. I apologize, I don't know his name.

21 Q And how long did this conversation last?

22 A Conservatively, I estimate it about an hour.

23 Q How did it end?

24 A I believe I explained to Ms. Sassower that I  
25 had other issues that I needed to take care of. That's

1 pretty much how it ended.

2 Q Did there come a time at some point in the  
3 future when you spoke to Ms. Sassower again?

4 A Yes. Again, a couple, a couple hours, it was a  
5 good amount of time but it was later that same day. And  
6 I honestly don't remember exactly if Ms. Sassower had  
7 contacted the senator's office again and we had gotten  
8 word of it, how that came to be about.

9 But that information came to me. And because  
10 of the problem that she had with Agent Lippay earlier in  
11 the day, I thought it best that I call her back to see  
12 what was going on.

13 Q And did you in fact call her back?

14 A I did.

15 Q And what did you say when you called her back?

16 A We repeated pretty much what we talked about  
17 earlier, about her coming to the Judiciary Committee and  
18 that she still wanted to testify.

19 I tried to explain to her again that she's more  
20 than welcome to attend the Committee. It was an open  
21 committee. As long as there were seats available, she  
22 was welcome to come down. In that conversation, she had  
23 mentioned the fact that she didn't want to be arrested.

24 Q Just let me stop you right there. Did you --  
25 what was your response when she said that she did not

1 want to be arrested?

2 A When she said she didn't want to be arrested, I  
3 explained to her that there was no need, want or desire  
4 on behalf of the Capitol police to have her arrested.

5 That it was all in her control. That if she  
6 conducted herself, you know, appropriately and did  
7 nothing to disrupt the committee, she would not be  
8 arrested.

9 Q And what was her response to that?

10 A She just repeated the fact that she didn't want  
11 to be arrested.

12 Q How long did this second conversation with Ms.  
13 Sassower last?

14 A Again conservatively, that one was a little  
15 longer. I'd estimate probably about an hour and 15  
16 minutes to an hour and a half.

17 Q How did it end? How did you leave matters when  
18 you stopped speaking with Ms. Sassower?

19 A We ended pretty much the same way as before,  
20 you know, there was other things to do. Ms. Sassower  
21 referenced that she wanted to bring some other material  
22 about some other incidents we had discussed previously.

23 I told her I'd be more than happy if she  
24 brings them down, that she could bring them down before  
25 the committee. Or when she was finished, I'd be more

1 than look, I'd be willing to look at whatever documents  
2 she had.

3 Q Did she describe those documents in any further  
4 detail?

5 A There were about -- most of it, from what I  
6 understand, was about the judiciary issues that were  
7 going on with the judge and, and her previous visits to  
8 Washington, D.C.

9 Q And can you tell the ladies and gentlemen of  
10 the jury what Ms. Sassower's tone was like during the  
11 second conversation with her?

12 A Again, Ms. Sassower is very passionate about  
13 what she does. She gets to be argumentative. I call it  
14 conversation but out of that hour and a half, it was,  
15 she controlled most of that, that time on the phone.

16 Q So after these two phone conversations with Ms.  
17 Sassower, did you receive any further communication from  
18 her at any time?

19 A I did. When I came to work the following  
20 morning, there was a, I couldn't tell you how many pages  
21 it was, about a half inch thick wri, fax from Ms.  
22 Sassower that she had faxed the previous evening.

23 Q When you say that you came to work the next  
24 morning, do you recall the date?

25 A It would have been the 22nd.



1 Q And in reference to this fax, who was that  
2 addressed to?

3 A Myself.

4 Q And what did you do with this fax?

5 A I reviewed it. The first few pages was a typed  
6 letter statement from Ms. Sassower, a little bit of our  
7 conversation, of her conversation with Agent Lippay.

8 And then there was, I don't remember exactly  
9 how many, it was a large amount of, of pages that were  
10 handwritten from another woman that wasn't Ms. Sassower.

11 Q And did you do anything as a result of  
12 receiving this fax?

13 A After I reviewed it and found out there was  
14 nothing of a threatening nature, I just, I added it to  
15 Agent Lippay's file.

16 Q And so after you received this fax, did you at  
17 any time see Ms. Sassower or hear from her again?

18 A The next time I spoke with Ms. Sassower, I had  
19 gotten a call from -- it was after her arrest. I had  
20 gotten a call from, prisoner processing was where  
21 they --

22 Q Let me stop you for a minute, detective.  
23 Approximately, when did you next hear from Ms. Sassower?

24 A It would have -- after her arrest.

25 Q And do you know when that was?

1 A I don't know the exact time.

2 Q Do you know what day it was?

3 A It was the 22nd.

4 Q And how was it that you heard from Ms. Sassower  
5 on the 22nd?

6 A I had gotten three calls from prisoner  
7 processing in a span of about four minutes, that Ms.  
8 Sassower was asking to speak with me while she was down  
9 in prisoner processing.

10 Q Who called you from prisoner processing?

11 A The, I believe it was the arresting officer.  
12 There's another officer that assists in prisoner  
13 processing. I'm sorry, his name doesn't, escapes me,  
14 and one other officer.

15 Q Did you in fact go down to speak to Ms.  
16 Sassower?

17 A I did.

18 Q And what did you say when you saw her?

19 A I introduced myself and explained to Ms.  
20 Sassower that I was there per her request, not in  
21 relation to her arrest.

22 At that point in time she decided to discuss  
23 that the arrest was illegal and just those type of  
24 ramblings.

25 Q What was her demeanor during the time you were

1 talking to her in prisoner processing?

2 A Argumentative, upset. She asked if I had  
3 received a fax that morning that she had sent the  
4 previous evening. I in fact told her I did.

5 Q And did she say anything else to you while you  
6 were talking to her at prisoner processing?

7 A She did. She referenced that, you know, that  
8 she had brought documents down for me to review, that  
9 she wanted me to have.

10 And I explained to her, I said that's fine.  
11 And, you know, she wanted to give them -- she was pretty  
12 adamant that she wanted me to have them.

13 So whatever, she actually brought a cardboard  
14 box full of papers. I assume most of those were the  
15 documentation she gave. I explained to her there's no  
16 way I could go through all that. She gave me a packet  
17 of papers which was pretty much a copy of what she had  
18 faxed.

19 And I explained to her that I didn't need it  
20 because I already had it. And at that point in time she  
21 referenced that I had to take it because it was  
22 discovery information and that if I wouldn't take it,  
23 that I needed to give it to my, to my sergeant.

24 Q And what was your response to that?

25 A I, I took it and I told her I would give it to

1 my sergeant and what he would do with it was his  
2 business.

3 Q Did you in fact give it to your sergeant?

4 A I did.

5 Q Do you know what he did with it?

6 A I honestly don't.

7 Q And after this conversation in prisoner  
8 processing, did you have any further contact with Ms.  
9 Sassower at all?

10 A Not that I can remember.

11 Q Let me ask you this, detective. Do you see  
12 anyone in the courtroom whom you recognize to be the  
13 person whom you spoke to in prisoner processing on May  
14 22nd?

15 A I do.

16 Q Can you point out that person by where that  
17 person is sitting and maybe an article of clothing that  
18 that person is wearing?

19 A She's sitting over here to my right with the  
20 blue blouse.

21 MS. LIU: Your Honor, could the record reflect  
22 an in-court identification of the defendant, Ms.  
23 Sassower?

24 THE COURT: Any objection?

25 MS. SASSOWER: No.

1 THE COURT: Very well, so noted.

2 BY MS. LIU:

3 Q Detective, did you take any notes on your  
4 contacts with Ms. Sassower?

5 A I did not.

6 Q And finally, detective, let me ask you this.  
7 Are you familiar with the Dirksen Senate Office  
8 Building?

9 A I am.

10 Q Is the Dirksen Senate Office Building part of  
11 the Capitol grounds?

12 A Yes, ma'am. The Capitol grounds are usually  
13 identified as 1st Street to the east, 3rd Street to the  
14 west and three blocks north and south of the Capitol  
15 Building itself.

16 Q And where within those bounds is the Dirksen  
17 Office Building located?

18 A Within the three-block radius north of the  
19 Capitol.

20 Q And is the Dirksen Building in fact a Capitol  
21 Building?

22 A Yes, ma'am. It's controlled by the architect  
23 of the Capitol.

24 MS. LIU: Your Honor, I have nothing further on  
25 direct.

1 THE COURT: Very well. Cross-examination?

2 CROSS-EXAMINATION

3 BY MS. SASSOWER:

4 Q Detective Zimmerman, although you are the  
5 prosecution's witness, I also subpoenaed you, is that  
6 correct?

7 A Yes, ma'am.

8 THE COURT: You may approach.

9 MS. SASSOWER: Yes, I'm sorry. May I approach  
10 the witness?

11 THE COURT: Yes.

12 BY MS. SASSOWER:

13 Q The subpoena not only directs your appearance  
14 but asks that you bring, quote, all documents, tangible  
15 objects and records relating to the defendant's  
16 discovery demands of August 12th, 2003, annexed herein  
17 and related to the defendant, the Center for Judicial  
18 Accountability, and defendant's request to testify  
19 before Senate Judiciary Committee hearing on May 22nd,  
20 2003. Is that correct?

21 A That's what it says, yes, ma'am.

22 Q And sure enough, annexed to the subpoena is the  
23 August 12th, 2003 discovery demand?

24 A Yes, ma'am.

25 THE COURT: May I see that document please?.

1 Thank you. Let the record reflect that Detective  
2 Zimmerman has been provided a copy of a subpoena and  
3 four additional pages dated August 12th, 2003. This  
4 comprise Defendant's Exhibit 17. Thank you.

5 BY MS. SASSOWER:

6 Q Have you brought with you any documents,  
7 tangible objects or records as requested?

8 A I had no notes of our contact, Ms. Sassower.

9 Q According to your direct testimony, we had two  
10 conversations?

11 A At least two, yes, ma'am.

12 Q And how many hours separated those  
13 conversations?

14 A Exactly how many, ma'am, I couldn't tell you.  
15 It was a few hours, if my memory serves.

16 Q And cumulatively, how many hours did we speak  
17 on the phone?

18 A It would be over two hours.

19 Q You have no notes of those conversations?

20 A That's correct.

21 Q Is it your practice as a detective to take no  
22 notes when you speak to a suspect?

23 A You weren't a suspect, ma'am.

24 Q A bulletin had already been put out with a  
25 photo that you had provided, is that not correct?

1 MS. LIU: Objection, Your Honor, argumentative.

2 THE COURT: I'll allow it. Please answer the  
3 question if you know, Mr., I'm sorry, Detective  
4 Zimmerman.

5 THE WITNESS: As far as I know, ma'am, there  
6 was no bulletin put out at the time of our conversation.

7 BY MS. SASSOWER:

8 Q Are you familiar with the subject profile  
9 prepared by Special Agent Lippay?

10 A I'm familiar with it, yes, ma'am.

11 Q How have you prepared yourself today for your  
12 testimony here? Have you reviewed any documents?

13 A I reviewed the case file within the last week.

14 Q Is that what is known as the jacket?

15 A Yes, ma'am.

16 Q Where is that jacket?

17 A I'm not the case agent.

18 Q What documents are contained in the jacket?

19 A The jacket was supplied to the U.S. Attorney's  
20 Office, ma'am, and all copies therein. Not, not the ori,  
21 I mean the original, we have the original back. Where  
22 it is right now, ma'am, I don't know.

23 MS. SASSOWER: May I, I'd like to -- where is  
24 the subject profile? Your Honor, the subject profile  
25 that --



1 THE COURT: Excuse me, Detective Zimmerman, --  
2 THE WITNESS: There are some.  
3 THE COURT: -- are there other documents up  
4 there?  
5 THE WITNESS: There are documents here.  
6 THE COURT: Thank you. Are you making  
7 reference to Defendant's Exhibit 2?  
8 MS. SASSOWER: Yes, I am.  
9 THE COURT: It is here. Pass that up. Thank  
10 you.  
11 MS. SASSOWER: Do I need to proffer this once  
12 again?  
13 THE COURT: They've already seen it. Would you  
14 like to approach the witness with that?  
15 MS. SASSOWER: Yes, may I approach the witness?  
16 THE COURT: Very well.  
17 BY MS. SASSOWER:  
18 Q Was this subject profile one of the documents  
19 in the jacket that you reviewed in preparation for your  
20 testimony here?  
21 A Yes, ma'am.  
22 Q If you read it -- is it your contention that  
23 you put out bulletins on people who are not suspects?  
24 A I did not put out a bulletin, ma'am.  
25 Q Capitol police, Sergeant Lippay put out a

1 bulletin on me.

2 A Not to my --

3 Q For speaking with me, is that correct?

4 A Not to my knowledge, no, ma'am.

5 Q Would you care to refresh your recollection  
6 based upon the subject profile that you say you read?

7 MS. LIU: Your Honor, may we approach.

8 THE COURT: Yes.

9 (Bench Conference)

10 MS. LIU: Your Honor, I believe Ms. Sassower is  
11 trying to impeach Detective Zimmerman with a document  
12 that he did not write. He can't be impeached with this  
13 document.

14 If there are any inconsistencies between his  
15 testimony and Special Agent Lippay's testimony or  
16 between his testimony and this document which was  
17 prepared by Special Agent Lippay, I think that's proper  
18 grounds for argument but not for questioning this  
19 witness.

20 MS. SASSOWER: He says he read it, Your Honor.

21 THE COURT: Yes, he read it but he didn't  
22 prepare it. And the issue here is whether there could  
23 be a direct reading --

24 MS. SASSOWER: Right.

25 THE COURT: -- of this document that he didn't

1 prepare. The jury -- you're entitled to elicit further  
2 testimony that may be at odds with that document. He  
3 simply cannot testify as if he had written the document.

4 MS. SASSOWER: Okay.

5 THE COURT: Very well. How are you doing? How  
6 are you doing? Need a break? Very well, we're gonna  
7 break in 10 minutes. All right, very well.

8 (Open Court)

9 THE COURT: Ladies and gentlemen of the jury,  
10 this is a convenient time for a late afternoon break.  
11 Let's break until 4:15 and we'll come back and complete  
12 the testimony.

13 (Thereupon, the jury returned to the juryroom)

14 THE COURT: Very well. Detective, we're gonna  
15 take a break for 10 minutes. And so during the course  
16 of the intermission, please don't discuss your testimony  
17 with anyone.

18 THE WITNESS: Absolutely.

19 THE COURT: Including the lawyers.

20 THE WITNESS: Right.

21 THE COURT: Thank you.

22 (Thereupon, the Court recessed at 4:05 p.m.)

23 (Thereupon, the Court reconvened at 4:15 p.m.)

24 THE COURT: Yes.

25 MR. MENDELSON: One question, Your Honor.

1 THE COURT: Excuse me. Yes.

2 MR. MENDELSON: The government is under the  
3 impression that only Defense Exhibit 2 has been admitted  
4 into evidence.

5 THE COURT: That's what, that's what my notes  
6 reflect. There have been several exhibits that have  
7 been marked for identification but only one, Exhibit 2,  
8 has been moved into evidence.

9 MS. SASSOWER: Can we, how -- Your Honor, by  
10 way of inquiry, how do we get the subpoenas into  
11 evidence with their request for documents?

12 THE COURT: Mr. Mendelson.

13 MR. MENDELSON: The government objects to the  
14 introduction of the subpoena as cumulative and  
15 irrelevant. It's apparent that the witnesses are here  
16 testifying. They have testified extensively on the  
17 documents that have already been turned over before  
18 trial.

19 Assuming that the Court decides to admit the  
20 subpoenas themselves, we would object to the  
21 introduction of the attached discovery letter, but we  
22 object to the exhibits in their entirety.

23 THE COURT: Ms. Sassower, how was the subpoena  
24 going to assist the jury in their determination of the  
25 elements of this case in a way that has not already been

1 established here? No one is denying that they were  
2 compelled to be here pursuant to your subpoena.

3 And quite frankly, no one is denying that there  
4 were records that might be covered by your four-page  
5 letter. The testimony has been that everything has been  
6 turned over to the U.S. Attorney's Office.

7 So I believe that Mr. Mendelsohn is correct.  
8 What we're talking about is cumulative evidence. The,  
9 the, there's nothing at issue here. They have testified  
10 as to the, what was done with the records. They've  
11 testified that they were here pursuant to your subpoena.

12 So what would be your proffer as to the relevance  
13 of the admission of the actual subpoena?

14 MS. SASSOWER: It is my position stated  
15 repeatedly that good faith actual production has not  
16 been made. I think it was reflected in the testimony of  
17 Detective Lippay.

18 Because certainly she recounted that the loss  
19 of the tape, so-called, was apparent somewhere in, I  
20 believe she said August/September, somewhere around  
21 there, or late summer.

22 Yet there was no notification of that until as  
23 recently as this past week. The documents were not  
24 delivered. Any, any responses were not delivered until  
25 last week.

1           So when she speaks about production and a file,  
2 and Detec, and Detective Zimmerman refers to a file,  
3 which apparently contains the 1996 arrest report, I am  
4 at a loss.

5           And apparently, she reviewed some other  
6 information which may or may not be part of this file,  
7 from which she derived this fiction that I was arrested  
8 in 1996 for disruptive conduct.

9           THE COURT: Very well. Your proffer is noted  
10 for the record. The, I'm not convinced that the  
11 admission of the subpoena and the notice of production  
12 letter, dated I believe April 12th, would be anything  
13 other than cumulative evidence and those documents will  
14 not be received into evidence in this case.

15           MS. SASSOWER: Very well, Your Honor.

16           THE COURT: Very well. Your objection is noted  
17 for the record. We'll bring the jury back in.

18           MS. SASSOWER: Excuse me. Am I not correct  
19 that an exhibit also was made of that fax that Special  
20 Agent Lippay prepared and sent to Senator Clinton's  
21 office to Mr. Ortiza?

22           THE COURT: You're talking about apparently  
23 Defendant's Exhibit 7. There was in fact, it was  
24 identified by Lippay. Mr. Mendelsohn, is there any  
25 objection to this Exhibit 7 being introduced into

1 evidence?

2 MR. MENDELSON: Yes, Your Honor.

3 THE COURT: What's the basis?

4 MR. MENDELSON: The cover page is not  
5 relevant. The two photos on the back pages --

6 MS. LIU: Your Honor, if I could, I'll speak to  
7 this. This consists of the cover page and a bulletin  
8 that was sent to Special Agent Ortiza, who's a member of  
9 Senator Clinton's protective detail as well as a  
10 bulletin that was prepared for Senator Clinton's office.

11 THE COURT: Yes.

12 MS. LIU: Neither Senator Clinton's office nor  
13 her protective detail were actually involved in this  
14 arrest. This is not relevant.

15 What has been produced and we produced and  
16 accepted into evidence is the bulletin attached to  
17 Defense Exhibit 2, which is the bulletin that was given  
18 out to the Capitol police. We simply fail to see what  
19 the relevance of this exhibit is.

20 MS. SASSOWER: She, Your Honor, --

21 THE COURT: Just a minute please. Very well.  
22 I believe the foundation was laid by Special Agent  
23 Lippay that she in fact prepared this document.

24 The document consists of three pages. One page  
25 of which is the cover page. The second of which appears

1 to be a bulletin that was prepared on the -- well, it's  
2 difficult to say except that the text refers to the  
3 hearing on 5/22/03.

4 Finally, the last page, page 3, contains the  
5 photograph that was taken in 1996 and appears to be the  
6 1996 bulletin. I'll allow the introduction of these  
7 documents. Well, the document that is Defendant's  
8 Exhibit 7. Very well.

9 (Thereupon, the jury returned to the courtroom  
10 at 4:25 p.m.)

11 THE COURT: Very well. Please bring Detective  
12 Zimmerman back in.

13 (Thereupon, the witness returned to the witness  
14 stand.)

15 THE COURT: Ms. Sassower, please inquire.

16 BY MS. SASSOWER:

17 Q You stated that when you spoke with me on May  
18 21st, you were not aware that I was a suspect?

19 A A suspect of what, ma'am?

20 Q Someone suspected of harassing and stalking  
21 conduct?

22 A I don't believe stalking was ever used. I know  
23 Agent Lippay had opened an investigation to find out  
24 what was going on. But your term suspect was not used.

25 Q But it is, is it your normal practice and



1 procedure to take notes when you have conversations with  
2 people who might be threatening in some respect to  
3 members of Congress?

4 A If there is a reason for me to believe that  
5 that subject was threatening a member of Congress, yes,  
6 ma'am, I would certainly take notes.

7 Q So you had no reason to take notes of  
8 conversations that you estimate to have taken two and a  
9 half hours cumulatively, is that your statement?

10 A The information you were supplying to me, Ms.  
11 Sassower, was deemed by me not worthy to take notes of.

12 Q So I didn't seem too threatening and harassing  
13 to you.

14 A Threatening, no, ma'am. I could understand why  
15 the staff could interpret your actions as harassing,  
16 yes, ma'am.

17 Q Well, what was harassing?

18 A Your passion.

19 Q Passion is harassing.

20 A The way you were expressing yourself. I could  
21 understand that if you continued to do that on numerous  
22 occasions, I could understand how a reasonable human  
23 being could interpret that as becoming harassing.

24 Q Well, what was I, what specifically did I say,  
25 what specifically did I say that seemed harassing

1 because it was passionate? What did I say,--

2 A There was not, there was nothing -

3 Q What was I recounting to you?

4 A There was nothing specific, ma'am. It was your  
5 passion and the way you would repeat the same statements  
6 and the same ideas over and over and over again.

7 Q Do you, in your, in your direct testimony you  
8 did not identify why specifically I wanted to speak to  
9 Special Agent Lippay's superior.

10 Was there some reason identified by ser,  
11 Special Agent Lippay or myself as to why I wanted to  
12 speak with her superior?

13 A Exactly what that issue was, ma'am, I don't  
14 remember.

15 Q In preparation for your testimony today, you've  
16 identified you read the contents of this jacket?

17 A I reviewed the jacket within the last week,  
18 yes, ma'am. I did not read the contents of the jacket  
19 word-for-word, cover to cover.

20 MS. SASSOWER: May I offer as, for  
21 identification Defendant's 8, Exhibit 8, the 39-page fax  
22 of May 21st, addressed to Detective Zimmerman? May I?  
23 May I approach the witness?

24 THE COURT: You may.

25 THE WITNESS: Thank you.

1 BY MS. SASSOWER:  
2 Q Do you recognize that document?  
3 A Yes, ma'am.  
4 Q Was, is the original in the file?  
5 A The fax?  
6 Q Yes.  
7 A I believe so, yes, ma'am.  
8 Q There's a fax time stamp on top. What does it  
9 say?  
10 A 2152.  
11 Q 9:52. Okay. You testified that you found a  
12 fax and reviewed a fax on May 22nd, the morning of the  
13 Senate Judiciary Committee hearing, is that correct?  
14 A Yes, ma'am.  
15 Q You received it and you reviewed it?  
16 A Yes, ma'am.  
17 Q And the Re clause of that fax says?  
18 A I'm sorry, ma'am, I'm not sure --  
19 Q What does the Re clause say?  
20 A I don't know what that is.  
21 Q R-e, what it, what it pertains to. What was  
22 the subject matter of the fax?  
23 MS. LIU: Your Honor, may we approach?  
24 THE COURT: Yes.  
25 (Bench Conference)

1 MS. LIU: Your Honor, I object to the reading  
2 of this document. It's not, she's, she's asked him what  
3 the Re clause says. This document has not been  
4 admitted into evidence. It's not properly admitted.

5 THE COURT: Okay. The document hasn't been  
6 admitted into evidence. There has been no foundation  
7 laid that he prepared it.

8 MS. SASSOWER: He did.

9 THE COURT: And in the absence of a foundation  
10 being laid, it can't be admitted and he can't read from  
11 it. You can elicit testimony from him that this was the  
12 document that he reviewed. But as to testifying from  
13 specific items within the document, it's not permitted.

14 MS. SASSOWER: All right. Well --

15 THE COURT: Okay.

16 (Open court).

17 MS. SASSOWER: Thank you.

18 THE COURT: Yes.

19 BY MS. SASSOWER:

20 Q You testified that from your review, you had  
21 concluded there was nothing threatening about this 39-  
22 page fax, nothing of a threatening nature?

23 A That's correct.

24 Q The fax identifies, does it not, the reason why  
25 I wanted to speak to --

1 MS. LIU: Objection, Your Honor.

2 MS. SASSOWER: -- Special Agent Lippay's  
3 supervisor.

4 THE COURT: Sustained.

5 BY MS. SASSOWER:

6 Q Did I state to you why I wanted to speak with  
7 you as Special Agent Lippay's supervisor?

8 A Ma'am, if you did tell me, I don't recall what  
9 that reason was.

10 Q Would you take a moment to review again the  
11 fax --

12 MS. LIU: Objection, Your Honor.

13 THE COURT: Let's hear the full extent of the  
14 question. Ms. Sassower?

15 BY MS. SASSOWER:

16 Q To see whether it doesn't refresh your  
17 recollection, on the very first page as to why I've  
18 requested to speak with you.

19 MS. LIU: Your Honor, we still object.

20 MS. SASSOWER: Okay.

21 THE COURT: Very well, overruled. The question  
22 is whether this document refreshes your reco,  
23 recollection.

24 THE WITNESS: I'm trying to read it now, Your  
25 Honor.

1 THE COURT: Very well.

2 THE WITNESS: I apologize.

3 MS. SASSOWER: All it is is the first page.

4 THE COURT: Yes.

5 THE WITNESS: Yes, ma'am.

6 BY MS. SASSOWER:

7 Q Okay. According to this fax, what reason did I  
8 state?

9 MS. LIU: Objection, Your Honor.

10 THE COURT: Sustained.

11 BY MS. SASSOWER:

12 Q Isn't it true that the reason I wanted to speak  
13 with you, insisted to speak with you as Special Agent  
14 Lippay's superior, is because Special Agent Lippay  
15 insisted to me that in 1996 I had been arrested for  
16 requesting to testify at the Senate Judiciary Committee  
17 hearing of June 25th of that year?

18 A I don't know exactly what Agent Lippay spoke to  
19 you. But if she referenced the arrest of '96, I could  
20 understand that, yes, ma'am.

21 Q Did I have extensive conversations as to why I  
22 was arrested in 1996?

23 A Yes, ma'am.

24 Q Did I state to you emphatically that I was not  
25 arrested for requesting to testify at the Senate

1 Judiciary Committee hearing?

2 A That was your statement, yes, ma'am.

3 Q And did you insist that I was arrested?

4 A Did I insist --

5 Q For requesting to testify?

6 A No, ma'am.

7 Q No. But you heard what I had to say, that I  
8 was not arrested for having requested to testify at the  
9 Senate Judiciary Committee hearing?

10 A Yes, ma'am.

11 Q Isn't it a fact, that you threatened me that if  
12 I requested to testify at the next day's hearing of May  
13 22nd 2003, I would be arrested simply for requesting to  
14 testify?

15 A No, ma'am.

16 Q Didn't I tell you over and over again that the  
17 precedent of 1996 was that I was not arrested for  
18 requesting to testify?

19 A I don't think that was up for debate, ma'am.

20 Q So you did not warn me or threaten me in any  
21 way that if I came down to Washington and requested to  
22 testify and the chairman banged his gavel, without even  
23 directing that I be arrested, I would be arrested by  
24 Capitol police?

25 MS. LIU: Objection, Your Honor.

1 THE COURT: Overruled. Did you understand the  
2 question?

3 THE WITNESS: I believe so, Your Honor.

4 THE COURT: Very well, can you answer the  
5 question?

6 THE WITNESS: What I, what I told you, Ms.  
7 Sassower, was that if you came down and disrupted the  
8 Committee, you would be arrested.

9 Q Did I say ever that I intended to disrupt the  
10 Committee?

11 A Specifically, no, ma'am.

12 Q Did I say that like in 1996, I would merely  
13 request to testify if the presiding chairman did not  
14 himself inquire whether there was anyone present who  
15 wish, wished to testify?

16 A I don't remember those statements in the way  
17 you just raised them, no, ma'am.

18 Q But you don't deny that I may have said that?

19 A I believe you said something to the effect of  
20 that you want, still wanted to come down and testify.  
21 And I believe I explained to you in certain terms that  
22 if you are recognized by the chair and are allowed to  
23 speak, you may, you may do what the chair directs.

24 However, you cannot disrupt the Committee. That any  
25 action or any arrests would be based on your actions.



1 Q But I did not say that I was intending to  
2 disrupt the Committee, is that correct? That's what  
3 you've testified to.

4 A That's correct, ma'am. You never gave me a  
5 specific answer that you would not try to disrupt.

6 Q And isn't it a fact, the cover, this 39-page  
7 fax consists of two pages addressed to you and the rest  
8 are referred to documents. Would you take a moment  
9 simply to review the page and a half?

10 A I'm reading the document.

11 THE COURT: Question, Ms. Sassower?

12 MS. SASSOWER: Yes. The document does appear  
13 to reflect, does it not, ---

14 MS. LIU: Objection, Your Honor.

15 THE COURT: Sustained.

16 MS. SASSOWER: That we had a discussion --

17 MS. LIU: Objection, Your Honor.

18 THE COURT: Sustained.

19 BY MS. SASSOWER:

20 Q You were aware that I filed a police misconduct  
21 complaint against Capitol police in 1996, arising from  
22 my arrest for disorderly conduct, were you not?

23 A Based on your documentation, yes, ma'am.

24 Q And in our phone conversations, you were very  
25 interested in seeing that police misconduct complaint,

1 am I correct?

2 A I told you I'd be interested in seeing any  
3 documents you wanted to show me, ma'am.

4 Q Okay. How much of this 39-page fax did you  
5 read at the time?

6 A At what time, ma'am?

7 Q At, at the time that you said you reviewed it.  
8 On the morning of May 22nd, you got a fax that said not  
9 being arrested, I didn't want to be arrested. How much  
10 of that fax did you read?

11 A I reviewed the whole fax, ma'am.

12 Q What steps did you take upon reading the fax to  
13 make sure that I was not arrested simply for requesting  
14 to testify at the Senate Judiciary Committee hearing?

15 A I had no steps to take.

16 Q But you knew that in 1996 there was a precedent  
17 that I wasn't arrested for requesting to testify. From  
18 this fax that you reviewed in its entirety.

19 A In 1996 you were arrested.

20 Q But not for --

21 A The facts behind that arrest --

22 Q Not for requesting to testify, right?

23 THE COURT: Excuse me, excuse me.

24 THE WITNESS: The facts behind that arrest I did  
25 not have, and you were willing to bring them to me. And

1 I told you I'd be willing to review those and any other  
2 documentation.

3 BY MS. SASSOWER:

4 Q But you did not require me to give you the file  
5 of that case. Capitol police maintains records. You  
6 had helped Sergeant Lippay secure a photo of me from my  
7 1996 arrest, is that not correct?

8 A That was from your fingerprint card and the  
9 photo, yes, ma'am.

10 Q I see. Well, you certainly could have accessed  
11 the documents pertaining to that arrest independently to  
12 find out why I was arrested.

13 A I would go to another file if I wanted to find  
14 that out, yes, ma'am.

15 Q Wasn't it relevant?

16 A To what, ma'am?

17 Q To your threat to me that I was gonna be  
18 arrested simply for requesting to testify, even if the  
19 chairman did not direct. That the very fact, the very  
20 fact that I would rise from my seat at an appropriate  
21 point,--

22 MS. LIU: Objection, Your Honor.

23 MS. SASSOWER: -- request to testify, is that  
24 not what you told me? Isn't that what's reflected in  
25 the fax that you told me?

1 THE COURT: Just a minute.

2 MS. LIU: May we approach, Your Honor?

3 THE COURT: You may.

4 (Bench conference).

5 MS. LIU: Your Honor, in the Government's view,  
6 that was an extremely argumentative question. It was  
7 not accurate statement of the testimony.

8 THE COURT: It certainly didn't comply with my  
9 prior rulings that questions should be succinct and not  
10 contain any opinion and get right to the point.

11 MS. SASSOWER: Uh-uh, I try.

12 THE COURT: It certainly was a compound  
13 question. It was argumentative. The objection is  
14 sustained. We're breaking for the day and we'll come  
15 back tomorrow morning.

16 MS. SASSOWER: I'll try. --

17 (Open court).

18 THE COURT: Ladies and gentlemen of the jury,  
19 we are going to break for the day. So tomorrow we will  
20 begin very much like we did today. Be ready at 9:45.  
21 Thank you.

22 (Thereupon, the jury was excused for the day at  
23 4:45 p.m.)

24 THE COURT: Counsel, please remain. Just leave  
25 that there. Thank you. Very well. Detective

1 Zimmerman, we are going to adjourn for the day and  
2 you're in the middle of your examination.

3 So please don't discuss your testimony with  
4 anyone, neither the testimony you've already given or  
5 the testimony that you anticipate you might be required  
6 to give. Very well. I will see you in the morning.

7 THE WITNESS: Thank you, Judge.

8 THE COURT: Thank you. All right. To Ms. Liu,  
9 Mr. Mendelsohn, Ms. Sassower. We have a request from  
10 juror number 10 that he be dismissed from jury duty.  
11 I'm going to have the juror come in and explain his  
12 reasoning for that. I'll take his, his reason up at the  
13 bench. All right. Let's go.

14 (Bench Conference)

15 THE COURT: This note was brought to my  
16 attention, and it's my understanding that you are  
17 seeking to be relieved from further jury duty. Could  
18 you explain to us specifically the reason for that?

19 JUROR NO. 10: I'm asking basically if I could  
20 be dismissed or disqualified because, not so much by, if  
21 I can't be objective and based upon what I've seen so  
22 far, for like the defendant's grandstanding and  
23 basically wasting the state's time and that I, if, I may  
24 prejudice the other jurors.

25 I think at this point that I'm sure that based

1 upon the law that I would want to find , want to acquit  
2 the defendant .

3 THE COURT: Well, obviously, it saddens me to  
4 hear that statement about your not being able to be  
5 objective. Certainly that's what we seek when we  
6 empanel the jury.

7 JUROR NO. 10: I understand that as a lawyer, I  
8 hate to say it, and, and I don't know if it's because of  
9 my judicial training or what, I realize that they may  
10 have a very negative reaction.

11 THE COURT: If you would, please go and stand  
12 at the rail and let me speak with counsel.

13 (Juror number 10 not present.)

14 THE COURT: Ms. Liu, Mr. Mendelsohn, I'll hear  
15 from you first.

16 MR. MENDELSON: Your Honor, there seems to be  
17 two issues here. We cannot let this juror step off. He  
18 said during voir dire he would be able to reach a fair  
19 and impartial verdict.

20 We set a precedent by allowing someone to be  
21 removed based on their reactions to the defendant. Who  
22 knows if we'll have 12 members remaining.

23 I think he, if, if you can ask him again  
24 whether despite his reaction to the defendant, he can  
25 still, as he said in voir dire, give a fair and

1 impartial verdict. I think that's necessary.

2 I do not think that he should be removed based  
3 on this. I think that would set a terrible precedent.

4 THE COURT: Very well.

5 MS. SASSOWER: I'd like to be heard.

6 THE COURT: Very well, Ms. Sassower.

7 MS. SASSOWER: A defendant, a juror, who  
8 expresses himself in such visceral terms and not to the  
9 evidence that has been presented here today, has  
10 demonstrated that he cannot evaluate the evidence, the  
11 facts, and I believe that's, I give him credit in coming  
12 forward.

13 THE COURT: Well, let me just say to you before  
14 I make a decision here. What this should be for all of  
15 us is a beacon of bright light indicating to us what I  
16 perceive to be the jury's growing dissatisfaction with  
17 the manner in which this case is progressing.

18 One of the charges that I will give them at the  
19 conclusion of the case is that they will be the people  
20 who determine credibility. And in reaching credibility,  
21 they can look at any number of things including the  
22 demeanor of the witnesses.

23 And in your case, the parties get to have this  
24 lawyer come forward, who has previously indicated that  
25 he could be fair and impartial, to state to the sitting

1 judge that I believe the defendant is grandstanding,  
2 should be viewed by you as an indication of how, forget  
3 about the evidence, of how the manner in which you  
4 comport yourself affects those who are to make the  
5 ultimate decision.

6 So, I say that to you so that we all can learn  
7 from this. This case is moving too slowly. It's  
8 disorganized. It needs to proceed more efficiently,  
9 more expeditiously. Questions need to be directed with.

10 I mean we don't have speeches included within  
11 the questions. And if there's nothing further from a  
12 witness, let's get them off and move on to something  
13 else.

14 Now with regard to the specific request by this  
15 juror, I'm gonna have him back up and I'm gonna talk to  
16 him about the oath that he took and I'm going to probe  
17 to see whether he is, what he's having problem with is  
18 her delivery or the evidence.

19 MS. SASSOWER: Thank you.

20 THE COURT: And we'll see where we go from  
21 there. Yes, Mr. Mendelsohn?

22 MR. MENDELSON: And we would also make the  
23 request, because this gentleman is an attorney and he  
24 should be aware that everyone has visceral reactions in  
25 every case, but it is about the evidence not about the



1 manner in which the parties conduct themselves.

2 THE COURT: Very well.

3 MS. LIU: Thank you, Your Honor.

4 THE COURT: That's all right.

5 (Juror number 10 present.)

6 THE COURT: First of all, let me thank you for  
7 coming forward. I appreciate your candor. Let me ask  
8 you this. You mentioned earlier that you believed that  
9 the defendant was grandstanding in this case and that  
10 you couldn't be an impartial arbiter of her guilt or  
11 innocence based on that.

12 If you could put aside how one's actions might  
13 irritate you or offend your sensibilities and  
14 concentrate solely on the evidence that is presented,  
15 that is to say, not the manner of delivery, rather what  
16 is ultimately delivered as evidence in this case, I  
17 believe as a lawyer you understand the point that I'm  
18 making.

19 Put aside the manner in which the defendant may  
20 act and address the evidence as it actually comes, as a  
21 lawyer, and as a juror who took an oath here, do you  
22 believe that you can be fair and impartial?

23 JUROR NO. 10: No, Your Honor.

24 THE COURT: All right. Then what I'm going to  
25 do, sir, is I'm going to give this further consideration

1 tonight and I'd like for you to do the same as well. I  
2 want you to come back tomorrow, be prepared to go and  
3 I'll render a decision at that time.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Thank you. Very well. That was  
6 juror number 782 who sits in seat 10, sits in seat 10.  
7 Okay, very well.

8 (Open Court)

9 THE COURT: Any additional matters?

10 MR. MENDELSON: Tomorrow during the  
11 government's case-in-chief, we plan to use both an easel  
12 and a television and a VCR. I'm just wondering for  
13 technical purposes where we should place them.

14 THE COURT: That's a good question. Obviously,  
15 there's only going to be one, one monitor involved  
16 typically. Give us some assistance here. One TV  
17 monitor, TV there or over here and have everyone here  
18 move around. How long is the tape?

19 MR. MENDELSON: About five minutes.

20 THE COURT: Very well. I think that what I  
21 might do is direct that the monitor be set up somewhere  
22 in this area. And then everyone who, all of the, all  
23 counsel would then move in that direction.

24 I don't want you crowding the, the jury, so  
25 you'd have to step into the front row and sort of move

1 around so that you could see. I'll probably move down  
2 here. But it seems to me that that would be the easiest  
3 way to handle it, unless I have some recommendations  
4 otherwise.

5 MR. MENDELSON: That's the location that the  
6 government thought would be best.

7 THE COURT: Very well. So as a practical  
8 matter, it's going to have to come through this, this  
9 aisle here and your bench. If you have two people on it  
10 and can be lifted and swung around, it can come through.  
11 We'll place it here.

12 THE CLERK: The outlet is right here.

13 THE COURT: Very well. So we have an outlet.  
14 And then counsel will have to shift. And you've seen  
15 this anyway, so that theoretically, there shouldn't need  
16 to be any severe viewership issues with regard to this  
17 tape as far as counsel is concerned.

18 MS. LIU: Your Honor, we are intending to  
19 introduce this tape through a witness that we're going  
20 to call immediately after Ms. Sassower is done cross-  
21 examining Detective Zimmerman.

22 For convenience, should we have it set up  
23 before court starts tomorrow so we won't have to take a  
24 break?

25 THE COURT: No. What we'll do is, that would

1 be, I think that would be a reason for a break. So  
2 we'll finish with Detective Zimmerman. We will then  
3 take a brief break and we may in fact take a break, have  
4 them stay in the jury box, talk among themselves while  
5 we bring this in.

6 MS. SASSOWER: May I, Your Honor?

7 THE COURT: Yes.

8 MS. SASSOWER: I do not expect that my cross-  
9 examination of Zimmerman will take more than a half hour  
10 - 45 minutes. We too will be wanting to use the video  
11 setup.

12 THE COURT: Very well.

13 MS. SASSOWER: Is there a capacity to slow down  
14 the play?

15 THE COURT: There's capacity certainly to pause  
16 it so that you can freeze the frame and then resume.

17 MS. SASSOWER: Rewind. Okay. And is there a  
18 stopwatch or some other watch with a second hand that we  
19 could use?

20 THE COURT: Well, I will, I mean I'm not aware  
21 that there's any stopwatch. I haven't seen the  
22 videotape, so I don't know if there's a time counter on  
23 it or not. So I don't know how to answer that question.

24 MS. SASSOWER: Okay.

25 THE COURT: All right.

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MS. SASSOWER: Thank you.

THE COURT: Anything further?

MR. MENDELSON: No, Your Honor.

THE COURT: Very well. See you tomorrow.

THE CLERK: Ma'am, I need you to sign, return  
back to court for trial at 9:00 a.m., Courtroom 218. If  
you fail to appear on that date, you're subject to a  
\$1,000 fine or one year in jail or both just simply for  
not returning. Do you understand?

MS. SASSOWER: Yes.

(Thereupon, the proceedings concluded at 5:00  
p.m.)