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EXECUTIVE SESSION
COMMITTEE ON OVERSIGHT AND
GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

DEPOSITION OF: TRACY A. HENKE

Wednesday, June 20, 2007

Washington, D.C.

The deposition in the above matter was held at 2157,
Conference Room J, Rayburn House Office Building, commencing
at 1:30 p.m.

1 Appearances:

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5 For Committee on Oversight and Government Reform:

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7

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16 For the Witness:

17

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1 Ms. Sachsman. On behalf of the Committee on Government
2 and Oversight Reform, I want to thank you for coming in
3 today. This proceeding is known as a deposition. The
4 chairman of the committee has sought this deposition as part
5 of the committee's investigation into lobbying contacts
6 between the White House and Jack Abramoff and his associates.

7 Specifically today, we would like to discuss with you
8 the Department of Justice's 2002 decision to release
9 \$16 million to fund the building of a new jail facility for
10 the Choctaw Indian Tribe and your role and the role of a
11 lobbyist in that decision.

12 The person transcribing this proceeding is a House
13 reporter and a notary public authorized to administer oaths.
14 She will now place you under oath.

15 [Witness sworn.]

16 Ms. Sachsman. My name is Susanne Sachsman. I have been
17 designated majority counsel for this deposition. I'm
18 accompanied by Kristin Amerling, who is counsel for the
19 committee, and Anna Laitin, who is a committee professional
20 staff member.

21 Would minority counsel please present yourselves for the
22 record?

23 Mr. Ausbrook. I am Keith Ausbrook, Republican General
24 Counsel.

25 Mr. Castor. Steve Castor, Republican Counsel.

1 Ms. Sachsman. We have one other committee staff member
2 present.

3 Mr. Barnett. I'm Phil Barnett. I'm the Staff Director.

4 Ms. Sachsman. Before beginning the deposition, I would
5 like to go over some standard instructions and explanations
6 regarding depositions.

7 Ms. Henke, because you have been placed under oath, your
8 testimony here has the same force and effect as if you were
9 testifying before the committee. If you knowingly provide
10 false testimony, you could be subject to criminal prosecution
11 for perjury, for making false statements or for other related
12 offenses.

13 Do you understand that.

14 The Witness. Yes.

15 Ms. Sachsman. Is there any reason that you would be
16 unable to provide truthful answers in today's deposition?

17 The Witness. Not that I'm aware of.

18 Ms. Sachsman. As you may well have already understood
19 from your attorney, you have the right under the fifth
20 amendment to refuse to answer any question if a truthful
21 answer to that question may tend to incriminate you.

22 Do you understand that?

23 The Witness. Yes.

24 Ms. Sachsman. Under the committee's rules, you're also
25 allowed to have an attorney present to advise you for the

1 record. Do you have an attorney present who represents you?

2 The Witness. Yes.

3 Ms. Sachsman. Would you please identify yourself?

4 Mr. Jordan. Yes. Bill Jordan from Alston & Bird.

5 Ms. Sachsman. The deposition will proceed as follows:

6 I will ask questions regarding the subject matter of the
7 committee's investigation for up to 1 hour. When I'm
8 finished, the minority counsel will have the opportunity to
9 ask you questions for up to 1 hour. Additional rounds of
10 questioning, alternating between the majority and the
11 minority counsel, may follow until the deposition is
12 completed. I don't anticipate that we'll go very long.

13 The reporter will be taking down everything that you say
14 and will make a written record of the deposition. You will
15 need to give verbal, audible answers because the reporter
16 cannot record nods or gestures. Also, for the record to be
17 clear, please wait until I finish each question before you
18 begin your answers, and I will wait until you finish your
19 response before asking you the next question.

20 Do you understand that?

21 The Witness. Yes.

22 Ms. Sachsman. If you don't hear or understand a
23 question, please say so, and I will repeat or rephrase it.

24 If I ask you about conversations or events in the past
25 and you're unable to recall the exact words or details, you

1 should testify to the substance of such conversations or
2 events to the best of your recollection. If you recall only
3 a part of a conversation or of an event, you should give us
4 your best recollection of those events or parts of
5 conversations that you do recall.

6 Do you understand that?

7 The Witness. Yes.

8 Ms. Sachsman. Do you have any questions before we begin
9 the deposition?

10 The Witness. No.

11 EXAMINATION

12 BY MS. SACHSMAN:

13 Q Could you please state your full name for the
14 record?

15 A Tracy Henke.

16 Q Can you spell your last name?

17 A H-E-N-K-E.

18 Q Where you are currently employed?

19 A The Ashcroft Group.

20 Q What is your position there?

21 A Senior Advisor.

22 Q Where did you work before you came to the Ashcroft
23 Group?

24 A At the Department of Homeland Security.

25 Q How long have you been with the Ashcroft Group?

1 A Since November 1st, 2006.

2 Q Okay. What was your position at the Department of
3 Homeland Security?

4 A The Assistant Secretary for the Office of Grants
5 and Training.

6 Q How long were you there?

7 A Approximately 9, 10 months.

8 Q Okay. Where were you before that?

9 A At the Department of Justice.

10 Q What was your position there?

11 A When I left the Department of Justice, I was
12 serving as the Deputy Associate Attorney General.

13 Q Okay. Can you start from the beginning of your
14 time at the Department of Justice and just go through the
15 different positions that you held?

16 A Starting in June -- on June 25th, 2001, I was the
17 Principal Deputy Assistant Attorney General at the Office of
18 Justice Programs. That went to October of 2003. It was
19 October of 2003 when I went to the associate's office and
20 became the Deputy Associate Attorney General, and then in
21 2000 -- sorry. I have to think about the years. 2001.
22 2003. 2004. In 2005 January, on approximately January 1st
23 through June of 2005 -- yes, 2005 -- I served as both the
24 Deputy Associate Attorney General and the Acting Assistant
25 Attorney General for the Office of Justice Programs, and then

1 once again, before the remaining time at Justice, I was the
2 Justice Deputy Associate.

3 Q Okay. What were you doing before you went to the
4 Office of Justice Programs?

5 A I served as a staff member for U.S. Senator Kit
6 Bond. I served as his Senior Policy Advisor, the equivalent,
7 in essence, of his Legislative Director.

8 Q How long were you there?

9 A I worked for Senator Bond for 7 years.

10 Q What is your educational background?

11 A I have a degree, a bachelor's degree, in political
12 science, with an emphasis in international relations and the
13 Russian language.

14 Q I'll look to you if I need to speak Russian.

15 A Dah. That's about all anymore that I might be able
16 to do.

17 Mr. Ausbrook. That's about all I understand, too.

18 The Witness. Actually, she is going to type this.

19 [Speaking in Russian.] That's about all I can say anymore.

20 Ms. Sachsman. We're going to have to spell that out for
21 the court reporter.

22 Mr. Ausbrook. "Inaudible."

23 The Witness. That's probably the best way to do it
24 because I don't think I can spell it.

25

1 BY MS. SACHSMAN:

2 Q Okay. We've brought you here today to discuss the
3 time period of late 2001/early 2002 when you were Principal
4 Deputy Assistant Attorney General of the Office of Justice
5 Programs. Can you explain to us briefly about what the
6 Office of Justice Programs does?

7 A Sure. The Office of Justice Programs is the State
8 and local grant-making arm for the Department of Justice, the
9 primary grant-making entity at the Department of Justice,
10 handling everything from juvenile justice to body armor to
11 research and statistics. It had at the time an approximately
12 \$4 billion budget and approximately at the time 800
13 employees, not counting contractors. That has since, I know,
14 substantially changed, and we were the State and local, if
15 nothing else, front line, often in addition to U.S.
16 Attorneys, for the Department of Justice.

17 Q What was your role as, I guess, the Principal
18 Deputy Assistant Attorney General?

19 A A long title.

20 I was the alter ego for the Assistant Attorney General.
21 I served, in essence, as the Chief Operating Officer.

22 Q How large is the Office of Justice Programs? How
23 large of a group were you overseeing?

24 A Once again, it was approximately 800 employees and
25 a \$4 billion budget.

1 Q So above you would have been the associate -- I'm
2 sorry. Who was above you? Actually, I'll just describe it
3 that way.

4 A The Assistant Attorney General.

5 Q Okay. For the Office of Justice Programs?

6 A Yes.

7 Q Then above the Assistant Attorney General for the
8 Office of Justice Programs was the Associate Attorney
9 General?

10 A The Associate Attorney General, correct.

11 Q Okay. Then in the chain of command above the
12 Associate Attorney General is who?

13 A According to the department chart, it would be the
14 Deputy and then the Attorney General.

15 Q Can you explain what the general process in the
16 Office of Justice Programs was for making funding decisions?

17 A It would vary by program. A lot of the programs
18 had very specific congressional direction. For instance, you
19 have a combination of programs at the Office of Justice
20 Programs. You have formula-based programs. Those
21 formula-based programs were either -- the formulas were
22 either outlined in statute by the Congress or they were
23 formulas that were determined inside. The majority of them
24 were established in law, not by the agency. There were very
25 few discretionary programs.

1 The few discretionary programs that there were would
2 consist of the Byrne Discretionary Program, the Juvenile
3 Justice Discretionary Program, but those programs, quite
4 honestly, were more than 100 percent -- and I stress more
5 than 100 percent -- earmarked by the Congress.

6 Then we have another set of not necessarily programs but
7 the way -- and I'm certain you guys are aware of this. You
8 have very clear earmarks, and then you have congressional
9 direction provided and not necessarily providing dollar
10 amounts but a strong urging to the agencies on what to do,
11 and so that, I would say, is a third category.

12 Q Well, let's start with the first category, the
13 formula-based programs.

14 For those, how does that sort of decision process get
15 made? So, for example, is there a line person who does
16 research into what the grant decision is who then makes a
17 recommendation up? Who do they make a recommendation to, and
18 how does that work?

19 A Sure. It's a formula-based program. Then, often,
20 if it's a formula-based program, we could specifically tell
21 entities what their allocation is because it would either be
22 going to States or to localities to meet whatever the
23 statutory criteria is, and so that allocation determination
24 would be based upon the amount of money that the agency has
25 provided and the rules by which we are supposed to

1 allocate -- to provide the funding to the recipients. So a
2 combination of what that dollar amount would be would be made
3 between the individual bureau within OJP and in consultation
4 with OJP's budget office, and normally in, you know, a weekly
5 meeting or by just simple communication, it would be "this is
6 how much we have to go out under this program. We are going
7 to send the notification out," and the receiving entities
8 would then submit their applications because they would still
9 have to submit an application, and staff would do a review,
10 and unless a bureau head of a relevant component within OJP
11 had questions, the bureau head often would just -- would make
12 the determination or would say, "Okay," and hit the button,
13 and it's done.

14 Q So there would be, I assume then, a recommendation
15 from OJP's Budget Office and then a separate staff
16 recommendation?

17 A No.

18 Q That's the staff recommendation?

19 A No, and it's not necessarily a recommendation. I
20 mean those were for formula programs. That's just an
21 automatic. I mean it's not something that there's really a
22 recommendation over. It is "this is how much money we have.
23 This is how the Congress and the law tells us to allocate it.
24 This is what it means."

25 Q What about for the discretionary programs?

1 A For the discretionary programs, it would depend on
2 whether or not the agency had discretion or not. If it were
3 earmarks, we would work with the House and Senate
4 Appropriations Committees to identify the relevant Member
5 because, unfortunately, not always were the earmarks clear on
6 who the recipient actually was, so the Appropriations
7 Committees would provide us information on who the Member
8 sponsoring the earmark was so we had that for our internal
9 records as well as who the entity was supposed to be because,
10 often, we would have to reach out to that entity, and
11 unfortunately, most people assume that, when something is
12 earmarked, a check is cut, and they get a check in the mail,
13 and they get to do whatever they want. That's not how it
14 works. They still have to abide by the rules and
15 requirements of the program for which the earmark was made
16 out of, and they still have to submit an application. They
17 still have to comply with all of the rules and the
18 requirements. So we would have a list of the earmarks. They
19 would be assigned to the relevant staff within the individual
20 bureaus, and those staff then would work with the receiving
21 entity to get the relevant information and make certain that
22 the process proceeded.

23 Q What would be the next step once the staff gets the
24 relevant information?

25 A The way that -- well, the next step for the staff

1 is to -- at OJP, I believe they still call it "red book"
2 because it used to be done by hand and by paper years ago,
3 and grant awards were done by red book. It's now all
4 automated. They would -- even grantees now have to submit
5 via -- I think they still call it the "grant management
6 system," the GMS system. They would submit their
7 applications online. Everything would be reviewed online,
8 and then -- so, for instance, the staff person would do his
9 review of the information and make certain everything from
10 the civil rights compliance to OMB requirements to internal
11 agency programmatic requirements were met. It would then go
12 off on to that division director, to that bureau head, and
13 then 95 percent of the time probably I would be the one to
14 click the final button.

15 Q What would happen the other 5 percent of the time?

16 A Another deputy would do so.

17 Q Okay. Would it ever go above you?

18 A Rarely.

19 Q In what instances would it go above you?

20 A The only time it would go above -- and that would
21 be to the Assistant Attorney General -- would be if there
22 were some -- if I had problems or qualms or there was an
23 issue with a grant that a bureau head and I had a different
24 opinion potentially on, and then it would be given to the
25 Assistant Attorney General.

1 Q And that is for all hard earmarks or that is for
2 everything?

3 A That's for everything. Understand, on formula
4 programs, though, there is no discussion. I mean it's
5 statutory. It's law. It goes out the door. Earmarks, while
6 often they are in the report language -- having done
7 appropriations for 7 years in the United States Senate, often
8 language is included in the appropriations bill directing
9 that those things be done even though the actual list is
10 contained in the report, and so there is no conversation much
11 about those other than making certain that we get them done
12 and abide by the direction that the Congress provided. So,
13 once again, very little discretion is actually left to the
14 agency.

15 Q How about in those cases where there is a soft
16 earmark? For example, I guess, here, we are talking about
17 the Choctaw jail decision. Actually, I can pull it out if
18 that's useful.

19 A Sure.

20 Q I'm showing you the Conference Report from
21 November 9th, 2001.

22 A And this would have been for fiscal year 2002 --
23 correct? -- for fiscal year ending -- wait. Okay. So this
24 is fiscal year 2002.

25 Q If I can just draw your attention to the Tribal

1 Prison Construction here, it says, "The conferees expect OJP
2 to examine each of the following proposals, provide grants if
3 warranted, and submit a report on its intentions for each
4 proposal." Included in there is the construction of a
5 detention facility for the Mississippi Band of Choctaw
6 Indians.

7 A And so I'm sorry. The question?

8 Q So I guess my understanding is -- and I don't have
9 experience with appropriations. Is that considered a soft
10 earmark or --

11 A Yes, that's considered congressional direction
12 and/or a soft earmark.

13 Q For those types of congressional directions, what
14 would be the process in OJP?

15 A The process would be that those entities, most
16 likely, would submit an application or that we or, quite
17 honestly, the agency might already be working with them on an
18 application, and so the staff would do their due diligence,
19 and based upon, in this case, tribal prison construction, to
20 the best of my recollection, there were not specific hard
21 earmarks out of the program, only soft earmarks, but it's in
22 the interest of the agency to comply with soft earmarks, and
23 so the staff would have worked with the relevant identified
24 entities to see if they were going to submit the proper
25 application that met the requirement of the program and put

1 that into the consideration and, in this case, into the
2 recommendation because this would be one where they would
3 recommend.

4 Q If you could just explain to me then the process.

5 So a staff member would receive the application and
6 review the application. In this particular type of instance,
7 where would that staff member -- in what bureau would the
8 staff member be?

9 A In 2001, the Corrections Program Office still
10 existed. The Corrections Program Office is now part of the
11 Bureau of Justice Assistance, and so the staff person would
12 have been in the CPO, the Corrections Program Office, at the
13 time.

14 Q What would be the process from the staff member?
15 They would receive the application, evaluate it. Would they
16 write a memo at that point?

17 A No. Understand that the staff, for instance, that
18 handled the tribal prison construction program had regular
19 communication with the tribes that had an interest in the
20 program. So the staff member would have, most likely, been
21 working with this tribe for a number of years and would have
22 worked with them to get the application that the Congress had
23 asked us to work on, and so they would have worked with, in
24 this case, the Choctaw Tribe to get the relevant information.
25 Then there's the program.

1 So, to the best of my recollection, the way that they
2 did tribal prison was they still had to send out a
3 solicitation. They still had to send out a sort of -- in
4 some cases, the people know them as RFPs, a request for a
5 proposal. At OJP, they are solicitations. A solicitation
6 most likely, to the best of my recollection, would have been
7 issued for this so all of the relevant entities who were
8 eligible to apply and to compete could do so. That would
9 have included all of these relevant entities that are listed.
10 Then within -- then an intern staff review process would have
11 occurred and would have occurred with the director of that
12 office, and they would have done all of the groundwork. They
13 would have done everything, and at some point then, a memo
14 would be put forward on "this is what we propose for the
15 allocation."

16 Q And that memo would be written by whom?

17 A As to that memo, it would depend. It could have
18 been written by the staff person through their office
19 director. It could have been the staff person with the
20 Budget Office in conjunction with the Budget Office. It
21 could have been the Budget Office on behalf of the Program
22 Office.

23 Q How come there are different options?

24 A There is no rhyme or reason.

25 Q Okay. It wasn't that in certain circumstances --

1 A No.

2 Q -- a particular person would write it?

3 A No.

4 Q Okay.

5 A It would just depend on who had potentially more
6 time, and the Budget Office at OJP was responsible and was
7 the liaison with the House and Senate Appropriations
8 Committees. So that's the reason that they would have been
9 involved in the process.

10 Q From there, where would that memo/proposal go?

11 A Me.

12 Q Okay. Would you be the person who makes the final
13 decision or would it go above you?

14 A I would 90-something percent of the time make the
15 final decision. That authority was delegated to me by the
16 Assistant Attorney General.

17 Q In those particular instances that you didn't make
18 the final decision would be those instances that you had
19 described previously?

20 A Uh-huh.

21 Q The ones where there was disagreement between you
22 and the person who had made the recommendation on staff?

23 A Uh-huh. Yes.

24 Q So, just so that I can understand the different
25 divisions of DOJ and OJP, was there a particular area of OJP

1 that dealt with funding decisions for Indian tribes or would
2 it then fall into different areas like to the person who was
3 in charge of funding decisions for prisons, and then within
4 prisons, there would be someone who dealt with Indian tribes?

5 A It would depend on where the program -- what entity
6 within OJP had the responsibility for the management of the
7 program. So, for instance, tribal programs exist pretty much
8 in every component within OJP. So, based upon your
9 description, it was most likely the latter case.

10 Q So, for example, in Juvenile Justice, there would
11 be a tribal program within Juvenile Justice?

12 A There's -- you know, within individual programs,
13 you know, you often have a set-aside for tribes. In some
14 cases, you have specific tribal prison construction. In some
15 cases, you just have, by law, a statutory requirement to
16 provide a minimum or a set-aside, like a 5-percent or a
17 10-percent set-aside specifically for tribes, and so those
18 programs then within OJP and the individual components within
19 OJP -- and let me take a step back for a minute.

20 Within OJP, you have the Bureau of Justice Assistance,
21 the Office of Juvenile Justice and Delinquency Prevention,
22 the Office for Victims of Crime, the Bureau of Justice
23 Statistics, the National Institute of Justice. At the time,
24 you also had the Corrections Program Office, the Office on
25 Violence Against Women. You had the Weed and Seed Office.

1 I'm missing some. Then you also had the Support Office. You
2 had the Office of General Counsel. You had the Congressional
3 Affairs Office, the Budget Office, the Civil Rights Office,
4 the EEO Office. I mean -- so you had all of these components
5 within OJP.

6 Within the programmatic offices, there were, you know,
7 once again, numerous programs then that were managed in each
8 program office. The Bureau of Justice Assistance, for
9 instance, might have, hypothetically, 50 programs that they
10 administer, and so some of those programs might deal with
11 tribes; some might not; some might be specific to tribes;
12 some might just have a set-aside, and relevant staff within
13 each bureau then is responsible for different programs.

14 Q Do you know what other divisions of the Department
15 of Justice were also involved then in Indian affairs?

16 A I would assume, you know, it would depend on -- I
17 mean, if there was litigation pending, there could be
18 something with litigation with any of the litigating
19 divisions if there -- you know, you could have any and all --

20 Q Sure.

21 A -- depending on just what the issue was.

22 From a grant-making side, it predominantly would be the
23 Office of Justice Programs, the Community Oriented Policing
24 Services Office and the Office on Violence Against Women.

25 Q What divisions of the DOJ were involved in

1 decisions affecting specific territories such as Guam and the
2 Commonwealth of the Northern Mariana Islands?

3 A Once again, I would assume any and all, in some
4 respects, could be based upon, you know, whatever is going
5 on -- litigation, et cetera -- but when it came to grants, it
6 was the same three entities that I previously mentioned.

7 Ms. Sachsman. At this time, I would just like to enter
8 the Conference Report as an exhibit.

9 If you can mark it, it will be Exhibit 1.

10 [Henke Exhibit No. 1
11 was marked for identification.]

12 BY MS. SACHSMAN:

13 Q Okay. Thank you for dealing with all of our
14 background. I would like to specifically discuss the
15 decision, DOJ's decision, in 2002 to release funds for the
16 Choctaw Jail.

17 How did the specific decision for the Choctaw Jail
18 funding originally come to your attention?

19 A I'm going to be very honest here and say that the
20 only reason I recollect any of this -- because it was a long
21 time ago -- is because of recent interviews with the [REDACTED] --
22 no. I don't know if it was the [REDACTED] or the [REDACTED]. I do not
23 remember. It was one of them. I'm pretty certain it was the
24 [REDACTED]'s Office. That's the only reason I recollect any of this
25 is because they put lots of documents in front of me.

1 So your question of how did it come to my attention
2 would have been through a memo provided by the staff --

3 Q Do you remember --

4 A -- or through a conversation.

5 Q I'm sorry?

6 A Or through a conversation with staff.

7 Q Do you remember who the staff was?

8 A No.

9 Q And the "staff" in this case would have been out of
10 which area? Just say that for me again.

11 A The staff would have been out of the Budget Office
12 or out of the Corrections Program Office. At the time, the
13 head of the Corrections Program Office was Larry Meacham, and
14 the head of the Budget Office was Pat Thaxton.

15 Q Would the heads of those two offices necessarily
16 have seen this proposal or would they not have seen the memo?

17 A Seen the memo to me?

18 Q Yes.

19 A Yes, they would have seen it. If nothing else,
20 they would have been the ones to provide it to me.

21 Q Did they make a recommendation along with the memo
22 that you received as in "I approve of this, and recommend
23 that you approve of it also" or did they just pass it on to
24 you?

25 A It varied based upon the programs, based upon the

1 dynamics going on, based upon congressional interest. It,
2 quite honestly, would vary whether or not they would say,
3 "This is my recommendation. We urge your concurrence," or
4 whether or not they would just put one forward and say, "This
5 is how much money we have. This is our proposal to
6 allocate," without any reference as to whether or not they
7 would support it. I would assume, however, if they were
8 putting it forward under their name that it would be their
9 position.

10 Q So, if the head of the Budget Office or of the
11 corrections program had decided that the memo shouldn't go
12 forward and that the recommendation was not one that they
13 agreed with, do they have the authority to stop it at that
14 point?

15 A If the -- okay. I apologize. I want to make
16 certain I understand your question. One more time.

17 Q Okay. Here we are just talking about the soft
18 earmarks.

19 A Uh-huh.

20 Q If the original staff member is writing the memo
21 and the memo is recommending some kind of action and if that
22 person's immediate superior who would be the head of either
23 the Budget Office or the Corrections Program doesn't agree
24 with that action, do they have the authority -- the heads of
25 those two offices -- to stop the memo from going forward, to

1 essentially stop the decision at that point?

2 A No.

3 Q So, no matter what, they end up passing this memo
4 forward to you?

5 A They have a requirement to fulfill the obligations
6 and the responsibilities of the program, which means that
7 they have to allocate resources, so they have to forward some
8 sort of decision-making memo. So they would at some point
9 have to forward something. So they couldn't just not forward
10 something.

11 Q Okay. Maybe I'm interpreting your words here.
12 Tell me if I'm correct.

13 If they disagreed with the original memo that they
14 received from their staff member, they could have their staff
15 member redo the memo to reallocate the money the way that
16 they approved of?

17 A Of course they could.

18 Q Do you remember what the original memo recommended
19 in this particular instance?

20 A Once again, only based upon the documents that I
21 have been provided in the last couple of months, which is the
22 only reason I remember any of this, it was \$9 million for the
23 Choctaw Tribe. I'm assuming that you're referencing
24 specifically the dollar amount of the Choctaw Tribe.

25 Q Yes, I am specifically referencing the money that

1 went to the Choctaw Tribe.

2 A It was \$9 million at that time, and that would have
3 been \$9 million out of fiscal year '01 funding.

4 Q I'm sorry. So the memo recommended that they
5 receive \$9 million?

6 A Yes.

7 Q Okay.

8 A Yes, out of fiscal year '01 funding.

9 Q Did the memo have an explanation for why
10 \$9 million?

11 A Because of the time the amount of funding was made
12 available, and understand that OJP did not have the
13 requirement like most agencies of annual money. Most
14 agencies are appropriated dollars, and they have to allocate
15 those dollars within that same fiscal year. OJP did not have
16 that requirement. So, in OJP's case, they had multi-year --
17 a couple years' worth of funding at times accumulated. So,
18 for instance, there was a balance in tribal prison
19 construction, and so that -- once again, so the initial memo
20 that came up, to the best of my recollection, was \$9 million
21 out of '01 funding.

22 Q Okay.

23 A I think it was '01 funding in the first memo that I
24 saw.

25 Q You keep bringing up '01 funding.

1 Was there a later recommendation about '02 funding or
2 from fiscal year 2002?

3 A Additional funding was provided to the agency in
4 fiscal year '02, and so that's when the dollar amount went
5 from \$9 million to \$16 million because, once again, to the
6 best of my recollection, congressional direction to the
7 agency was provided in the years prior as well, not
8 necessarily in the report but in letters or in communications
9 to the Department. So the initial \$9 million was offered to
10 the Choctaw Tribe under the prior administration.

11 Q So, at the time that the memo came up recommending
12 that the Choctaw Tribe receive the \$9 million for the fiscal
13 year 2001 funding, the Choctaw Tribe was still requesting
14 \$16 million; is that correct?

15 A Or more.

16 Q Okay, but the decision at that time was don't give
17 them the full \$16 million or more. Just give them this
18 \$9 million?

19 A I believe so. Yes.

20 Q Why was the \$9 million sufficient? Do you remember
21 what the memo recommended or why it explained that?

22 A This is me hazarding a guess, you know, based upon
23 just years of doing this work, based upon the amount of
24 funding available and based upon the number of requests and
25 the identified need and factoring in congressional direction.

1 Q Do you remember when you received that staff memo
2 or what the date on it was?

3 A I have no recollection of the date.

4 Q Would it have been in 2001 or 2002?

5 A I'm assuming it would have been in '01 considering
6 that we were then getting our '02 funding or '03. I can't
7 keep track of the fiscal years. Sorry.

8 Q Okay, but you believe it was in the calendar year
9 2001?

10 A Uh-huh. Yes.

11 Q When you reviewed the memo, which ostensibly was
12 then also approved by, to some degree, the staff head's -- I
13 guess the staff's immediate supervisor -- when you reviewed
14 that memo, what was your opinion?

15 A You know, once again, to the best of my
16 recollection, based upon just how my prior practice of work
17 would have been, if it didn't come up with the concurrence of
18 the Budget Office, I would have asked for that concurrence,
19 knowing of the congressional direction provided.

20 Q Do you remember whether or not the Budget Office in
21 this case concurred?

22 A I don't know if they were on the original memo or
23 not, no.

24 Q Do you know whether they ever concurred?

25 A They wouldn't have to -- "concur" is maybe not the

1 right word. They would just have to -- they would let us
2 know if they were going to be -- if they were aware of any
3 issues that it would raise with relevant Members on the Hill,
4 those who sponsored or those who had contacted the agency, et
5 cetera.

6 Q Okay. What was the next step that you took?

7 A The next step probably would have been to tell them
8 to proceed, for the staff to proceed with what is called the
9 "red book process," which takes significant time to do.

10 Q How much time is "significant time"?

11 A It can take months because then they work with --
12 depending on the individual program, it might require
13 interaction then with the pending recipient to get the
14 appropriate documentation and necessary information to
15 finalize a grant award.

16 Q And did that process start?

17 A I assume.

18 Q Do you know how long that particular process took?

19 A No.

20 Q Do you have any idea when it was completed?

21 A No.

22 Q So the granted money was not, I guess, a final
23 grant of money until that process was completed?

24 A That's right. A grant is not final until the
25 documents are signed by the recipient of the grant award and

1 returned to the agency.

2 Q How long after the red book process occurred did
3 discussion of increasing the money to \$16 million occur?

4 A I do not recall.

5 Q Do you remember that there was discussion of
6 increasing the money to \$16 million?

7 A Yes.

8 Q And who was that discussion with?

9 A Budget staff and probably -- and I say "probably"
10 because I can't say this specifically -- but probably the
11 Legislative Affairs staff as well.

12 Q How would that have been brought to your attention?

13 A It would have been brought to my attention by
14 having the Legislative Affairs staff or the Budget staff
15 receiving phone calls or letters from the Congress, from
16 Members of the Congress, expressing what they thought we
17 should be doing.

18 Q Would that communication cause the decision to be
19 made to have -- or cause you to make the decision to increase
20 the funding?

21 A Yes.

22 Q Who else at DOJ were you talking to about these
23 issues?

24 A Internally, it would have been the relevant staff
25 people responsible for the program -- the Budget Office and

1 Congressional Affairs. There were -- and once again, I'm
2 only aware of this based upon -- I remember this based upon
3 recent documents. The phone calls were made to the
4 Attorney General's Office, and they asked just for a status,
5 a factual status, of the program. To be clear, the AG's
6 Office -- not just the AG's Office -- but the leadership of
7 the Department of Justice had put up, for a lack of a better
8 description, a wall pertaining to grants. They did not get
9 involved. They did not -- they separated themselves from
10 that process and decision-making. The only time they got,
11 quote/unquote, "involved" would be when the Attorney General
12 would have to return a phone call to a Member of Congress,
13 and then they would only ask for factual information.

14 Q Do you remember what contact you had, if any, with,
15 I guess, members of the Attorney General's staff about this
16 issue?

17 A What contact? Other than providing them factual
18 information, none.

19 Q Did they provide any information to you?

20 A No, not to my recollection. I want to be clear on
21 that. Not to my recollection did they ever. Yes. I don't
22 think so.

23 Q Did anyone from the Attorney General's staff ever
24 indicate to you how much money should be given to the Choctaw
25 Tribe?

1 A Absolutely not.

2 Q Did you ever feel any pressure from those members
3 of the Attorney General's staff or from anyone else from the
4 Department of Justice in making that decision?

5 A Pressure, no. However, when the Department of
6 Justice is getting letters, bipartisan -- I want to stress
7 bipartisan letters -- from House and Senate leadership, full
8 House and Senate leadership and full Appropriations Committee
9 leadership and subcommittee leadership urging the Department
10 to do something, I don't need much more push, and for the
11 Legislative Affairs staff to say, "we have these letters
12 saying that," you know, "the Department needs to do the
13 following," there would be no pressure applied, but they
14 would provide me all that information.

15 Q Just give me one moment.

16 A Of course.

17 Q Do you recall whether there was any communication
18 from the White House to you personally or to any other people
19 at the Department of Justice about the Choctaw Jail issue?

20 A To me, personally, absolutely not. To anybody else
21 in the Department, I'm unaware.

22 Q Let me bring to your attention -- it's an e-mail
23 document. It's actually an e-mail exchange between Tony Rudy
24 and Jack Abramoff. It's Bates stamped GTG-R007082. I will
25 just -- actually, I'll bring your attention to the bottom of

1 that first page, 7082. It is an e-mail message from Todd
2 Boulanger to Jack Abramoff and a series of other people about
3 Choctaw Jail Intel.

4 It says, "Tracy Henke was at the Senator [REDACTED] staff
5 retreat today. My friends over there weighed in with her
6 pretty hard and told her that [REDACTED] was aware and
7 supportive of the project, which wasn't true because he
8 doesn't know what is going on, really, but he wanted to feel
9 her out how adamant her position was with regard to
10 increasing the \$9 million figure."

11 This is from January 17th of 2002.

12 "They also played the political angle up with her. She
13 didn't seem overly impressed.

14 "[REDACTED] said that she is 100 percent not going to budge
15 with what we've hit her with thus far. Her excuse was that
16 they are already taking one-third of the budget, which isn't
17 totally true because of the unobligated fiscal year 2001
18 funds, and because" -- and he quotes -- "'they're one of the
19 richest tribes in the country,' yadda, yadda, yadda, which
20 does [sic] mean anything because of the Feds' trust
21 responsibility?

22 "What does that mean? Well, going after her directly
23 won't work because she's protected and was placed in that
24 position to" -- and I quote -- "'be a bitch.' I'm not really
25 sure how to approach this, but it may take a meeting with

1 Ashcroft and a call from [REDACTED] and/or both from [REDACTED] to
2 the AG and getting his verbal commitment so she doesn't have
3 a choice but to release the money."

4 A Sorry. Okay.

5 Q Does that refresh your recollection at all as to
6 sort of your opinion, at this time at least, about increasing
7 the \$9 million figure?

8 A At the time, according to this individual, who I
9 have no idea who he is, he said that I was still firm. I
10 assume, therefore, I was. I can tell you that I never would
11 have attended a [REDACTED] retreat. I would have attended a [REDACTED]
12 happy hour or something of that -- you know, something like
13 that, but I would not have attended any kind of retreat, and
14 so, no. I mean I -- you know, I assume maybe, at that point
15 I was still on \$9 million.

16 Ms. Sachsman. We can mark that as Exhibit 2.

17 [Henke Exhibit No. 2
18 was marked for identification.]

19 Ms. Sachsman. I just have a couple of documents to sort
20 of see if we can work on.

21 The Witness. Can I make a request for a moment?

22 Ms. Sachsman. Yes.

23 The Witness. Can I ask that this be turned off for just
24 one second? Is that acceptable or not? If not, that's okay.

25 Ms. Amerling. Sure, we can go off the record.

1 Ms. Sachsman. We can go off the record.

2 [Discussion off the record.]

3 Ms. Sachsman. Okay. We'll go back on the record.

4 BY MS. SACHSMAN:

5 Q Let me call your attention to another e-mail chain.
6 It's Bates stamped GTG-R005145. If I can just bring your
7 attention to the second page of that, which is 5146, it is
8 the original message from Kevin Ring to Todd Boulanger and
9 others and Jack Abramoff on January 16th, 2002. This is
10 right after the new year.

11 Kevin Ring says he "just got off the phone with Tracy
12 Henke at DOJ. Geez! We are not there. She has seen letters
13 and clearly is not impressed enough. We need to talk more
14 later about this. OJP is going to offer Choctaw \$9 million
15 again with the understanding that Congress may push for the
16 remainder. Frustrating."

17 Do you remember that contact?

18 A No.

19 Q Does this refresh your recollection as to, I guess,
20 what your opinion was in January of 2002?

21 A I would assume that I'm still holding firm on
22 \$9 million, but I mean I -- no. I mean -- if I may, at this
23 point, I mean this is after September 11th, you know, not --
24 you know, I'm not paying a whole lot of -- you know, we're
25 doing everything that we need to do, but we are concentrating

1 on the Public Safety Officer Benefit Program. We are
2 concentrating on, you know, the victim concentration stuff.
3 We are -- you know, from a priority standpoint, this wouldn't
4 have been high.

5 Q You had expressed earlier that the letters had sort
6 of made your decision, but it appears, at least from this
7 e-mail chain, that you were not particularly impressed by the
8 letters, themselves, and if you continue to read up the
9 chain, there is a later reference by Boulanger, a suggestion
10 to Jack Abramoff that he meet with Rove to continue sort of
11 the pressure on you to change your decision.

12 A Okay.

13 Q Do you know if that ever happened?

14 A I have no idea if that happened nor, if I may, do I
15 know at this point what letters I have seen.

16 Q Okay. So, to the best of your recollection today,
17 still your mind was not changed by contact or by influence
18 from Karl Rove or by someone else from the White House?

19 A I can say with absolute certainty no one from the
20 White House contacted me on this.

21 Q Directly or indirectly?

22 A No contact.

23 Q And you were, in fact, the final decision maker?

24 A Yes, I was.

25 Ms. Sachsman. If we can mark this as Exhibit 3.

1 [Henke Exhibit No. 3
2 was marked for identification.]

3 BY MS. SACHSMAN:

4 Q So how did it end up that the decision was made to
5 release the rest of the money in the fiscal year 2002 budget?

6 A A variety of things could have occurred -- and I
7 apologize. This was a long time ago, so I'm not going to
8 remember all of the details. For instance, I don't recall
9 when our fiscal year '02 or '03, whatever year that would
10 have been, appropriations were final, but in one of those
11 years, they were not final until February or March, so we
12 would have had additional resources for the program most
13 likely. As I mentioned previously, we had unobligated
14 balances from prior year. So we now have unobligated
15 balances from prior year. We now have current year, and we
16 now have upcoming year funding. You couple that with the
17 fact if -- and I stress "if" -- this is accurate -- I do
18 remember, once again, bipartisan letters from leadership of
19 the House and Senate as well as from the Appropriations
20 Committee, and if this Exhibit 3 is accurate and there was a
21 [REDACTED] - [REDACTED] letter and [REDACTED] - [REDACTED] colloquy, et
22 cetera, and that information continued into the Department, I
23 would have gone from \$9 million to \$16 million.

24 Q Just give me a moment.

25 A Uh-huh.

1 Q Were you aware of any instances in which a DOJ
2 official received tickets or other items of value from Jack
3 Abramoff or from his colleagues?

4 A I'm not aware of any.

5 Q You said you do not recall having that contact with
6 Kevin Ring. Do you recall ever having any contact with Jack
7 Abramoff on any issue?

8 A I do not recall. I don't recall having any contact
9 with him.

10 Q Do you recall having any contact with any of Jack
11 Abramoff's associates on any issues?

12 A Not specifically, no.

13 Q I will just name some of his associates to see if
14 they refresh your memory. Kevin Ring?

15 A No.

16 Q Shawn Vasell?

17 A No.

18 Q Tony Rudy?

19 A No.

20 Q Todd Boulanger?

21 A No.

22 Q Would it have been uncommon for someone like Kevin
23 Ring's lobbyist to contact you directly at that time?

24 A No, it was not uncommon. As an individual who was
25 responsible or who had responsibility for grants, my phone

1 rang constantly -- constantly -- either from Hill staff, from
2 States, from localities, from lobbyists, and from any
3 entities seeking a grant. My phone rang constantly.

4 Q Do you know whether any of your colleagues had any
5 contacts from Jack Abramoff?

6 A I'm not aware.

7 Q Do you know whether any of your colleagues had any
8 contacts from any of Jack Abramoff's associates?

9 A I'm not aware.

10 Q You mentioned that you had had some internal
11 conversations/passing information to the Attorney General's
12 immediate staff, and as to his immediate staff at the time,
13 was that conversation with David Israelite?

14 A Not that I recall.

15 Q Okay. Who was it with?

16 A It could have been with -- I don't recall
17 specifically. It could have been with any. It could have
18 been with David Israelite. It could have been with David
19 Ayres. It could have been with Susan Richmond. It could
20 have been with Jeff Taylor. I mean it could have been with
21 anybody who was in the Attorney General's Office when he got
22 a note saying that so-and-so has called on the following
23 issue.

24 Q Did you know who at the time Bob Coughlin was?

25 A Yes.

1 Q What position was he in at the time if you recall?

2 A I believe -- and I don't know this for certain. I
3 believe he was in Intergovernmental.

4 Q Did you have any discussions with Bob Coughlin
5 about your decision or about the Choctaw Jail process?

6 A No, not that I recall.

7 Q Would it have been normal for you to have had any
8 discussions with him about those processes?

9 A If the Intergovernmental Affairs Office was
10 receiving inquiries from outside entities, yes, it would be
11 normal for them to contact me on this issue or on any other
12 issue that they were receiving calls on that had an impact on
13 an OJP issue.

14 Q The information about where you were with the grant
15 process -- whether you had decided to give it or how much you
16 had decided to give -- was that information that would have
17 been kept private within the Department of Justice or was
18 that information that was free to share with people outside
19 of the Department of Justice?

20 A Not necessarily free to share. However, I'm
21 confident that it was communicated to the tribe, and so the
22 tribe could then share it with whomever they wanted to share
23 it with.

24 Q Would it have been appropriate to share that
25 information with Jack Abramoff or with other lobbyists?

1 A For the Department to do so?

2 Q Yes.

3 A Not necessarily, no. I mean, if he is there -- if
4 I may, I mean if -- as far as the internal decision-making
5 process, no, that's an internal decision-making process. We
6 did not -- we would -- I mean can you clarify your question
7 just to make certain I'm answering it correctly?

8 Q Sure. You have an internal deliberative process.

9 A Uh-huh.

10 Q You said that someone like Bob Coughlin or
11 specifically Bob Coughlin could have asked you questions on
12 behalf of a third party because he was getting requests from
13 a third party. Would it have been appropriate -- if you had
14 shared your internal deliberative process with Bob Coughlin,
15 would it have been appropriate for him to have shared that
16 with the outside world?

17 A As to the internal deliberative process, the
18 general assumption is no. Without knowing what he is sharing
19 and in what context and with whom and what -- I mean, often,
20 communication with others in the Department and with others
21 in general regarding the grant-making process gets to be
22 somewhat convoluted because a lot of people do not understand
23 how it works, and so, therefore, often it would be this is
24 the status; this is what you can share; this is what you
25 can't share, and then as to what another individual does with

1 that information as an individual within the Department, I
2 would assume that he would maintain the proper responsibility
3 in what was shared and what wasn't.

4 Q If he had made a request to you, would you have
5 been explicit in describing to him what he could and could
6 not share?

7 A Possibly. Not necessarily, though.

8 Q Well, were you aware at the time that Bob Coughlin
9 was being contacted by Kevin Ring?

10 A No, not that I recall. No.

11 Q Would you have shared information intentionally
12 with Bob Coughlin and permitted him to share it with Kevin
13 Ring?

14 A It would be rare -- rare -- that I would have
15 anything other than a free conversation about process, et
16 cetera, with a senior peer in the Department, and I wouldn't
17 need to know nor would I necessarily ask why they would want
18 it based upon the job that they had. For instance, if
19 Intergovernmental Affairs called and said, "we're getting
20 requests about the following," that's all I need to know to
21 provide them information, and I'll sometimes say, "This is
22 what you can share. This is what you can't." I wouldn't
23 need to know why.

24 Ms. Sachsman. Excuse me for 1 minute.

25 Mr. Jordan. If we could have the last response

1 clarified, I think it is "would not need," "would not."

2 The Witness. "Would not need to know why." "Would not
3 need to know why."

4 Ms. Sachsman. It has been about an hour. So I'll give
5 up and let you guys start.

6 Mr. Ausbrook. Have you completed your questioning or do
7 you think you'll have more aside from what you might ask
8 after we ask questions?

9 Ms. Sachsman. I have completed my initial questions. I
10 reserve the ability to ask additional questions if you spark
11 an exciting thought.

12 Mr. Ausbrook. I've never been known to do that.

13 Mr. Jordan. I'll tell you what. If we can, let's take
14 5 minutes and run to the restroom.

15 Mr. Ausbrook. Sure, that would be a good idea.

16 [Recess.]

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1 RPTS DEAN

2 DCMN MAGMER

3 Mr. Ausbrook. Thank you for your answers to the
4 questions by the majority. I'm Keith Ausbrook. I'm the
5 general counsel for the minority, and I have a few follow-up
6 questions, basically, on some of the things that the majority
7 asked and some of your answers.

8 EXAMINATION

9 BY MR. AUSBROOK:

10 Q One question I had about the process is that if the
11 Choctaw were looking for \$16 million and you said we'll give
12 you \$9 million, how would that change their proposal? I
13 mean, would they say, well, then we'll just build a \$9
14 million jail instead of a \$16 million jail? Or did they say
15 we'll take the \$9 million now and try to raise the other \$6
16 million somewhere else? How would that be resolved?

17 A It would vary. They -- reality is they could do it
18 over a multi-year. They could say, okay, we'll do \$9 million
19 in this fiscal year; and next year we will come back and
20 apply for the remaining amount. And with this \$9 million we
21 will do planning and engineering and start construction, and
22 when we get the remaining amount of money we will finish
23 construction. Or it could be that they change the scope of
24 the facility, or it could be that they identify other -- so
25 any of the above.

1 Q But there's no guarantee that they would get the
2 additional funding the next year?

3 A No.

4 Q So that would be a risky thing for them to do?

5 A There would be no guarantee. However, they had, I
6 believe, multi-year congressional direction provided, you
7 know, to the agency to assist them. So I think that, based
8 upon that track record, their confidence might be higher than
9 the average tribe.

10 Q You mentioned sharing information with legislative
11 affairs. Isn't it true that the Assistant Attorney General
12 for Legislative Affairs does not work for the Office of
13 Justice Programs and nor does the Office of Justice Programs
14 work for the U.S. Attorney General?

15 A Correct.

16 Q But it is important they share information about
17 their various activities so that each entity can do their
18 job?

19 A Absolutely.

20 Q Is that what you did with them when you provided
21 them information and they provided you with information about
22 who was contacting them about this particular matter?

23 A Absolutely.

24 Q Can you tell us who the Democrats were who were
25 interested in the Choctaw jail?

1 A Not specifically. I can tell you, though, that we
2 got bipartisan letters. I do recall a [REDACTED] [REDACTED] letter.
3 I do recall we got letters from the House side as well.
4 According to this e-mail exchange that was in Exhibit 3 there
5 was a [REDACTED]-[REDACTED] colloquy, so Senator [REDACTED]. And I
6 know that the Department -- and I'm unaware of specifics, but
7 I do know the Department received phone calls as well from
8 both sides of the aisle.

9 Q Can we look at one of these e-mails? Actually,
10 let's look at Exhibit 2 for a second. At the bottom of the
11 page, of page 7082, notwithstanding the description of the
12 retreat describes my friends over there weighed in with her
13 pretty hard.

14 Do you recall any friends, any people who might be
15 friends of Todd Boulanger's weighing in with you pretty hard
16 about the Choctaw jail?

17 A No.

18 Q Do you know who [REDACTED] is?

19 A I assume that would be [REDACTED]. [REDACTED]
20 [REDACTED] was a legislative assistant with Senator [REDACTED] at the
21 time.

22 Q I think you told us previously that you don't
23 recall having ever had contact with Kevin, right?

24 A I don't recall, no.

25 Q By telephone?

1 A As I mentioned earlier, I got so many phone calls
2 pertaining to every single grant program within the agency
3 that I don't recall any specifics.

4 Q So this is a \$9 million for -- how big was OJP's
5 budget again?

6 A OJP's budget was approximately \$4 billion at the
7 time.

8 Q And so was there anything unusual about this when
9 you were doing this?

10 A No.

11 Q There was some discussion about the appropriateness
12 of disclosing information about the status of the grant to
13 Bob Coughlin and others. Would it have been appropriate to
14 disclose the status of the grant proposal to the designated
15 representatives of an applicant?

16 A No, not necessarily. It's -- often, the status
17 is -- status is provided as far as where it is in the
18 process. You know, the application is pending or the
19 application is under review or we anticipate making grant
20 awards in a hypothetical month. That kind of general
21 information is often available. And under most of the new
22 computer systems or grant management systems most of the
23 discussions center around making it to where an applicant can
24 even check themselves on line where an application might be
25 pending. I don't know if that is at the Department of

1 Justice yet.

2 Q But they wouldn't know -- if they applied for \$16
3 million they wouldn't necessarily know that the Department
4 was thinking of only giving them \$9 million?

5 A No, not necessarily.

6 Q But they could?

7 A But they could.

8 Q And it wouldn't necessarily be anything
9 inappropriate about that?

10 A No.

11 Mr. Ausbrook. I think that's all we have.

12 Ms. Sachman. I just have one follow-up question.

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

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[REDACTED]

Ms. Sachman. That's everything I have.

Mr. Ausbrook. I think that's all we have, too.

Ms. Sachman. Thank you very much for coming in. Off
the record.

[Whereupon, at 2:53 p.m., the deposition was concluded.]

Certificate of Deponent/Interviewee

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I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

ERRATA SHEET
FOR DEPOSITION OF TRACY HENKE

<u>PAGE</u>	<u>LINE</u>	<u>CORRECTION</u>
4	13	Remove the punctuation from the end of the sentence and add a question mark. Change noted by Committee staff.
26	11	Change "of" after "Because" to "at." Change noted by Committee staff.
38	23	Change "Ring's lobbyist" to "Ring, a lobbyist." Change noted by Committee staff.

MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2002, AND FOR OTHER PURPOSES

NOVEMBER 9, 2001.—Ordered to be printed

Mr. WOLF, from the Committee of Conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2500]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2500) "making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

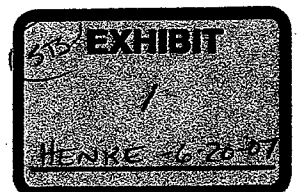
That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, \$91,668,000, of which not to exceed \$3,317,000 is for the Facilities Program 2000, to remain available until expended: Provided, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and \$8,451,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 2001: Provided further, That not to exceed 41 permanent positions and 48 full-time equivalent



STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE—Continued

(Dollars in thousands)

	Amount
Senior Citizens Vs. Marketing Scams	1,995
Total, State and Local Assistance	2,403,354

Local Law Enforcement Block Grant.—The conference agreement includes \$400,000,000 for the Local Law Enforcement Block Grant program as proposed by the Senate, instead of \$521,849,000 as proposed by the House. Within the amount provided, the conference agreement includes \$70,000,000 for the Boys and Girls Clubs of America. The conferees expect the Boys and Girls Clubs of America to use a portion of these funds to carry out the Kids2000 Act (Public Law 106-313; 114 Stat. 1260).

Cooperative Agreement Program.—The conference agreement includes \$20,000,000 for the Cooperative Agreement Program, instead of \$35,000,000 as proposed by the House and Senate. Currently, there is over \$20,000,000 of unobligated balances available for this program. The conferees are concerned over the very high level of funding carried forward in the Cooperative Agreement Program. This program is intended to provide guaranteed State and local bed space for Federal detainees in USMS and INS custody. The conferees direct that the USMS, in consultation with INS, provide an implementation plan for these resources no later than January 15, 2002. The plan should include steps that USMS and INS intend to take to ensure that funding is obligated and this bed space is available.

Tribal Prison Construction.—The conference agreement includes \$35,191,000 for the prison construction program as proposed by both the House and Senate. The conferees expect OJP to examine each of the following proposals, provide grants if warranted, and submit a report on its intentions for each proposal: a NANA 28 bed jail for Kotzebue, Alaska; construction of a detention facility within the Spirit Lake Nation; construction of a detention facility for the Lower Brule Sioux Tribe; construction of a detention facility for the Mississippi Band of Choctaw Indians; and expansion of an adult detention facility for the Gila River Indian reservation.

Edward Byrne Grants to States.—The conference agreement includes \$594,489,000 for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, of which \$94,489,000 is for discretionary grants and \$500,000,000 is for formula grants under this program. Within the amounts provided for discretionary grants, OJP is expected to review the following proposals, provide grants if warranted, and report to the Committees on its intentions. In addition, up to 10 percent of the funds provided for each program shall be made available for an independent evaluation of that program.

- \$5,000,000 for the National Crime Prevention Council's McGruff campaign;
- \$300,000 for the Women's Center, Vienna, VA;
- \$250,000 for the DuPage County, IL Fire Investigation Task Force for arson investigations;

From: Abramoff, Jack (Dir-DC-Gov) [/o=GTLAW/ou=WDC/cn=Recipients/cn=abramoffj] on behalf of Abramoff, Jack (Dir-DC-Gov)
Sent: Friday, January 18, 2002 7:53 AM
To: Rudy, Tony (Shld-DC-Gov)
Subject: RE: Choctaw Jail Intel

Thanks.

-----Original Message-----

From: Rudy, Tony (Shld-DC-Gov)
Sent: Friday, January 18, 2002 8:53 AM
To: Abramoff, Jack (Dir-DC-Gov)
Subject: RE: Choctaw Jail Intel

I did that in december to mehlman and a week later he backed it up. I will get susan a memo Tony Rudy

-----Original Message-----

From: Abramoff, Jack (Dir-DC-Gov) <abramoffj@gtlaw.com>
To: Rudy, Tony (Shld-DC-Gov) <rudyt@gtlaw.com>
Sent: Fri Jan 18 08:44:36 2002
Subject: RE: Choctaw Jail Intel

I think we should have him do all that [REDACTED] did when he got the WH to focus on Interior putting that land in trust in his district. [REDACTED] needs to really push and tell the WH that he needs this done for his re-election. That should get things moving.

-----Original Message-----

From: Rudy, Tony (Shld-DC-Gov)
Sent: Friday, January 18, 2002 8:25 AM
To: Abramoff, Jack (Dir-DC-Gov)
Subject: RE: Choctaw Jail Intel

He will and has helped. We need to give him specific asks and I will take it to him Tony Rudy

-----Original Message-----

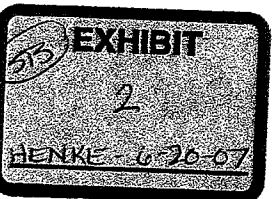
From: Abramoff, Jack (Dir-DC-Gov) <abramoffj@gtlaw.com>
To: Boulanger, Todd (Dir-DC-Gov) <boulangerT@gtlaw.com>; Ring, Kevin (Shld-DC-Gov) <ringk@gtlaw.com>; Rudy, Tony (Shld-DC-Gov) <rudyt@gtlaw.com>; Vasell, Shawn (Dir-DC-Gov) <vasells@gtlaw.com>
Sent: Fri Jan 18 07:45:30 2002
Subject: RE: Choctaw Jail Intel

How much will [REDACTED] do for us on this?

-----Original Message-----

From: Boulanger, Todd (Dir-DC-Gov)
Sent: Thursday, January 17, 2002 11:17 PM
To: Abramoff, Jack (Dir-DC-Gov); Ring, Kevin (Shld-DC-Gov); Rudy, Tony (Shld-DC-Gov); Vasell, Shawn (Dir-DC-Gov)
Subject: Choctaw Jail Intel
Importance: High

Tracey Hanke was at the Sen. [REDACTED] staff retreat today. My friends over there weighed in with her pretty hard and told her that [REDACTED] was aware and supportive of the project - which wasn't true because he doesn't know what is going on, really - but he wanted to feel her out how adamant her position was with regard to increasing the \$9 million figure.



They also played the political angle up with her...she didn't seem overly impressed.

██████████ said that she is 100 percent not going to budge with what we've hit her with thus far. Her excuse was that they are already taking 1/3 the budget -which isn't totally true because of the unobligated FY01 funds -and because "they're one of the richest tribes in the country" yadda yadda yadda, which does mean anything because of the Feds trust responsibility.

What does that mean? Well, going after her directly won't work because she's protected and was placed in that position to "be a bitch".. I'm not really sure how to approach this, but it may take a meeting with Ashcroft and a call from ██████████ and/or/both from ██████████ to the AG and getting his verbal committment so she doesn't have a choice but to release the money.

She knows that we're gonna go above her and trevor didn't think that would bother her, but as long as the decision is hers and hers alone to make, you can be certain that \$9 mill is all we're getting.

Thoughts? Kevin, this is your turf....

Todd Anthony Boulanger

From: Abramoff, Jack (Dir-DC-Gov)
Sent: Wednesday, January 16, 2002 5:37 PM
To: Wilson, Padgett (AstDir-DC-Gov)
Subject: RE: FW: Choctaw Jail

yes

-----Original Message-----

From: Wilson, Padgett (AstDir-DC-Gov)
Sent: Wednesday, January 16, 2002 5:47 PM
To: Abramoff, Jack (Dir-DC-Gov)
Subject: Re: FW: Choctaw Jail

Where are you, Jack? Are you in the office tomorrow?

Padgett Wilson

-----Original Message-----

From: Abramoff, Jack (Dir-DC-Gov) <abramoffj@gtlaw.com>
To: Wilson, Padgett (AstDir-DC-Gov) <wilsonp@gtlaw.com>
Sent: Wed Jan 16 16:59:29 2002
Subject: FW: Choctaw Jail

Email would be best, but also a hard copy if possible. thanks Pat.

-----Original Message-----

From: Boulanger, Todd (Dir-DC-Gov)
Sent: Wednesday, January 16, 2002 4:56 PM
To: Abramoff, Jack (Dir-DC-Gov); Ring, Kevin (Shld-DC-Gov); Rudy, Tony (Shld-DC-Gov); Vasell, Shawn (Dir-DC-Gov)
Cc: Wilson, Padgett (AstDir-DC-Gov)
Subject: RE: Choctaw Jail

There should be a summary memo lurking around out there. Pat, can you find the jail information, plus the [REDACTED] letter, the house leadership letter and the [REDACTED] colloquay and get it to Jack ASAP. If you can't find the backgrounder, look in my file cabinet/top drawer..there is a choctaw jail folder. Shawn has the same folder in his lower right desk drawer. Thanks.

Todd Anthony Boulanger

-----Original Message-----

From: Abramoff, Jack (Dir-DC-Gov) <abramoffj@gtlaw.com>
To: Boulanger, Todd (Dir-DC-Gov) <boulangerT@gtlaw.com>; Ring, Kevin (Shld-DC-Gov) <ringk@gtlaw.com>; Rudy, Tony (Shld-DC-Gov) <rudyt@gtlaw.com>; Vasell, Shawn (Dir-DC-Gov) <vasells@gtlaw.com>
Sent: Wed Jan 16 16:50:07 2002
Subject: RE: Choctaw Jail

Can someone get me a two paragraph summary I can use to get the meeting set?

-----Original Message-----

From: Boulanger, Todd (Dir-DC-Gov)
Sent: Wednesday, January 16, 2002 4:44 PM
To: Abramoff, Jack (Dir-DC-Gov); Ring, Kevin (Shld-DC-Gov); Rudy, Tony (Shld-DC-Gov); Vasell, Shawn (Dir-DC-Gov)
Subject: RE: Choctaw Jail

My siggestion is that you meet with Rove.



GTG-R005145

Todd Anthony Boulanger

-----Original Message-----

From: Abramoff, Jack (Dir-DC-Gov) <abramoffj@gtlaw.com>
To: Ring, Kevin (Shld-DC-Gov) <ringk@gtlaw.com>; Boulanger, Todd (Dir-DC-Gov) <boulangerT@gtlaw.com>; Rudy, Tony (Shld-DC-Gov) <rudyt@gtlaw.com>; Vasell, Shawn (Dir-DC-Gov) <vasells@gtlaw.com>
Sent: Wed Jan 16 16:38:46 2002
Subject: RE: Choctaw Jail

Shit. This is horrible. we need to end this. The client is literally at wits end. What can we do?

-----Original Message-----

From: Ring, Kevin (Shld-DC-Gov)
Sent: Wednesday, January 16, 2002 4:36 PM
To: Boulanger, Todd (Dir-DC-Gov); Abramoff, Jack (Dir-DC-Gov); Rudy, Tony (Shld-DC-Gov); Vasell, Shawn (Dir-DC-Gov)
Subject: Choctaw Jail

Just got off the phone with Tracy Henke at DOJ. Geez! We are not there. She has seen letters and clearly is not impressed enough. We need to talk more later about this. OJP is going to offer Choctaw \$9 million again with understanding that Congress may push for remainder. Frustrating. Kevin Ring

GTG-R005146