

Capital Reporting Company
Postal Police Officers Association Interest Arbitration 01-31-2014

1070

BEFORE THE BOARD OF INTEREST ARBITRATION

-----: :
In the Matter of: :
: :
UNITED STATES POSTAL SERVICE : :
: Volume 6
and : (Pgs. 1070 to 1359)
: :
POSTAL POLICE OFFICERS : :
ASSOCIATION : :
-----: :

Washington, D.C.
Friday, January 31, 2014

The following pages constitute the proceedings held in the above-captioned matter at the United States Postal Service, 475 L'Enfant Plaza, Southwest, Washington, D.C. before Erick M. Thacker, RPR, of Capital Reporting Company, a Notary Public in and for the District of Columbia, commencing at 9:32 a.m., when were present on behalf of the respective parties:

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<p style="text-align: right;">1071</p> <p>1 A P P E A R A N C E S</p> <p>2 Before Arbitrators:</p> <p>3 James C. Oldham, Impartial Chair</p> <p>4 Robert A. Dufek, USPS Member</p> <p>5 James Bjork, PPOA Member</p> <p>6 On behalf of the PPOA:</p> <p>7 ARLUS J. STEPHENS, ESQUIRE</p> <p>8 DONNA MCKINNON, ESQUIRE</p> <p>9 MURPHY ANDERSON, PLLC</p> <p>10 1701 K Street, Northwest</p> <p>11 Suite 210</p> <p>12 Washington, D.C. 20006</p> <p>13 (202) 223-2620</p> <p>14 On behalf of the U.S. Postal Service:</p> <p>15 TERESA A. GONSALVES, ESQUIRE</p> <p>16 JULIENNE BRAMESCO, ESQUIRE</p> <p>17 United States Postal Service</p> <p>18 475 L'Enfant Plaza, Southwest</p> <p>19 Washington, D.C. 20260</p> <p>20 (202) 268-6704</p> <p>21</p> <p>22</p> <p>ALSO PRESENT:</p> <p>Chris Vitolo, PPOA</p> <p>Eric Freeman, PPOA</p> <p>Joshua Pierce, PPOA</p> <p>Mike Plaugher, PPOA</p> <p>Shawn Fletcher, PPOA</p> <p>Joe Alexandrovich, USPS</p> <p>Sonya J. Penn, USPS</p> <p>Katherine P. Sullivan, USPS</p> <p>Janet Peterson, USPS</p> <p style="text-align: center;">* * * * *</p>	<p style="text-align: right;">1073</p> <p>1 P R O C E E D I N G S</p> <p>2 ARBITRATOR OLDHAM: All right. I think</p> <p>3 it looks like we're all here, and we can get</p> <p>4 started when you're ready.</p> <p>5 MS. BRAMESCO: The Postal Service would</p> <p>6 like to call David Bowers.</p> <p>7 ARBITRATOR OLDHAM: Mr. Bowers, you</p> <p>8 know the drill.</p> <p>9 WHEREUPON,</p> <p>10 DAVID BOWERS</p> <p>11 called as a witness, and having been first duly</p> <p>12 sworn, was examined and testified as follows:</p> <p>13 THE WITNESS: I do.</p> <p>14 MS. BRAMESCO: Good morning, INC</p> <p>15 Bowers.</p> <p>16 THE WITNESS: Good morning.</p> <p>17 MS. BRAMESCO: Good morning, panel.</p> <p>18 INC Bowers' presentation is at D-2 in Volume 2 in</p> <p>19 the Postal Service exhibits, and we will be</p> <p>20 referring to several exhibits this morning. We</p> <p>21 will be referring to exhibits at D-11, D-12 and</p> <p>22 D-13. We'll also be referring to some of the</p>
<p style="text-align: right;">1072</p> <p>1 C O N T E N T S</p> <p>2 WITNESS: DIRECT CROSS REDIRECT</p> <p>3 RE CROSS</p> <p>4 DAVID BOWERS 1074 1119 -- --</p> <p>5 JENNIFER MCDANIEL 1149 1193 -- --</p> <p>6 LAWRENCE KATZ 1226 1285 -- --</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 (Exhibit books were tendered to the arbitrator.)</p> <p>21</p> <p>22</p>	<p style="text-align: right;">1074</p> <p>1 exhibits that have already been identified, and</p> <p>2 we will let you know as we go there.</p> <p>3 DIRECT EXAMINATION BY COUNSEL FOR</p> <p>4 THE</p> <p>5 POSTAL SERVICE</p> <p>6 BY MS. BRAMESCO</p> <p>7 Q So, INC Bowers, could you please state</p> <p>8 and spell your name for the record?</p> <p>9 A Sure. David Bowers. B, as in boy,</p> <p>10 O-W-E-R-S.</p> <p>11 Q And what is your current employment?</p> <p>12 A I work for the U.S. Postal Service.</p> <p>13 I'm Inspector in Charge of Security and Crime</p> <p>14 Prevention here at national headquarters.</p> <p>15 Q Okay. Can you tell me what that --</p> <p>16 what that position does?</p> <p>17 A Sure. I'm in charge of dangerous mail</p> <p>18 investigations. I'm in charge of executive</p> <p>19 protection for the postmaster general. The</p> <p>20 security force program falls under me, the</p> <p>21 national security force program, physical</p> <p>22 security, and I'm also responsible -- you've</p> <p>heard a lot about the NLECC, National Law</p>

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1075	<p>1 Enforcement Communications Center. I have 2 responsibility for that along with technical 3 services. And the Postal Police in this 4 building, the captain is a direct report to me 5 here. 6 Q And can you briefly describe your 7 employment history -- history with the Postal 8 Service? 9 A Sure. 27-year veteran with the post 10 office, the last 16 years as a Postal Inspector. 11 I started as an industrial engineer and became a 12 Postal Inspector in '98. Right before I became 13 an inspector, I was an acting plant manager at a 14 medium-size facility. 15 I was outplaced in the North Division 16 as a -- as a field inspector, worked at -- worked 17 on the Amerithrax anthrax investigation, and then 18 came here as the program manager at national 19 headquarters, worked dangerous mail 20 investigations, response, our -- our response 21 program for Postal Inspectors for dangerous mail 22 and biohazard detection; then promoted to</p>	1077	<p>1 inspector in charge of Security and Crime 2 Prevention in August of last year. 3 Q Now, if you turn to the next slide, 4 Slide 2, which would you please tell us the 5 topics that your presentation this morning will 6 cover? 7 A Yeah. I will cover how PPOs are 8 classified, whether as security guards or police 9 under the Service Contract Act, and I also will 10 be discussing factors under the Office of 11 Personnel Management classification system. 12 MS. BRAMESCO: So turning to Slide No. 13 3, I would like to point to -- the panel onto -- 14 everyone in the room that the excerpts from the 15 Service Contract Act, the occupation directory, 16 are documents that we have seen before. 17 For everyone's convenience, they are in 18 the Postal Service exhibit book at Volume 2 at 19 Exhibit D-11. I don't think there's any need to 20 turn it to it. Now he's going to be referring to 21 it, but that's where it is, and, again, this is a 22 document that we have seen before.</p>
1076	<p>1 assistant inspector in charge in the New York 2 Division, and in my responsibility in the 3 division, I had the Postal Police as a direct 4 report. The colonel reported to me there along 5 with the narcotics team. Homeland Security, 6 dangerous mails were -- were a report. I worked 7 at the Universal Postal Union for five years, 8 came back and was subsequently promoted to the 9 position that I -- that I sit in now. 10 Q Okay. And can you describe your 11 familiarity with the day-to-day duties of the 12 PPOs? 13 A Sure. So, certainly, as -- in my 14 position as assistant inspector in charge in New 15 York, having the Postal Police as a direct 16 report, I'm familiar there. Plus, in my 17 day-to-day duties here, I have the captain as a 18 direct report. 19 Q And can you just tell us the dates that 20 you were in New York? 21 A I was in -- I'm sorry -- in New York, 22 2005 to 2007, and I was promoted here as the</p>	1078	<p>1 BY MS. BRAMESCO 2 Q So, INC Bowers, can you just tell us 3 what the Service Contract Act is from your 4 understanding? 5 A Yeah. It's a law that sets minimum 6 wage for private sector employees who work on 7 government service contracts. 8 Q And are you familiar with the SCA job 9 descriptions? 10 A Yes. I'm familiar with the job duties 11 and classifications. 12 Q Okay. Can you identify the occupations 13 that are associated with law enforcement? 14 A Yeah. As you'll see on the -- on the 15 chart is the Guard I, Guard II and Police Officer 16 I and Police Officer II. 17 Q And would you tell us what 18 classification most closely matches the job 19 performed by the PPOs and explain why? 20 A Sure. Guard II, 27102 -- and I think 21 it's best to -- to go into the -- to the exhibit. 22 I'll read from the exhibit, because I -- I think</p>

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1079	<p>1 that that best explains the difference. So under 2 Guard II -- 3 Q Which appears -- 4 A On D-11 on page -- 5 Q Which would be on page 100 of the 6 excerpt on D-11. 7 A Right. So the guard -- 8 Q Hang on. 9 A I'm sorry. 10 Q I think they're still pulling it. 11 ARBITRATOR OLDHAM: All right. 12 THE WITNESS: Ready? Okay. 13 Guard II enforces regulations and 14 procedures to design -- to prevent breaches of 15 security, exercises judgment and uses discretion 16 in responding to incidents and emergencies, 17 determining whether to intervene directly, ask 18 for assistance as time permits, keep situation 19 under control or surveillance or to report 20 incident or situation to the appropriate 21 authority for handling. Duties require 22 specialized training in methods and techniques of</p>	1081	<p>1 II. 2 And, again, with a police officer 3 general and specific, PPOs are specific in 4 their -- in their role, specific to postal 5 property and assets; whereas, a police will be 6 more general and enforce the general laws of an 7 area, where we're -- we're -- we're geared to -- 8 well, as you heard DCI Milke yesterday, postal 9 property and assets. 10 Q All right. Now, turning back to the 11 slides, if we look at Slide 4, INC Bowers, are 12 you familiar with the OPM system of classifying 13 security guards and police employees? 14 A Yes. 15 MS. BRAMESCO: We're going to be 16 talking about a decision -- a classification 17 decision that was identified in Teresa's opening. 18 It's at Exhibit A-6. It is the significant -- 19 significant classification decisions and 20 opinions, No. 8, from April 1986, and this 21 witness is going to be going through the factors. 22</p>
1080	<p>1 protecting controlled areas. Commonly, Guard II 2 is required to demonstrate proficiency with 3 firearms and other special weapons. It goes on 4 to say, and also meet rigorous physical fitness 5 standards. So with our mission of protecting 6 postal property and assets, clearly, that -- that 7 fits that description. 8 If you go into Officer I, Police 9 Officer I, this officer carries out general and 10 specific assignments from superior officers in 11 accordance with established rules and procedures, 12 maintains order, enforces law and ordinances and 13 protects life and property in an assigned patrol 14 district or beat by performing a combination of 15 duties. And it just goes on and says, you know, 16 apprehending and arresting suspects. Officer may 17 participate with detectives and investigators in 18 conducting surveillance operations. 19 So, certainly, in here, there are some 20 duties in here that certainly the PPOs perform, 21 but not enough of them to -- to warrant a 22 classification in my -- in my mind to -- to Guard</p>	1082	<p>1 BY MS. BRAMESCO 2 Q So what is the significance of that 3 decision? 4 A That -- that there's overlap in job 5 duties, but it provides the framework for making 6 the distinction between security guard duties and 7 police duties. 8 Q And according to that specific 9 decision, how does OPM distinguish between 10 security and police duties? 11 A As you can see on the chart on the 12 PowerPoint, the decision outlined four indicators 13 to determine proper classification, basic 14 mission, arrest authority, training and patterns 15 of work. 16 Q Okay. Let's turn to the next slide, 17 and let's go through them one at a time. 18 So turning to the first factor that the 19 classify decision considered, what is the general 20 mission of the Postal Police and does that favor 21 security guard or police status? 22 A The mission is to protect postal</p>

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1083	<p>1 property and assets and the -- under -- under 2 this fact -- factor, we would favor security. 3 Q And why is that? 4 A Because, as I said before, it's a 5 specific mission, so the training relates to 6 protection of postal property and assets. It's 7 limited in scope. We're not about enforcing 8 general law enforcement or protecting the peace. 9 It's limited -- our training is limited. Our 10 scope is limited to protecting postal property 11 and assets. 12 ARBITRATOR OLDHAM: May I ask a 13 question? 14 THE WITNESS: Sure. 15 ARBITRATOR OLDHAM: I'm not quite sure 16 why that's a differentiating factor between 17 security guard and Postal Police. You're 18 favoring security guard. 19 THE WITNESS: Yeah. It's -- 20 ARBITRATOR OLDHAM: Whereas, the -- 21 THE WITNESS: Yeah. We're -- 22 ARBITRATOR OLDHAM: -- Postal Police</p>	1085	<p>1 spare us all that, but... 2 ARBITRATOR OLDHAM: Okay. I think I 3 managed to -- Jim, have you got it? 4 ARBITRATOR BJORK: (Nodding.) 5 BY MS. BRAMESCO 6 Q So can you point in the decision 7 what -- where you're looking for the first 8 factor? 9 A In the -- 10 Q Where does that appear? 11 A So in the resolution, the second 12 paragraph. Despite the similarities, there are 13 four indicators which can be used to determine 14 proper series. The first indicator is basic 15 mission of the organization. Guard organizations 16 are established primarily to protect government 17 property and secondarily to protect persons in 18 and around the property. Police organizations 19 primarily exist to enforce law and order, 20 preserve peace, protect life and civil rights and 21 secondarily to protect property. 22 So what I was -- well, I mean -- so</p>
1084	<p>1 are about postal property; security guard can be 2 a general classification. 3 THE WITNESS: Security guard could be a 4 general classification, but the duties for the 5 Postal Police are more aligned with security than 6 they are -- even though there is an overlap, than 7 with police. They do police -- they do firearms. 8 They do defense tactics. They do officer 9 survival. We train them on the threat continuum. 10 So there is an overlap. 11 ARBITRATOR OLDHAM: Yes. But I'm just 12 not clear on why the facts that Postal Police are 13 postal property specific favors the security 14 guard classification. 15 THE WITNESS: The -- the -- if you -- 16 if you go to -- 17 MS. BRAMESCO: If the panel would like 18 to turn to A -- A-6 behind -- in Volume 1, that's 19 where the decision appears. 20 ARBITRATOR OLDHAM: A challenge, but we 21 will -- 22 MS. BRAMESCO: I know. I was trying to</p>	1086	<p>1 our -- our world is around postal property and 2 assets; whereas, the world of a police officer is 3 more broad, is more general than -- than just 4 protection of property and assets. 5 Q So would you say that difference is 6 that the PPOs have more of a security mission 7 than a police mission and can you explain how you 8 get there? 9 A Well, certainly -- certainly, security 10 mission, but knowing that there's -- there's 11 overall -- they do -- they do do police -- you 12 know, we train them on firearms and defensive 13 tactics and officer survival, so there is that 14 overlap, but not enough of an overlap to make the 15 swing over to Police I. 16 Q All right. I'm going to ask you to 17 move to the next slide, but I'm going to suggest 18 that the panel stay with this decision. I think 19 it's probably more helpful to look at this. 20 So the next factor would be arrest 21 authority. And so can you explain how the arrest 22 authority -- whether -- what that factor is under</p>

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1087	<p>1 this decision and how that impacts whether PPOs 2 are security force or police? 3 A So, obviously, we had a lot of 4 discussion on this yesterday. So Postal Police 5 can make arrests while on postal property or 6 pursuing a suspect from postal property. Now, we 7 got into the hot pursuit, you know, certainly, in 8 a vehicle, but if they -- I think we said that if 9 they saw it, that we can -- we can effect an 10 arrest. 11 But the key point here is, if you go 12 outside of that scope and you're not related to 13 postal property or assets and you see someone 14 throw a rock through a storefront window that's 15 not related to postal property or assets, then 16 it's outside their scope. It's -- they don't 17 have authority other than as a private citizen. 18 So if they do something -- and DCI Milke 19 testified to this yesterday -- they do something 20 outside of that scope, they definitely open 21 themselves up to civil or criminal liability. 22 I'm not saying that they -- something would</p>	1089	<p>1 A Yeah. It's Poster 7. It's referred to 2 as Poster 7, rules and regulations governing 3 conduct on Postal Service property. The 4 applicability is, Rules and regulations apply to 5 all real property under the charge and control of 6 U.S. Postal Service until a -- until a person's 7 entering in or on such property. 8 If we go -- turn to the end, on 9 enforcement, Security force personnel will 10 exercise the powers of special police and are -- 11 and are responsible for enforcing the regulations 12 in this notice in the manner that will protect 13 U.S. Postal Service property. 14 It also goes on to talk about Postal 15 Inspectors and special agents of the inspector 16 general for the post office. And it goes into 17 preservation of property, gambling, alcohol on 18 premises, firearms on postal premises, public 19 assembly, public address, soliciting and so on 20 and so forth. 21 Q So what does this exhibit have to do 22 with -- what's the relation between this exhibit</p>
1088	<p>1 happen, but they would definitely open themselves 2 up to that. 3 Q And I believe yesterday, DCI Milke 4 referred to rules and regulations on postal 5 property, and we have an exhibit that describes 6 the rules and regulations. 7 So, in Volume 2, at Tab D-12, would you 8 please identify that document for us? 9 A Sure. It's -- it's called poster -- 10 Q Wait, wait, wait. 11 A Okay. 12 MS. GONSALVES: What are you having him 13 turn to? 14 MS. BRAMESCO: So turn to D-12 in 15 Volume 2. 16 ARBITRATOR DUFEK: All right. 17 MS. BRAMESCO: Okay. All right. 18 ARBITRATOR OLDHAM: Go ahead. 19 BY MS. BRAMESCO 20 Q INC Bowers, can you -- 21 A Sure. 22 Q -- identify this document?</p>	1090	<p>1 and the role of the PPOs? 2 A Well, it goes right to protecting -- 3 protecting property and assets. 4 Q And in terms of arrest authority, what 5 is it that the Postal Police can -- how can they 6 exercise their authority, their arrest authority? 7 A Well, if there's a violation of the -- 8 they certainly can -- can effect an arrest 9 related to this. 10 Q Related to this meaning Exhibit D-11? 11 A Yes. 12 Q Okay. And so does this factor -- does 13 the arrest authority favor security guard or 14 police status for the PPOs? 15 A It's close, because they have arrest 16 authority, but because it's limited, it favors 17 security. 18 Q Okay. Now, the third indicator in the 19 classification decision is training, and there's 20 going to be a Postal Inspection Service witness 21 who's going to talk in great detail about the 22 training. But just briefly, can you tell us</p>

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1091	<p>1 about the training function as it relates to 2 whether PPOs are security or police? 3 A Yeah. It's -- it's an eight-week 4 program at our Career Development Unit in -- in 5 Potomac, Maryland, and it -- the whole training 6 is designed around teaching new PPOs around 7 protection of property and assets. 8 And, obviously, you're going to hear 9 testimony on -- from the assistant inspector in 10 charge in detail about the training that's 11 provided, but it's -- the training's limited to 12 our security function, and we're training as -- 13 for armed security. 14 Q And how does that differ from the kind 15 of training that police would receive? 16 A Well, I mean, if you -- if a police 17 officer -- I'm familiar somewhat -- if you -- 18 with the training, let's say in New York, where, 19 for NYPD, their training is, you know, six months 20 long and goes over a wide variety of -- of laws 21 and gets into -- well, it's just -- it's more 22 broad. There's more laws. There's more --</p>	1093	<p>1 placed on the preservation of law and order, 2 protection of human life and civil rights, court 3 procedures, crowd control, accident investigation 4 and arrest procedures. 5 The primary emphasis for guard training 6 is on the principled methods and techniques 7 involved in protecting government property. 8 Stress may be placed on the methods for detecting 9 effects to the breach of security system and 10 means for preventing espionage and sabotage. 11 Guards who exercise police-type authority may 12 receive advanced training in arrest procedures, 13 investigation procedures, crowd control and riot 14 procedures, rights of suspects. 15 BY MS. BRAMESCO 16 Q And so your -- your -- your testimony 17 is that this factor favors PPOs being security 18 guards? 19 A Security. 20 Q And just so that we're complete, could 21 you just go back and read the second indicator, 22 the arrest --</p>
1092	<p>1 they're -- they're patrolling specific areas 2 into -- into enforcement of general law 3 enforcement and keeping the peace, where -- I'll 4 just say it's much more broad than the training 5 that we give. Our training is geared towards -- 6 very specifically to the post office and the 7 protection of assets and -- and property. 8 Q Returning to the decision at Tab A-6, 9 can you tell us where these -- the third 10 indicator where training appears? 11 A On the bottom of page 6 under Tab 6. 12 Q And are there -- 13 ARBITRATOR DUFEK: Why don't you just 14 read that to us? 15 THE WITNESS: Sure. 16 MS. BRAMESCO: Okay. 17 THE WITNESS: Sure. 18 MS. BRAMESCO: That would be -- 19 THE WITNESS: The third indicator is 20 training. The primary emphasis of police 21 training is the techniques, methods and 22 principles of law enforcement work. Stress is</p>	1094	<p>1 A Sure. 2 Q -- authority? 3 A The second indicator is the arrest 4 authority. Police officers are designated by 5 public law, statute and other official act. As 6 agency or local enforcement officers, they 7 enforce a wide variety of federal, state, county 8 and local laws -- or local laws. Guards, 9 however, usually have arrest authority consistent 10 with that of a private citizen. In some cases, 11 they may have the same powers as sheriffs and 12 constables. 13 Q All right. Now, the fourth 14 indicator -- can you tell us where the fourth 15 indicator appears in A-6? 16 A On the -- on page 7, second paragraph. 17 Q Okay. And would you go ahead and read 18 that, please? 19 A Sure. The fourth indicator is patterns 20 of work. Essentially, guards are oriented toward 21 protection of property. Police officers are 22 oriented towards maintaining law and order.</p>

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1095	<p>1 However, the orientation of guard positions 2 located at large installations tends to broaden 3 to encompass and include a law enforcement 4 emphasis. This is particularly true in those 5 situations in which the guard organization is not 6 only responsible for protection of valuable 7 property, but also for control of large acreage 8 containing large facilities. Typically, such an 9 installation is complemented by a large number of 10 persons and vehicles necessitating the law 11 enforcement effort -- 12 Q Okay. 13 A -- effort to some degree. 14 Q Okay. And does this factor favor 15 inclusion of the PPOs as security guards to be 16 properly classified as security guards or as 17 police? 18 A Security, again, because of the 19 protection of postal property and assets. 20 Q Okay. And so taking into account all 21 four factors, where do you -- where does the 22 Inspection Service feel that the PPOs' job falls?</p>	1097	<p>1 outside the preliminary fact-finding, then I 2 would -- I would argue that -- that their duties 3 are more -- comparing the Postal Police to the 4 Pentagon Police -- 5 ARBITRATOR OLDHAM: Sure. 6 THE WITNESS: -- I would want to look 7 at their duties to compare, and I can't remember, 8 because it was early on, whether they actually 9 had some investigative -- 10 ARBITRATOR OLDHAM: But you understand 11 the point of -- 12 THE WITNESS: No, I do -- 13 ARBITRATOR OLDHAM: -- my question. 14 THE WITNESS: -- understand the point 15 of your question. 16 BY MS. BRAMESCO 17 Q INC Bowers, have you met with any 18 Postal Service experts to review the OPM 19 classification system? 20 A Yeah. Yes. I met with Tom Pavlik, our 21 independent consultant. 22 Q Okay. And just tell me briefly what</p>
1096	<p>1 A Recognizing that there's overlap in 2 some duties, but not enough to swing it to 3 police, that they're under -- they would be under 4 security. 5 Q Now -- 6 ARBITRATOR OLDHAM: I don't mean to 7 anticipate what may be pursued on 8 cross-examination or -- but I'm just articulating 9 a thought as you've been speaking. 10 Would it follow from your testimony 11 that, for example, at the Pentagon, all of the 12 factors would favor security guards as well as 13 here, because their primary duty is to protect 14 the Pentagon -- 15 THE WITNESS: I -- 16 ARBITRATOR OLDHAM: -- property? 17 THE WITNESS: -- can't remember from 18 his testimony whether they got into 19 investigations and whether that would be in one 20 of the factors. I -- I would have to go back and 21 look. So if their -- if they -- if their 22 position was including investigations, you know,</p>	1098	<p>1 happened during that meeting. 2 A Yeah. We went through the Office of 3 Personnel Management classification system and -- 4 and the associated factors. 5 Q Okay. And Tom Pavlik is going to 6 testify, but can you tell us from your 7 perspective what that conclusion was? 8 A That after going through all of the 9 factors that -- under the OPM classification 10 system, PPOs are classified as security guards. 11 Q Okay. Now, if you turn to the next 12 slide, Slide 9 -- again, it's probably more 13 helpful to be looking at the exhibit, which is -- 14 ARBITRATOR DUFEK: Before you leave 15 this exhibit, this -- I just -- why don't you 16 give the panel a little bit more background as to 17 what this is, this -- I'm talking now about this 18 OPM decision. 19 ARBITRATOR OLDHAM: A-6. 20 ARBITRATOR DUFEK: A-6. 21 MS. BRAMESCO: A-6. 22 ARBITRATOR OLDHAM: Yes, that would be</p>

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1099	<p>1 helpful.</p> <p>2 ARBITRATOR DUFEK: That would be very</p> <p>3 helpful. And particularly, it seems to me, in</p> <p>4 the last paragraph of this, they're actually</p> <p>5 making a decision, and the panel has not been</p> <p>6 told what this was a decision over.</p> <p>7 THE WITNESS: So want me to go into</p> <p>8 the -- the last paragraph there?</p> <p>9 BY MS. BRAMESCO</p> <p>10 Q Yes, please.</p> <p>11 A Yeah. Well, I'll just read instead of</p> <p>12 me paraphrasing. Generally, positions are</p> <p>13 classifiable to police occupation when the four</p> <p>14 indicators reflect a definitive and positive</p> <p>15 police orientation --</p> <p>16 Q David, you need to slow down.</p> <p>17 A Oh, I'm sorry. I'll start again.</p> <p>18 Q Remember that the court reporter is --</p> <p>19 A And I apologize.</p> <p>20 Q -- taking it as well as --</p> <p>21 A Generally, positions are classifiable</p> <p>22 to the police occupation when the four indicators</p>	1101	<p>1 function was to protect government property. The</p> <p>2 appellant had arrest authority consistent with</p> <p>3 that of a private citizen and he was not</p> <p>4 considered a peace officer, however, received</p> <p>5 specialized training related to -- the</p> <p>6 appellant's position was located in a large</p> <p>7 installation, which led to the performance of</p> <p>8 police-type duties in connection with the</p> <p>9 safeguard of government materials.</p> <p>10 MS. BRAMESCO: And I would submit to</p> <p>11 the panel -- this witness wouldn't know that --</p> <p>12 but this is the most recent case on this and --</p> <p>13 the most recent and only case.</p> <p>14 ARBITRATOR BJORK: I just -- I have a</p> <p>15 question. In the last paragraph you read prior</p> <p>16 to what you just related, it does say basic</p> <p>17 mission of organization, not basic mission of the</p> <p>18 position, correct?</p> <p>19 THE WITNESS: Basic mission of -- it</p> <p>20 says basic mission of the appellant's</p> <p>21 organization was to protect government property,</p> <p>22 correct.</p>
1100	<p>1 reflect a definite positive police orientation in</p> <p>2 all of the posts to which the employee is</p> <p>3 regularly assigned. In this particular case,</p> <p>4 although the employee performed a mixture of</p> <p>5 guard and police-type duties and it had received</p> <p>6 training for both, this combination is typical</p> <p>7 for guard positions at large installations. The</p> <p>8 basic mission of the appellant's organization was</p> <p>9 to protect government property. The arrest</p> <p>10 authority did not match that of police officers.</p> <p>11 The Office of Personnel Management concluded that</p> <p>12 the position was properly classified in the</p> <p>13 GS-0085 guard series because a definite and</p> <p>14 positive police orientation did not exist.</p> <p>15 Q Okay. And if you look at the -- the</p> <p>16 top of the page, the top of the first page,</p> <p>17 there's a description as to how the issue arose.</p> <p>18 A The issue arose in a position</p> <p>19 classification appeal decided by OPM. The</p> <p>20 appellant worked for an agency that had</p> <p>21 determined that his position was properly placed</p> <p>22 in the guard series, GS-85, because his primary</p>	1102	<p>1 ARBITRATOR BJORK: So that would be the</p> <p>2 basic mission of the Postal Inspection Service,</p> <p>3 not the basic mission of the Postal Police</p> <p>4 position?</p> <p>5 THE WITNESS: Well, but the postal --</p> <p>6 the Postal Police would -- it would be a</p> <p>7 cascading effect. So the basic mission of the</p> <p>8 Postal Inspection Service, it would follow that</p> <p>9 the Postal Police would --</p> <p>10 ARBITRATOR BJORK: But what's the basic</p> <p>11 --</p> <p>12 MS. BRAMESCO: The document speaks for</p> <p>13 itself. I'm not sure if this witness knows</p> <p>14 exactly what that was -- what was intended by the</p> <p>15 word "organization" in that paragraph. He can</p> <p>16 certainly testify what he -- what he -- what he</p> <p>17 interprets for it.</p> <p>18 ARBITRATOR BJORK: What's the basic</p> <p>19 mission of the Postal Inspection Service?</p> <p>20 THE WITNESS: Just to protect</p> <p>21 employees, facilities and finances.</p> <p>22 ARBITRATOR BJORK: Okay. Thank you.</p>

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1103	<p>1 MS. BRAMESCO: Okay. So getting back 2 to your conversations with Tom Pavlik, again, if 3 you would turn to Slide 9. 4 And I'm going to suggest to the panel 5 that it probably -- if the panel would turn to 6 Exhibit D-13, we're now going to be talking about 7 the grade evaluation guide for police and 8 security guard positions in Series GS-0083 and 9 GS-0085. 10 BY MS. BRAMESCO 11 Q INC Bowers, are you familiar with this 12 document? 13 A Yes. 14 Q And are you familiar with the 15 classification system that's used by this 16 document? 17 A Yes. 18 Q Okay. Now I'd suggest everyone turn to 19 page 4. And would you talk about the nature of 20 police work? And do PPOs perform police work as 21 described in this document? 22 And what I would suggest, if you are</p>	1105	<p>1 page 4. 2 The primary mission of police officers 3 in the federal service is to maintain law and 4 order. In carrying out this mission, police 5 officers protect life, property and the civil 6 rights of individuals. They prevent, detect and 7 investigate violations of laws, rules and 8 regulations involving accidents, crimes and 9 misconduct involving misdemeanors and felonies. 10 They arrest violators, assist in the prosecution 11 of criminals and serve as a source of assistance 12 to persons in emergent situations. 13 In the middle of the second paragraph, 14 it starts with "within." It's the second -- it's 15 the second sentence. Within their jurisdiction, 16 police officers enforce a wide variety of 17 federal, state, county and municipal laws and 18 ordinances and agency rules and regulations 19 relating to law enforcement. 20 If you turn to the -- I mean, 21 obviously, I'm not going to -- if you turn to the 22 bottom of page 7, the second to last paragraph</p>
1104	<p>1 pointing to specific provisions of this section, 2 if you would just identify what you're looking at 3 so we can follow along. 4 A Sure. So I think it's -- if you go to 5 page 4 within the -- what exhibit was it? 6 Q It's Exhibit 13. 7 A Thirteen. 8 ARBITRATOR OLDHAM: And just let me say 9 for the record that this appears to be an 10 official OPM document; is that correct? 11 MS. BRAMESCO: Correct. 12 THE WITNESS: So I think -- I think 13 it's helpful if we -- I just have some -- some 14 excerpts from -- from this, so let me just make 15 an overarching statement. 16 So you -- so you go through this, 17 nature of police work, nature of security guard 18 in the overall summary, but then, obviously, 19 there's each factor that goes into it 20 specifically. So I'm just going to go over the 21 first part, which I think is important, the first 22 paragraph on the nature of police on the top of</p>	1106	<p>1 that starts with "uniformed officers," and this 2 gets into investigations. It says, Uniformed 3 officers may perform detectives duties on a 4 regular and -- 5 ARBITRATOR DUFEK: Wait. 6 MS. BRAMESCO: I don't have it. 7 ARBITRATOR DUFEK: I'm not with you. 8 THE WITNESS: Oh, I'm sorry. Bottom of 9 page 5. 10 MS. BRAMESCO: It's the bottom of page 11 5. 12 ARBITRATOR DUFEK: Oh, you said seven. 13 MS. BRAMESCO: He did say seven, but 14 it's the -- 15 THE WITNESS: I'm on page 5. 16 MS. BRAMESCO: -- full paragraph. 17 BY MS. BRAMESCO 18 Q Is it the last full paragraph you're 19 looking at? 20 A It's the last full paragraph. It 21 starts "uniformed officers" -- 22 ARBITRATOR OLDHAM: Yes, we've got it.</p>

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1107	<p>1 Sorry about that.</p> <p>2 THE WITNESS: Uniformed officers may</p> <p>3 perform detective duties on a regular and</p> <p>4 recurring basis when following up on cases</p> <p>5 originating during their regular assigned patrol</p> <p>6 or response activities. In some police forces</p> <p>7 and jurisdictions, some uniformed officers may</p> <p>8 perform many or all of the functions commonly</p> <p>9 assigned to other jurisdictions -- in other</p> <p>10 jurisdictions to plainclothes detectives. In</p> <p>11 evaluating police officer positions under this</p> <p>12 guide, the amount and kind of investigative work</p> <p>13 performed may influence the selection at</p> <p>14 appropriate factor levels.</p> <p>15 And then continuing, same page, bottom</p> <p>16 of page 5, Federal police officers enforce a wide</p> <p>17 range of laws. Federal courts commonly</p> <p>18 assimilate local laws for application to and</p> <p>19 enforcement within federal jurisdictions in many</p> <p>20 jurisdictions. Therefore, officers must be aware</p> <p>21 and enforce some combination of federal, state,</p> <p>22 county and local law ordinances. So I think</p>	1109	<p>1 use of military ranks and working titles.</p> <p>2 Security guards apprehend and detain violators of</p> <p>3 laws, rules and regulations and turn them over to</p> <p>4 federal or civil police or other law enforcement</p> <p>5 officers for arrest and/or posting of collateral.</p> <p>6 Security guards serve at fixed posts or</p> <p>7 patrol assigned areas on foot or by vehicle and</p> <p>8 perform a variety of protective duties. They</p> <p>9 enforce pertinent administrative rules and</p> <p>10 regulations, government -- governing traffic</p> <p>11 control, parking, building or other facility</p> <p>12 access for breaches in physical security</p> <p>13 controls, locks, fences, gates or other barriers.</p> <p>14 When enforcing rules and regulations</p> <p>15 established to accomplish the protective mission,</p> <p>16 guards control the movement of persons and</p> <p>17 protect lives and personal property in and around</p> <p>18 federal property being protected. I'll just stop</p> <p>19 there.</p> <p>20 Q Okay. So what about the primary</p> <p>21 emphasis of security guard training, which</p> <p>22 appears at the bottom of page 7?</p>
1108	<p>1 that's --</p> <p>2 Q So --</p> <p>3 A -- what I wanted to say on -- on</p> <p>4 police.</p> <p>5 Q So that's a description of police. And</p> <p>6 how does that -- how does that square with the</p> <p>7 duties of the PPO?</p> <p>8 A So if you -- if you go to the bottom of</p> <p>9 page 6, nature of security guard work -- we're</p> <p>10 all there?</p> <p>11 It starts, The primary mission -- The</p> <p>12 primary mission of security guard programs is to</p> <p>13 protect federal property from hazards such as</p> <p>14 sabotage, espionage, trespass, theft, fire and</p> <p>15 accidental or willful damage and obstruction.</p> <p>16 Security guards are employed in government-owned</p> <p>17 or controlled buildings, hospitals, museums,</p> <p>18 libraries, manufacturing plants, warehouses,</p> <p>19 military and certain other facilities.</p> <p>20 Security guards wear uniforms, display</p> <p>21 badges of authority and may carry weapons. They</p> <p>22 are often organized along military lines and make</p>	1110	<p>1 A The primary -- so bottom of page 7,</p> <p>2 last paragraph. The primary emphasis in security</p> <p>3 guard training is typically directed to the</p> <p>4 methods and techniques involved in protecting --</p> <p>5 protecting specific government property.</p> <p>6 Q Okay. So reviewing this -- this</p> <p>7 classification guide, what is your conclusion as</p> <p>8 to whether or not PPOs are properly classified as</p> <p>9 security guards or more properly classified as</p> <p>10 police officers?</p> <p>11 A Well, having -- having read that and</p> <p>12 then having gone through the factors with -- with</p> <p>13 OPM, it would favor security.</p> <p>14 Q Okay. And how comfortable are you with</p> <p>15 that conclusion?</p> <p>16 A Very comfortable.</p> <p>17 Q All right. Now, I'd like to direct</p> <p>18 your attention to Slide No. 10. We've looked at</p> <p>19 different ways of evaluating the PPO duties, so</p> <p>20 I'd ask you to summarize your testimony -- oh,</p> <p>21 excuse me. Before we go there, let me go back</p> <p>22 for a second.</p>

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1111	<p>1 You talked about -- in the OPM 2 decision, at the top of page 7, the first full -- 3 full paragraph in the guide. Excuse me. D-13. 4 You talked about fixed posts for patrol 5 assigned areas on foot and vehicle? 6 A Yeah. 7 ARBITRATOR DUFEK: What page are you 8 on? 9 MS. BRAMESCO: Page 7 of D-13. 10 BY MS. BRAMESCO 11 Q We've heard a lot of -- 12 ARBITRATOR OLDHAM: Just a moment, 13 please. 14 MS. BRAMESCO: I'm sorry. 15 ARBITRATOR DUFEK: Okay. 16 BY MS. BRAMESCO 17 Q So we've heard a lot of testimony over 18 the course of this hearing about fixed posts 19 or -- or mobile posts. Do security guards serve 20 at fixed posts currently? 21 A Yes. 22 Q Okay. And do you have any idea of how</p>	1113	<p>1 Subsequent to that meeting, we 2 conducted a survey for PPO managers, and as part 3 of that survey, one of the survey questions was, 4 do you perform either -- do you perform more 5 posts -- fixed posts or mobile post duties? So 6 that was the question. And a third of the 7 divisions came back and said they performed more 8 fixed post duties versus mobile post duties. So 9 that's somewhat -- you know, I'll just -- I'll 10 leave it at that. 11 So that's -- and that was a survey that 12 was conducted in -- subsequent to the meeting 13 that we had in July, so I think it took a little 14 time to compile the survey. So I'm thinking 15 maybe in August, September time frame is when we 16 actually sent the survey out and get the results. 17 And we did get the results back from all 18 divisions. 19 BY MS. BRAMESCO 20 Q Okay. And so that survey went to all 21 locations where PPOs are deployed? 22 A Correct. It went to the PPO</p>
1112	<p>1 often security or how much of their job is 2 involved in serving at fixed posts? 3 A Yeah. So -- 4 ARBITRATOR DUFEK: Excuse me. Are you 5 talking about Postal Police now? 6 MS. BRAMESCO: Postal -- 7 THE WITNESS: Postal Police. 8 ARBITRATOR DUFEK: You used the term 9 "security guards." 10 MS. BRAMESCO: Thank you. I'm sorry. 11 Postal Police. 12 THE WITNESS: So we had a Postal Police 13 summit in July of last year where we had all of 14 the Postal Police managers and associated 15 assistant inspector in charges from the 14 field 16 divisions and national headquarters represented, 17 where we discussed -- DCI Milke and myself 18 addressed division management about a lot of the 19 things that we're discussing here and what you 20 can do and what you can't do in an open forum 21 about -- talking about, you know, the variety of 22 issues that we deal with on a day-to-day basis.</p>	1114	<p>1 management, yes. So it would have gone to all 2 locations where they were employed. I think -- 3 Q And what -- 4 A -- it was a general question saying, 5 just in general, do you perform more fixed posts 6 or more mobile posts, and a third said they 7 performed more fixed posts. So, yes, there are 8 more fixed posts out there. 9 Q And what is your understanding of a 10 mobile post? 11 A Well, a mobile post is as DCI Milke 12 explained yesterday. So if you can -- so the 13 primary mission is -- and as -- as DCI Milke said 14 yesterday, you need to make sure that the 15 facility that you're at is secure, and if the 16 facility is secure, then it gives you the ability 17 to go out beyond that. So then you could go out 18 and do a mobile post, not a mobile patrol, a 19 mobile post. 20 So I go out from the processing and 21 distribution center, and I go to post office A, 22 and then I -- on my way or I might be -- I may go</p>

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1115	<p>1 out and see a specific carrier and check on that 2 carrier's well-being, check on the -- on the 3 vehicle that's -- satchel, if they're on a walk 4 out route, and then go to the next post, which 5 would be another post office. 6 Now, we do not have -- so, you know, I 7 heard some about patrolling an area. With 465 8 Postal Police Officers nationally deployed at 21 9 locations, we can't afford to have Postal Police 10 roving a particular area looking for problems. 11 It opened up a number of things. 12 So, strategically, you want to go 13 from -- from post to post, and then in -- in the 14 meantime, obviously, if you see a carrier, check 15 on the carrier's well-being. If I have a Postal 16 Police Officer going through an area looking fro 17 issues or looking for -- for carriers, it's -- 18 that is not the best use of that carrier -- of 19 that Postal Police Officer's time. It's not 20 strategic. 21 Q And what is the purpose of those mobile 22 posts? What's -- what's the point of having</p>	1117	<p>1 me. I think -- I think, just stating it 2 differently, if you're on a mobile patrol going 3 from post to post, it's more likely you're 4 stopping at a place where there's no Postal 5 Police. 6 THE WITNESS: Oh, yeah. No, 7 absolutely. Yeah. No, absolutely. I'm sorry. 8 Yeah. So the fixed posts would be at -- you 9 know, at the processing and distribution center 10 at the vehicle entrances, maybe an employee 11 entrance; whereas, there would be no fixed posts 12 certainly at that -- absolutely would be no fixed 13 post at that post office that I'm going to. 14 There wouldn't be a need to at that point. 15 ARBITRATOR OLDHAM: I understand. 16 BY MS. BRAMESCO 17 Q All right. Now, going back to Slide 18 10, if I could ask you to summarize -- we talked 19 about -- she'll get it. We've talked about 20 different ways of -- of -- different ways that 21 you can classify PPO duties. 22 So can you summarize for us, please?</p>
1116	<p>1 these -- 2 A Well, it's to -- to -- again, to -- to 3 expand that security envelope, the security of 4 the assets, the security of the post office, to 5 make sure the doors are locked, people are 6 wearing badges, interact with -- with the 7 employees at that facility to make sure that that 8 facility is secure -- 9 Q Okay. 10 A -- that post office. 11 Q Okay. 12 ARBITRATOR OLDHAM: Would it be -- 13 would it be right to say that most of the mobile 14 patrols, in the manner you're describing, 15 superintend or inspect facilities where there are 16 no fixed posts? 17 I don't know if that question makes 18 sense, but the reason I asked it was that I'm 19 imagining if there are fixed posts at facilities, 20 then what is the purpose of having them -- a 21 mobile patrol go from one to the other? 22 ARBITRATOR DUFEK: It makes sense to</p>	1118	<p>1 A Let me get my slide. 2 Q Okay. 3 MS. GONSALVES: Sorry, guys, I'm a 4 lawyer, not an IT -- 5 THE WITNESS: You're doing good. 6 So -- so summarizing on -- under the 7 Service Contract Act and under the OPM 8 classification system, under those two very 9 specific -- you know, the analysis, the Postal 10 Police are -- are classified -- are properly 11 classified as security guards. 12 So they -- you know, they -- they don't 13 meet the factors in the test. Their mission is 14 to protect postal property and assets. They 15 receive limited training. Again, it's very -- 16 it's limited and specific versus broad, enforcing 17 general -- general laws and protecting the -- and 18 keeping the peace; whereas, a police officer in, 19 say, New York City would have much more broad 20 jurisdiction authority than a Postal Police 21 Officer has. 22</p>

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1119	<p>1 BY MS. BRAMESCO</p> <p>2 Q And how strong is that conclusion?</p> <p>3 A Very strong.</p> <p>4 MS. BRAMESCO: Thank you. Now, if you</p> <p>5 would address -- that's all the questions I have,</p> <p>6 so I'm sure that Arlus will have some questions</p> <p>7 for you.</p> <p>8 MR. STEPHENS: Is it okay with the</p> <p>9 panel if we take maybe five or ten minutes?</p> <p>10 ARBITRATOR DUFEK: Sure.</p> <p>11 ARBITRATOR OLDHAM: Fine.</p> <p>12 (Brief recess.)</p> <p>13 CROSS-EXAMINATION BY COUNSEL FOR</p> <p>14 THE</p> <p>15 UNION</p> <p>16 BY MR. STEPHENS</p> <p>17 Q Good morning, sir.</p> <p>18 A Good morning.</p> <p>19 Q First a preliminary question, if I</p> <p>20 might. Can you state -- you stated that Postal</p> <p>21 Police are members of the post -- they're</p> <p>22 employed by the Postal Inspection Service; is</p> <p>that correct?</p>	1121	<p>1 without question, a law enforcement agent,</p> <p>2 correct?</p> <p>3 A Well, a Postal Inspector is law</p> <p>4 enforcement, correct.</p> <p>5 Q But they have far less training than a</p> <p>6 New York City policeman; is that right?</p> <p>7 A That's not correct.</p> <p>8 Q I believe you said --</p> <p>9 A Well --</p> <p>10 Q I believe you said six --</p> <p>11 A -- explain your --</p> <p>12 Q -- months of training for New York City</p> <p>13 police, as opposed to --</p> <p>14 A Okay.</p> <p>15 Q -- two months for a Postal Police</p> <p>16 Officer.</p> <p>17 A That's the basic academy. I'll give</p> <p>18 you an example.</p> <p>19 Q Sure.</p> <p>20 A So a dangerous mail investigator, so</p> <p>21 responding to -- and this is just one -- so we</p> <p>22 have in-service training that we offer --</p>
1120	<p>1 A Correct.</p> <p>2 Q As are inspectors, correct?</p> <p>3 A Correct.</p> <p>4 Q What is the mission of the Inspection</p> <p>5 Service, just to be clear for the record?</p> <p>6 A Protect employees, facilities and</p> <p>7 finances.</p> <p>8 Q Okay. So they both are working for the</p> <p>9 same mission; is that right?</p> <p>10 A Sure. Correct.</p> <p>11 Q And the jurisdiction of inspectors is</p> <p>12 limited to having a postal nexus; is that</p> <p>13 correct?</p> <p>14 A Yeah. There's 200 federal statutes</p> <p>15 that we enforce, so, yeah, there's postal nexus.</p> <p>16 Q But it's only postal, correct?</p> <p>17 A Yeah, but it's -- when we do the</p> <p>18 investigations -- yeah, it's postal -- the postal</p> <p>19 nexus.</p> <p>20 Q Okay. But that doesn't affect your --</p> <p>21 not assuming facts not yet in evidence, I would</p> <p>22 assume that you would state that an inspector is,</p>	1122	<p>1 Q There's also in-service training for</p> <p>2 Postal Police Officers; is that correct?</p> <p>3 MS. BRAMESCO: Arlus, can you let him</p> <p>4 finish?</p> <p>5 BY MR. STEPHENS</p> <p>6 Q We can go on. I just want to make the</p> <p>7 point that Postal Police Officers also have</p> <p>8 in-service training, correct?</p> <p>9 A They have, but not to the extent that</p> <p>10 Postal Inspectors have in-service training.</p> <p>11 Q That was all my question was.</p> <p>12 I believe, at one point, you testified</p> <p>13 that you were very comfortable that Postal Police</p> <p>14 Officers were security guards and -- and at</p> <p>15 another point, at the end, you said your</p> <p>16 conclusion was very strong; is that right?</p> <p>17 A That's what I said.</p> <p>18 Q Okay. Before you, one of the binders</p> <p>19 is USPS exhibits, Volume No. 1. And I'd like to</p> <p>20 direct your attention to Tab 9 and in particular</p> <p>21 to page 35. There was a reference made early on</p> <p>22 about a report by the Office of the Inspector</p>

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1123	<p>1 General recommending any number of changes at the 2 Inspection Service, some of them affecting 3 inspectors, some of them affecting Postal Police. 4 But if you can review the -- the response that 5 the Inspection Service provided here on page -- 6 it's 35 at the bottom -- 7 A Do you just want me to read it to 8 myself? 9 Q Just read it to yourself, and I'm going 10 to ask you a question about it. And I'm -- my 11 question is going to be about the third 12 paragraph. 13 ARBITRATOR OLDHAM: Arlus, we would 14 need to know something more about what you're 15 looking at. 16 MR. STEPHENS: Oh, I'm sorry. 17 BY MR. STEPHENS 18 Q If I can -- maybe starting you off, 19 sir, if I can direct your attention to the first 20 page of this document before I direct you to the 21 first page. 22 A Okay.</p>	1125	<p>1 management, employee benefits. That's the 2 objective of the -- according to this. 3 MS. BRAMESCO: If I could just remind 4 you to keep your voice up. 5 THE WITNESS: I'm sorry. 6 BY MR. STEPHENS 7 Q And the Inspection Service was invited 8 to give a response to this report, which was 9 included in the report that the inspector general 10 presented to the postmaster general; is that 11 correct? 12 A Yes, as we do with all IG reports we 13 have, responses to the IG reports. 14 MS. BRAMESCO: Objection. It 15 was the -- Tony Vigilante is not part of the 16 Inspection Service, so I think you 17 mischaracterized the statement that you just 18 made. 19 BY MR. STEPHENS 20 Q Okay. Can you -- well -- 21 A Well, I mean, it was -- the letter was 22 addressed -- maybe it was -- the postmaster -- it</p>
1124	<p>1 Q Do you recognize this document? 2 A It's -- I haven't -- I recognize the 3 document, yes. 4 Q What -- what -- what is the document, 5 sir? 6 A It's an audit report directed to the 7 PM, postmaster general, chief postal inspector, 8 government relations and -- and HR VPs -- 9 Q And -- 10 A -- on -- I haven't reviewed this 11 document -- I mean, I'm familiar with the 12 document, but I haven't reviewed this any time 13 recently. 14 Q Is it fair to say that this is a report 15 from the Office of the Inspector General 16 recommending any number of changes to the 17 Inspection Service? 18 A It says here the objective of the audit 19 was to evaluate Postal Service opportunities to 20 increase efficiency and reduce costs associated 21 with U.S. Inspection Postal Service's activities 22 and armed security force -- forces, postal</p>	1126	<p>1 was addressed to the postmaster general. Tony 2 Vigilante was the HR postal -- chief postal 3 inspector, and Marie Therese Dominguez, who's in 4 charge of government relations. That's who I -- 5 who I understand it was addressed to, you know, 6 and one of the chief postal inspectors, so that's 7 my boss. 8 BY MR. STEPHENS 9 Q And again, this is a -- an exhibit 10 that -- that -- it's a post office exhibit, but 11 it -- is it correct that this document, at the 12 back, is the response from -- it says Appendix D, 13 beginning at page 32. It's management's response 14 to -- regarding the -- the comments about 15 inspectors and PPOs. 16 A Are we on page 35 now? 17 Q Almost. 18 A Okay. No, I -- 19 Q We're actually on page 32, because 20 that's the first page of this appendix, the first 21 page of this memo. 22 ARBITRATOR DUFEK: Maybe I can help the</p>

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1127	<p>1 panel a little bit, because I know I'm 2 struggling, too. But I think what this is, so 3 that we can get to the core of it, is an 4 evaluation of the security forces of the United 5 States Postal Service by the Office of the 6 Inspector General, OIG, of the Postal Service. 7 And what Arlus is looking at are the 8 collective response, if you will, to that OIG 9 report by the U.S. Postal Inspection Service and 10 the chief human resources officer of the United 11 States Postal Service. 12 Is that a fair characterization? 13 MR. STEPHENS: I believe so, yes. 14 Thank you. 15 ARBITRATOR DUFEK: I think that's -- I 16 think that's -- I just wanted you to have the 17 context, the panel to have the context. 18 The Office of the Inspector General, 19 too, as background, generally has the 20 jurisdiction to look at fraud and abuse and waste 21 within the United States Postal Service to make 22 recommendations concerning efficiencies. Sorry,</p>	1129	<p>1 A The Inspection Service initiated a 2 comprehensive review of its Postal Police Force 3 operations prior to the issuance of the IG audit 4 report. 5 Q Okay. 6 A Want me to keep going? 7 Q Well, the -- my question is about the 8 third paragraph, and I don't intend to spend a 9 whole lot of time here, but I just wanted to -- I 10 just wanted this to be recognized to ask you 11 a question about it. 12 A Want me to just read it? 13 Q If you can just read the third 14 paragraph, yes sir. 15 A Out loud? 16 Q Yes, sir. 17 A Further, we do not agree with the 18 methodology utilized in determining the number of 19 work hours which could be saved by contracting 20 out armed security services. The report did not 21 reflect the individual differences in security 22 needs at the various work sites. Additionally,</p>
1128	<p>1 Arlus. 2 MR. STEPHENS: No, no, no, no, no. 3 Thank you. No, no. I -- the context is -- 4 that's good. 5 BY MR. STEPHENS 6 Q And now, sir -- and I apologize for 7 the -- not setting it up correctly, but now we're 8 at page 35, which is the fourth page of this 9 response document. And if I can ask you just to 10 read out loud the third paragraph under response. 11 A Okay. Further note that the 12 responsible -- and I'm not saying that the 13 responsible official is the chief postal 14 inspector, but I'm not sure who prepared this 15 response. I wasn't here when we did this. 16 Q And if I can direct you -- maybe this 17 helps; maybe it doesn't. The first paragraph 18 under response. 19 A You want me to read that? 20 Q Well, just read it to -- yeah, you 21 can -- you -- just read the first sentence, if 22 you -- just read the first sentence.</p>	1130	<p>1 we do not at this point agree that the comparison 2 to the Department of Labor Guard II accurately 3 reflects all of the duties performed by PPOs. 4 Q And did you play role in preparing this 5 response? 6 A I did not. 7 Q Okay. Do you disagree with this, or do 8 you agree with this? 9 A First off, I don't know who prepared 10 this, if this was Tony Vigilante that prepared 11 this, and I -- I don't know who prepared -- I was 12 out of the country at this time when this was 13 prepared, so I don't -- 14 Q Okay. 15 ARBITRATOR OLDHAM: I think the 16 document is signed by Tony Vigilante. 17 THE WITNESS: And Tony -- he was -- 18 he's retired now. He was the VP of human 19 resources. 20 MR. STEPHENS: Okay. 21 THE WITNESS: He puts down there, the 22 chief postal inspector is responsible.</p>

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<p style="text-align: right;">1131</p> <p>1 BY MR. STEPHENS 2 Q And what is your -- you testified about 3 the Service Contract Act. What is your expertise 4 in the Service Contract Act? 5 A I don't think I said I had any 6 expertise in it. I think I have a general 7 understanding of it. 8 Q And from where did you obtain that 9 understanding? 10 A In preparation for today's -- for 11 testimony. 12 Q So prior to this -- prior to this -- 13 this arbitration hearing, you had no experience 14 with the Service Contract Act? 15 A I did not. 16 Q Okay. So your expertise has been 17 learned in order to testify as an expert? 18 MS. BRAMESCO: Objection. I never 19 qualified him as an expert, and he never said he 20 had expertise. 21 THE WITNESS: I think I just said I had 22 understanding of the job duties and</p>	<p style="text-align: right;">1133</p> <p>1 you can -- some people can score better than 2 others, right? 3 A Correct. 4 Q And if you're a veteran, you get an 5 extra ten points, correct? 6 A Correct. 7 Q Can I direct -- and you testified, I 8 believe, that you -- you talked with Mr. Pavlik. 9 And when did you talk with him? 10 A I think our meeting was in December. 11 I'd have to look to see exactly when it was. It 12 was either November or December, probably 13 December, but I'd have to go back and look to see 14 definitively what date we met. 15 Q And the purpose was to prepare him so 16 that he could testify as an expert in these 17 proceedings; is that right? 18 A I don't think I -- I need to review the 19 document and the factors myself, and we went 20 through the document together. 21 Q Okay. But it was a pretty careful 22 review of the document that --</p>
<p style="text-align: right;">1132</p> <p>1 qualifications -- 2 MR. STEPHENS: Okay. 3 THE WITNESS: -- which I do. 4 BY MR. STEPHENS 5 Q But nevertheless -- I'm sorry. 6 Notwithstanding that you -- you did 7 not have a background before -- 8 A I am -- 9 Q -- preparing for this? 10 A -- no expert in the Service Contract 11 Act. I -- 12 Q Does that -- do -- do you still feel -- 13 A But I -- but I am reasonably 14 intelligent, and I can -- 15 ARBITRATOR OLDHAM: We can -- 16 MR. STEPHENS: Okay. All right. 17 BY MR. STEPHENS 18 Q In terms of hiring Postal Police 19 Officers, you were here yesterday with testimony 20 that there's a test given to PPOs, correct? 21 A Correct. 22 Q And you get a score -- the rank score,</p>	<p style="text-align: right;">1134</p> <p>1 A It was a careful review, certainly, on 2 my part. I mean, he had already visited sites. 3 It was reviewed to see where I felt the duties -- 4 what the duties of the Postal Police. He 5 didn't -- he determined -- he had his own 6 assessment that he had done. He didn't do his 7 own his assessment there. It was to have me walk 8 through the document. 9 Q Okay. And after your review, you -- 10 and his review, you had a strong -- this is where 11 the very firm conviction had come that we were -- 12 the Postal Police were security guards; is that 13 right? 14 A So it was certainly -- as I walked 15 through the factors, certainly, when you come 16 through and you go through factor by factor, 17 it's -- it comes out clearly that it's security. 18 Q Can I direct you to the third page of 19 that -- this is D-13. This is the OPM guide. 20 ARBITRATOR OLDHAM: Which page, Arlus? 21 MR. STEPHENS: The third page. 22</p>

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1135	<p>1 BY MR. STEPHENS 2 Q And can I direct your attention -- see 3 the paragraph in the bottom, beginning, "in some 4 instances"?" 5 A Uh-huh. 6 Q Can I direct your attention to the 7 paragraph immediately preceding that one and ask 8 you to read that out loud? 9 A As required by 5 U.S.C. 3310 and 5 CFR 10 330.401, guard positions are restricted to 11 preference eligibles. Non-veterans may be 12 appointed to guard positions only if no qualified 13 preference eligibles are available or through no 14 certain -- noncompetitive actions or temporary 15 employment. There is no such restrictions for 16 appointment to police officer positions. 17 Q It's important, then, to know whether 18 someone is a police officer or a security guard 19 because there's legal ramifications for an agency 20 in terms of who it may hire for those positions; 21 is that correct? 22 A I can't speak to that issue.</p>	1137	<p>1 counsel to the -- to the Inspection Service, and 2 he is the appropriate witness to be asking these 3 questions. This witness is not a lawyer. 4 MR. STEPHENS: That's fine. I'm -- I'm 5 happy to -- happy to save these exhibits and 6 introduce them. 7 ARBITRATOR OLDHAM: Let's do that. And 8 I just might say that, in general, in proceedings 9 such as this, I do not get very concerned about 10 whether cross-examination is within the scope of 11 the direct. That's an evidentiary rule, and I'm 12 not inclined to worry about that very much. 13 But if there's a better witness with 14 these exhibits, let's hold them. 15 MR. STEPHENS: That's fine. 16 MS. BRAMESCO: Okay. 17 BY MR. STEPHENS 18 Q And directing you once again, sir, to 19 the previous exhibit here -- flip back to -- once 20 I find it, I'll tell you what it is. I believe 21 it is -- 22 A I feel for the panel going back and</p>
1136	<p>1 MR. STEPHENS: Okay. But we have the 2 laws and we'd like to introduce them into 3 evidence. So -- and there will be three of them. 4 That's okay. Donna's -- we're moving too fast. 5 These will be Union Exhibits 93, 94, 95 and 96, 6 which, subject to the panel's agreement, will 7 show that that is the requirement of federal law 8 and that the post office is similarly bound by 9 those requirements. 10 MS. BRAMESCO: I'm going to object on 11 the grounds of -- first of all, it exceeds the 12 bounds of -- it exceeds the bounds of the direct 13 examination. Second of all, this witness has not 14 testified that he has any expertise in the 15 federal laws. He has no -- he has demonstrated 16 no particular knowledge in this area, did not -- 17 this was not covered in the direct testimony, and 18 this witness is not the appropriate witness to be 19 asking these questions. 20 MR. STEPHENS: Well -- 21 MS. BRAMESCO: There will be a later 22 witness who is an expert who was a former chief</p>	1138	<p>1 forth. I feel their pain. 2 Q It's a lot of paper. I believe it's the 3 same binder you had. It should be the third 4 exhibit. It's D-3, which is a compilation of 5 laws. 6 MR. STEPHENS: And, actually, you know 7 what? I will hold this for the next -- the other 8 witness. 9 ARBITRATOR OLDHAM: Fine. 10 BY MR. STEPHENS 11 Q And following up, sir, on one -- your 12 colloquy in -- you and Mr. Oldham regarding the 13 Pentagon Police -- and I just wanted to clarify 14 the reason why you're testifying that Postal 15 Police Officers are not police officers. And is 16 it because -- 17 ARBITRATOR OLDHAM: Not security -- 18 BY MR. STEPHENS 19 Q Are -- I'm sorry. Why they are 20 security guards. And I believe you said it was 21 because of a limited jurisdiction; is that 22 correct?</p>

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1139	<p>1 A I don't think that I said limited 2 jurisdiction. I think my comment to Arbitrator 3 Oldham was I couldn't remember what the 4 investigative duties of the Pentagon Police were. 5 I couldn't remember. I don't have the memory 6 of -- 7 ARBITRATOR OLDHAM: Yes. You did. You 8 did say that, but that was -- but the premise for 9 the question was that -- your testimony about why 10 the Postal Police Officers in these 11 classification systems were more appropriate 12 under the security guard category than the police 13 officer category was predominantly because of the 14 Postal Police Officers' focus exclusively on 15 postal property and assets -- 16 THE WITNESS: Right. 17 ARBITRATOR OLDHAM: -- correct? 18 MR. STEPHENS: Yes. 19 THE WITNESS: So -- 20 ARBITRATOR OLDHAM: Now -- 21 BY MR. STEPHENS 22 Q So assuming -- the transcript will</p>	1141	<p>1 say -- interject since I got us into this 2 earlier. I think everyone understood the reason 3 why I asked the question, but I don't expect this 4 witness to have expertise about the Pentagon -- 5 MR. STEPHENS: Sure. 6 ARBITRATOR OLDHAM: -- Police. And if 7 it's appropriate to pursue that in another 8 moment, fine, we can do that. 9 BY MR. STEPHENS 10 Q Just a couple more questions, sir. 11 There was a slide yesterday, a chart, 12 the 5305 chart. You remember it? 13 A Uh-huh. Yes, I do remember it. 14 Q Did you play a role in creating that? 15 A I did not. 16 Q But there was -- there was an emphasis 17 that there's quite -- according to the testimony, 18 there was a lot of training given to the Postal 19 Police Officers; is that right? 20 A There was discussion of training in 21 the -- if I remember correctly, the admin part 22 of -- of that chart.</p>
1140	<p>1 show -- but assuming that the answer was that the 2 investigative duties were limited to preliminary 3 fact-finding, would you -- 4 A But that's one of the -- I mean, 5 obviously, as you go through the Office of 6 Personnel Management classification system, it's 7 not one factor that made the determination 8 whether somebody was police or security, and you 9 can't stick to -- to just one. It's a series of 10 things, as you -- and very specific as you go 11 through each. Is it police work? Do they do all 12 of these duties? Well, they do this one and this 13 one, but they don't do these other ten, so you 14 don't get points for that particular category 15 within that factor. 16 So I think, pointing to one, I was just 17 giving an example. I wasn't sure whether they 18 had -- so, certainly, that's a factor. 19 Certainly, we do preliminary fact-finding with 20 Postal Police Officers. We don't do 21 investigations. 22 ARBITRATOR OLDHAM: And let me just</p>	1142	<p>1 Q Yes, sir. 2 A I -- actually, I need to go back -- I 3 mean, I'm not -- I didn't make up the chart, but 4 I certainly want to make sure that -- I need to 5 know what makes up that number so I have the 6 program manager that's in charge of that to -- to 7 give clarification to what makes that it up. So 8 I don't know specifically what it makes up. I 9 know training's a part of that, but there's 10 probably other things that are a part of that, 11 admin, also. 12 Q Does -- is it -- is it correct, though, 13 that -- that Postal Police Officers do receive 14 not just their basic academy training but ongoing 15 in-service training on a number of subjects? 16 A They receive firearms training, 17 defensive tactics, officer survival training on a 18 biannual basis, just like Postal Police -- just 19 like Postal Inspectors. 20 Q And they often receive it together with 21 the inspectors, correct? 22 A They do receive it together for varying</p>

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1143	<p>1 reason, but they do receive the training 2 together. 3 Q And some of those instructors are 4 Postal Police Officers, correct? 5 A That's correct. 6 Q In terms of the -- I believe -- you 7 testified about a summit. 8 You -- there was summit last year in 9 New York of all of the New York Division Postal 10 Police Officers; is that correct? 11 A There was summit in -- that was on 12 October 5th, on a Sunday, where the inspector in 13 charge of the New York Division, Phil Bartlett, 14 held an all-hands Postal Police meeting, and I 15 attended on invitation of the INC. 16 Q And all Postal Police Officers who were 17 not on vacation or -- 18 A Attended. 19 Q -- were required to attend, correct? 20 A Correct. 21 Q And you spoke at that, correct? 22 A I did.</p>	1145	<p>1 go to any field division and certainly will plan 2 to go to field divisions in the future. So, 3 yeah, it was about headquarters operations, what 4 we're doing and what we're doing this fiscal 5 year, how we're looking to move forward. 6 Q There was a discussion of the -- 7 without going into the -- all of the -- but it 8 was -- would it be fair to say it was a 9 relatively high-level discussion of certain 10 current threats and possible threats to the -- to 11 the agency that the Inspection Service was -- 12 wanted the PPOs to be aware of? 13 A Can you refresh my -- I do a lot of 14 presentations. I'm not sure exactly what I said. 15 I have my notes that -- I can't remember -- 16 Q It's an unfair question to raise, 17 except that it left an impression on a lot of the 18 PPOs because it was a -- it was an impressive 19 presentation, I'm -- I'm reporting. 20 And my question was going to be if that 21 would be a presentation that would have been an 22 inappropriate one to make to a group of security</p>
1144	<p>1 Q Do you remember the topic of your 2 presentation? 3 A The topic was headquarters operations, 4 my -- what we're doing at headquarters, not 5 unlike the -- when DCI Milke and I visit field 6 divisions to talk about -- to talk about 7 operations and what we're doing this fiscal year, 8 what we're -- what we're looking to do, what I'm 9 working on right now, projects. 10 It's always good to get -- having 11 worked both in the field and at headquarters, 12 it's always good to hear from -- because you get 13 very centric into your operation, so it's always 14 nice to hear, one, what we're doing at national 15 headquarters and conversely to get the input from 16 the field. So, certainly, I don't want to be a 17 manager, an executive at headquarters, and be out 18 of touch with the field. 19 So when the invitation came, I 20 certainly welcomed it, especially since I grew up 21 in New Jersey and I've worked in the New York 22 Division. So it's -- for me, it was -- well, I'd</p>	1146	<p>1 guards. That would be my question. 2 A Yeah, I -- to be honest with you, I -- 3 I do a lot of presentations. I can't remember 4 specifically what I said. I -- and if I did, I 5 would tell you. 6 BY MR. STEPHENS 7 Q Okay. Thank you. Just one moment. I 8 may be done. One final question, sir. 9 A Sure. 10 Q Maybe two. But the -- 11 A No. 12 Q Hopefully not too many. 13 MS. BRAMESCO: We know that's -- 14 THE WITNESS: You're already on the 15 record. 16 MR. STEPHENS: Now, I want to refer you 17 back to the OPM guide, and I'm not sure which 18 document that was. 19 MS. BRAMESCO: Thirteen. 20 MS. GONSALVES: D-13. I have it 21 memorized. 22 MS. BRAMESCO: So do I.</p>

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<p style="text-align: right;">1147</p> <p>1 BY MR. STEPHENS 2 Q And can you just tell us what is the 3 date on this document? It should be up at the 4 top right. 5 A April 19, '88. 6 Q Okay. So this document is 7 approximately twenty -- 8 A Six. 9 Q -- six years -- twenty -- 10 A Almost 26. 11 Q Twenty-six. I'm sorry. Twenty-six 12 years old. At that time, the Postal Police 13 Officers powers were not contained within 18 14 U.S.C. 3061; is that correct? If you know. 15 A I don't know. 16 MR. STEPHENS: Okay. I'll ask another 17 witness. Thank you, sir. 18 THE WITNESS: Thank you. 19 MR. STEPHENS: No further questions. 20 MS. BRAMESCO: No redirect. 21 ARBITRATOR OLDHAM: All right. Thank 22 you very much.</p>	<p style="text-align: right;">1149</p> <p>1 WHEREUPON, 2 JENNIFER MCDANIEL 3 called as a witness, and having been first duly 4 sworn, was examined and testified as follows: 5 THE WITNESS: I do. 6 DIRECT EXAMINATION BY COUNSEL FOR 7 THE 8 POSTAL SERVICE 9 BY MS. GONSALVES 10 Q Good morning. 11 A Good morning. 12 Q Could you please introduce yourself to 13 the panel? 14 A My name is Jennifer McDaniel. I'm the 15 assistant inspector in charge of the Career 16 Development Unit. I have basic responsibility 17 for managing the basic training programs, to 18 include the BIT program, B-I-T, which is the 19 basic inspector training program, as well as the 20 PPO BT, Postal Police Officer basic training 21 program. 22 I also manage our polygraph examiners, and I have oversight of our two training</p>
<p style="text-align: right;">1148</p> <p>1 THE WITNESS: Thank you. 2 (Witness excused.) 3 MS. GONSALVES: After a minor -- we 4 will be ready with the next witness in probably 5 about two minutes. There's no PowerPoint for 6 this witness, but she'll be referring to Postal 7 Exhibits D-13, the Grade Evaluation Guide, and 8 then a new exhibit, which is behind Tab E. It's 9 the only exhibit behind Tab E. 10 ARBITRATOR OLDHAM: Teresa -- 11 MS. GONSALVES: Yes. 12 ARBITRATOR OLDHAM: -- my binder -- oh, 13 I see. 14 MS. GONSALVES: You got it. That's the 15 only one. 16 ARBITRATOR OLDHAM: E-1. Yes. 17 MS. GONSALVES: Yeah, the only E. 18 Yeah. You don't have a one unless you have a 19 two, but I guess they were worried we'd add more 20 at the last minute. 21 22</p>	<p style="text-align: right;">1150</p> <p>1 facilities in Potomac, Maryland and Newcastle, 2 Delaware, and I'm physically located in -- at the 3 Bolger Center in Potomac, Maryland. 4 Q Lucky you. 5 A Yes. It's very pretty. 6 Q So you said that you were the assistant 7 inspector in charge of the Career Development 8 Unit. Is that known by any other names? 9 A It's known by a variety of names, as 10 you've heard throughout this proceeding. 11 Currently, it's the Career Development Unit. It 12 has been known as the Career Development 13 Division, a/k/a, CDD, also CDU, and I think I 14 refer to them interchangeably. 15 Q I would like you to just briefly go 16 through your work history at the Postal Service 17 and maybe beginning with what you did right 18 before you came to the Postal Service. 19 A Yes, ma'am. I became a Postal 20 Inspector in September of 1999. I entered into 21 the Postal Service or the Postal Inspection from 22 local law enforcement, where I was with local law</p>

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1151	<p>1 enforcement for about five years in Virginia. I 2 was appointed to the position of Postal Inspector 3 in '99.</p> <p>4 After successful completion of my basic 5 training in December of '99, I was assigned to 6 the Tallahassee, Florida domicile in the Miami 7 Division. I believe then it was called the 8 Florida Division. I was assigned to a 9 miscellaneous team, which basically means we 10 worked a variety of different criminal 11 assignments. I've worked cases in mail theft, 12 identity theft, prohibited mail and narcotics, 13 financial investigations, fraudulent workers' 14 comp and internal crimes investigations.</p> <p>15 In October of 2006, I was promoted to a 16 position of instructor, program manager, at our 17 Career Development Division, and I was an 18 instructor for our basic inspector training 19 program, primarily teaching defensive tactics and 20 officer survival.</p> <p>21 In March of 2012, I was promoted to the 22 position I currently have.</p>	1153	<p>1 Accreditation, FLETA.</p> <p>2 There are 52 standards that we have to 3 meet for program accreditation. Those standards 4 cover topics of program administration, training 5 delivery, training staff and then training 6 development. For academy accreditation, you have 7 to meet an additional 20 standards that cover 8 your academy administration.</p> <p>9 Q How many programs at CDD are 10 accredited?</p> <p>11 A Currently, we have three programs 12 accredited. Our BIT training, our PPO BT 13 training, Postal Police Officer basic training, 14 and our instructor development program, they're 15 all accredited.</p> <p>16 Q Through this particular accreditation, 17 are PPOs certified as police officers, and if 18 not, what does it do?</p> <p>19 A The accreditation does not certify the 20 graduates of any particular program. The agency 21 certified those graduates. Upon successful 22 completion of the PPO BT program, they are</p>
1152	<p>1 Q So you've been in that position for 2 approximately two years?</p> <p>3 A Yes, ma'am. And I've done two details 4 where I was acting assistant inspector in charge 5 for about a year-and-a-half during that time 6 period.</p> <p>7 Q So it's about three-and-a-half years 8 total?</p> <p>9 A Correct.</p> <p>10 Q And I hear you can take big officers 11 down.</p> <p>12 A Yes. I am a certified defensive 13 tactics instructor.</p> <p>14 Q Is the CDU or CDD an accredited 15 academy?</p> <p>16 A Yes, ma'am, it is an accredited 17 academy.</p> <p>18 Q Can you tell us what that means?</p> <p>19 A Basically, that means that we've set 20 all the standards as set forth by our accrediting 21 body. And our accrediting body is known as 22 FLETA, Federal Law Enforcement Training</p>	1154	<p>1 certified as Postal Police Officers through the 2 agency.</p> <p>3 Q Let's talk a little bit about your 4 areas of expertise, although I think you've 5 already alluded to them. So you're familiar with 6 basic training for PPOs?</p> <p>7 A Yes.</p> <p>8 Q Are you also familiar with the annual 9 in-service training of PPOs?</p> <p>10 A Yes, ma'am, I am.</p> <p>11 Q And how about basic training and annual 12 training for Postal Inspector?</p> <p>13 A Yes, ma'am. As I previously mentioned, 14 I am a certified defensive tactics instructor, 15 and I've been one since 2003. I'm also a 16 certified officer survival instructor, and I've 17 been that since 2005. I have taught defensive 18 tactics and officer survival to BIT classes, PPO 19 BT classes as well as in the in-service area.</p> <p>20 Q When you say "PPO BT," you've already 21 said this, but that's PPO basic training, right?</p> <p>22 A Yes, ma'am.</p>

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1155	<p>1 Q I'd like to just talk to you for a 2 moment about your general reactions to the 3 testimony that you've heard to date. 4 You've been present in all of the days 5 of testimony by the Postal Police Officers 6 Association? 7 A Yes, ma'am. 8 Q Do you have any general reactions to 9 that training as it -- as it relates specifically 10 to your area of expertise training? 11 A In terms of training, I did have some 12 general thoughts and concerns about that. In 13 listening to the officers testify, it sounded as 14 if they're going beyond the scope of their 15 training in doing some of the things that they're 16 actually doing in the field. 17 Q Can you provide a couple of examples of 18 that? 19 A Collecting evidence would be one, 20 surveillance, conducting surveillance, going out 21 on search warrants, canvassing neighborhoods, 22 just some of those -- conducting investigations.</p>	1157	<p>1 started attending training in FLETC in 1994, and 2 they continued to do so until about the year 3 2004. In 2004, the training was actually brought 4 back to be done -- in house is what I call it -- 5 which is done by the Inspection Service. So the 6 basic training was then done by the Inspection 7 Service in 2004. 8 Q So to your knowledge, prior to 1994, 9 were PPOs trained at CDD or something like CDD? 10 A Yes. I don't know what it was called 11 before CDD, but they were trained in house by the 12 Inspection Service before they were sent to FLETC 13 in 1994. 14 Q And do you -- do you know why the 15 Inspection Service decided to move the training 16 from FLETC? 17 A Basically, they were being trained in 18 duties and responsibilities that weren't part of 19 what their duties and responsibilities as a PPO 20 were. Once the graduates returned back to the 21 Inspection Service, there was some disappointment 22 by the graduates in what their actual duties and</p>
1156	<p>1 They didn't go into great detail about how these 2 investigations were conducted, but just going 3 past preliminary fact-finding that they're taught 4 to do at the academy. 5 Q And when you talk about it goes beyond 6 their training, you're not just talking about the 7 basic training, right? 8 A The basic training and their in-service 9 training that they receive once they graduate 10 basic training. 11 Q Okay. We'll talk a little bit about 12 this later in your testimony -- 13 A Okay. 14 Q -- on these different topics that you 15 just touched on, but let's -- let's talk -- I 16 just want -- I want to start out just to create a 17 context. And we've had a little bit of testimony 18 about this, but I want to talk about PPO basic 19 training at FLETC. 20 Can you tell us about when that 21 began -- when it began and when it ended? 22 A To my knowledge, Postal Police Officers</p>	1158	<p>1 responsibilities were. And I believe some of the 2 field divisions had concern that they weren't 3 trained on the duties and responsibilities of 4 being a Postal Police Officer. 5 Additionally, at the time, we were also 6 going through the process to become an accredited 7 academy. So the idea was to, under our 8 accreditation, create an accredited program 9 specifically tailored to the Postal Police 10 Officers' duties and responsibilities. And so 11 that's what was done, and it was accredited in 12 2006. 13 Q So let's talk about that. What is the 14 primary focus of PPO training? 15 A The primary focus of the PPO training 16 is the security aspect that they play protecting 17 postal property, postal personnel and -- and 18 postal assets. 19 Q And what are some of the secondary 20 topics that are covered by the training? 21 A The other topics covered by the 22 training include -- they are new employees to the</p>

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1159	<p>1 to the Inspection Service, not the Postal 2 Service, but to the Inspection Service, so they 3 are trained or given information about that -- 4 the agency, the Inspection Service. 5 They're also given tools that they have 6 to use and be expected to use for threat 7 management issues in dealing with different 8 threat management, such as the firearm that 9 they're issued. They're issued handguns and an 10 expandable baton, so they have to be taught how 11 to use all of that equipment. 12 They're also our first responders, so 13 they have to be taught how to respond to 14 different situations and contain or secure those 15 situations so that it's -- the area is safe. 16 They secure the facility to protect any evidence 17 that may be there and, you know, hold that scene 18 until Postal Inspectors can arrive. 19 Q To what extent, if any, do Postal 20 Police Officers receive training in 21 investigations? 22 A None.</p>	1161	<p>1 investigators, so the training, the BIT training, 2 is focused on teaching them their duties and 3 their responsibilities to conduct criminal 4 investigations in the federal arena. 5 MS. GONSALVES: And just so that the 6 panel understands, this is sort of a separate 7 topic, but it's related to the 1003(c) analysis. 8 That's why we're talking a little bit about this. 9 BY MS. GONSALVES 10 Q Could you please compare and contrast 11 various topics of training between the PPOs and 12 the inspectors? And what I'd like you to do is 13 turn to tab -- I believe it's Volume 2, Postal 14 Service E-1. What is this? 15 A This is a document that I created, and 16 the way that I created this was -- each class has 17 a separate calendar. The Postal Police Officer 18 basic training has an eight-week training 19 calendar. The basic inspector training program 20 has a 12-week calendar. I took all the modules 21 for the Postal Police Officer basic training, and 22 that's the information that you see on the</p>
1160	<p>1 Q What are they trained in? 2 A They're trained in how to gather 3 preliminary evidence at the scene, once they 4 respond, asking questions, identifying victims, 5 identifying possibly suspects, maybe getting a 6 good description of a suspect so they can put 7 that out over the radio so responding units can 8 maybe identify that individual, but that 9 preliminary information of the initial response 10 is what they're trained to gather. 11 Q And you don't consider that to be 12 investigations? 13 A No, ma'am. 14 Q I guess we'll talk a little bit 15 about -- a little more about that later as well. 16 Let's just quickly touch on Postal 17 Inspector basic training, which you call BIT, I 18 believe? 19 A Yes, ma'am. BIT, B-I-T. 20 Q What is the focus of Postal Inspector 21 training? 22 A They are federal criminal</p>	1162	<p>1 left-hand side. 2 The second column is number of hours 3 dedicated within the program to that specific 4 module or exercise. Then what I tried to do is I 5 looked at the basic inspection training calendar 6 and determined what was similar and what was 7 different between the two different programs. 8 And that's what you see on the right-hand side is 9 the basic inspector training modules and 10 exercises and courseload. And then the last 11 column is how many hours are devoted to that in 12 the basic inspector training program. 13 You'll actually see that there are some 14 similarities in -- in the programs, which I can 15 talk about. 16 Q I'd like you to talk about that, but 17 before you do that, I just wanted to ask: Are 18 they always exact matches? 19 A No, they're not always exact matches, 20 and that's why I put similar when there were some 21 that were similar in terms of the information 22 that's given.</p>

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1163	<p>1 Q And you're familiar with the content of 2 each of the modules, right? 3 A Yes, I am familiar. I don't have it 4 all memorized, but I am familiar with the 5 content, yes. 6 Q Okay. So you were the right person to 7 make these comparisons? 8 A Yes. And I'm actually the one that 9 creates these calendars. I create a new one for 10 every class that comes in. 11 Q So why don't you just walk us through 12 this chart. I don't think you need to go through 13 each one, but just highlight the important ones 14 or -- whatever you think. Use your judgment. 15 A Okay. Just to explain what you're 16 looking at, if you look at line No. 1, where it 17 says introduction on the PPO BT side, 18 introduction to U.S. Postal Service -- Service, 19 Inspection Service and Security Force, and then, 20 on the BIT side, you see the intro to USPS and 21 intro to USPIS. 22 So, if you look at that, you'll see</p>	1165	<p>1 effective teams, which is what I call UBET 2 (phonetic), and that's basically the same course 3 for the BIT side of the house. On that one, you 4 may notice, however, that there is an actual hour 5 difference between the PPO side and the BIT side. 6 The reason for that is because PPOs are hourly 7 employees. 8 This course actually involves a 9 behavioral analysis assessment that they have to 10 do to go through this -- this day-long course. 11 The BIT students are assigned that as a homework 12 exercise. The PPO students, since they are 13 hourly, we pay for them to do that in the 14 classroom environment. 15 Q So could you just pause there for one 16 moment? 17 A Yes. 18 Q You just talked about -- so what you're 19 saying is that these hours that are on the far 20 right don't include homework, but the hours for 21 the PPOs do include homework; is that correct? 22 Is that what you just said?</p>
1164	<p>1 that there's different hours associated with 2 those two courses. The courses are similar, but 3 the content may be a little bit different because 4 of the employees that are brought into the 5 agency. Most of our basic inspector training 6 students are from outside of the Postal Service. 7 Our PPOs are from inside of the Postal Service, 8 so we assume they have a general understanding of 9 the Postal Service before they come over to the 10 Inspection Service side. Whereas, the BIT 11 students typically don't have that much of an 12 understanding, so we have to give them a little 13 bit more in depth into that. 14 And then if you see on -- on the 15 column, you'll see where there are some blank 16 spaces, for instance, the second one where's 17 there's following and giving directions. That's 18 two-and-a-half hours on the PPO side, but the BIT 19 side doesn't have anything that's comparable to 20 that module. 21 And then, the third one, you'll see the 22 understanding -- or using differences to build</p>	1166	<p>1 A Correct. Yes. There are homework 2 assignments within the BIT program that the -- 3 the BIT students have to do, where the PPO 4 program is self-contained. They don't have 5 homework assignments. Any assignments that 6 they're given, they're given time to complete 7 those in the classroom. Sometimes, it's not 8 really preferred, but we do pay overtime if their 9 day extends past their eight hours. 10 With the BIT students, they don't get 11 overtime, so, typically, their days are between 12 nine hours, ten hours or sometimes even longer, 13 and that doesn't include study time and preparing 14 for different practical exercises that they may 15 have to do. 16 Q So when you -- 17 ARBITRATOR OLDHAM: So -- so the 18 difference is just because of the fact that 19 you've got salaried employees in one category and 20 you've got hourly employees in the other, right? 21 THE WITNESS: Yes, sir. 22 ARBITRATOR OLDHAM: So that means that</p>

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1167	<p>1 some of these hours in the basic inspector 2 training column are understated? 3 THE WITNESS: Yes, sir. 4 ARBITRATOR OLDHAM: Thank you. 5 BY MS. GONSALVES 6 Q So just to -- to bring that point, make 7 it a little clearer -- I hate to take you out of 8 order, but if you don't mind, the number is on 9 the far left. If you go down to No. 24, could 10 you just explain how that fits into this? 11 A Yeah. If you see No. 24, that's the -- 12 on the PPO side, you'll see study hall/TM. TM 13 means threat management, and that's TM practice. 14 So, typically, what we'll do is we'll divide the 15 class. A couple hours, they'll be in their 16 classroom and they'll be studying in a structured 17 study hall environment, and then the other half 18 of the class might be the defensive tactics room 19 with their instructors practicing the different 20 techniques, and then they'll switch. And that 21 way, they get a little bit of threat management 22 practice, and they get their study hall time</p>	1169	<p>1 Q And I'm sorry. I'm going to do it 2 again to you, but -- 3 A Okay. That's all right. 4 Q Does this evidence number, eight hours 5 for -- on the basic inspector training program, 6 does that cover all of the evidence work that 7 inspectors -- or training that inspectors get? 8 A No. There's -- there's a lot more, and 9 it's actually on the next page of this exhibit. 10 Q Would you rather wait to talk about 11 that until we get there? 12 A Well, I can point that out now, if you 13 like. 14 Q Okay. 15 A Well actually, before we go to the next 16 page, if you look at line No. 19, you'll see 17 there's a crime lab tour for the Postal Police 18 Officers. Our crime lab is actually located in 19 Virginia. We do take them to the crime lab, the 20 Postal Police Officers, and they do, like, what I 21 call a walking tour, where they walk around, and 22 the lab personnel show them different things.</p>
1168	<p>1 included there as well. 2 Q And how many hours is that? 3 A That is 31 hours. 4 Q Okay. So let's go ahead and go back 5 up. And I kind of took you out of your -- going 6 down the -- the row, but what else would you like 7 to highlight? 8 A Well, I was just kind of explaining, if 9 you're looking at this chart, why you see some 10 blanks in certain areas. And one of the things 11 that has come up is the handling of evidence. 12 And if you look at row 17, you'll see the 13 handling evidence course for Postal Police 14 Officers is an hour, and then the evidence 15 handling for the BIT students is eight hours. 16 So there is difference between -- a 17 significant difference between the handling 18 evidence versus Postal Police Officers receive 19 and the BIT students receive. And as I go a 20 little bit further down -- 21 Q Wait. Before you go further down -- 22 A Okay.</p>	1170	<p>1 If you look at the BIT side of the 2 house, you'll see that there is -- the crime lab 3 tour, which they get the walking tour, but then 4 they spend about eight hours, a full day, at the 5 crime lab doing hands-on processing of evidence 6 with what I call the experts, who are our crime 7 lab personnel, on how to properly lift 8 fingerprints, how to do cast moldings, how to 9 collect blood evidence. The PPOs don't get that 10 hands-on practical exercises for collecting 11 evidence. 12 And then, as I said, if you flip to 13 page 2 -- 14 Q Wait. Before you go there, how 15 about -- how about No. 23? Could you compare the 16 two there? 17 A Okay. No. 23 talks about interview 18 skills. That's a -- a two-hour block that 19 addresses interview skills in terms of initial 20 respondents, when they're first to the scene, 21 asking the right questions, the who, what, where, 22 when, why and how, eliciting that information,</p>

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1171	<p>1 going from the open-ended questions to the</p> <p>2 narrowing questions so they can get that good</p> <p>3 preliminary information to put in their incident</p> <p>4 report.</p> <p>5 And then on the -- the BIT side, it's</p> <p>6 interviews and interrogations, and that's 19</p> <p>7 hours of strictly classroom time that -- that</p> <p>8 they have, and that deals with not only the</p> <p>9 initial interview, but then narrowing it down in</p> <p>10 terms of deceptive behavior, recognizing</p> <p>11 deceptive behavior, all the way up to the point</p> <p>12 of conducting interrogations of suspects.</p> <p>13 And that kind of goes along the line --</p> <p>14 correlates with line 28 on page 2. These are</p> <p>15 interview and interrogation -- that's II --</p> <p>16 practical exercises, where there's about 25 hours</p> <p>17 that the BIT students receive where they're</p> <p>18 conducting actual interviews or interrogations,</p> <p>19 and it runs throughout the 12 weeks of training</p> <p>20 that they attend.</p> <p>21 Q So that's in addition to the hours you</p> <p>22 already listed on the first page?</p>	1173	<p>1 scenarios that they have to respond to and work a</p> <p>2 crime scene under the supervision of our staff</p> <p>3 instructors and our crime lab personnel.</p> <p>4 And then the last one, which is digital</p> <p>5 evidence, which is only an hour, but it covers</p> <p>6 how to collect digital evidence properly. If you</p> <p>7 go somewhere and there's a computer and the</p> <p>8 computer is on, what would you do with it? If</p> <p>9 you recover a thumb drive, you know, how to</p> <p>10 handle that digital evidence so you don't, you</p> <p>11 know, taint it somehow.</p> <p>12 Q Now, earlier on in your testimony, you</p> <p>13 talked about the fact that -- that PPOs were not</p> <p>14 trained to do surveillance.</p> <p>15 Could you talk about the coursework</p> <p>16 that addresses that topic?</p> <p>17 A Sure. Under -- I believe it's line --</p> <p>18 yeah, 46 and 47, which covers surveillance and</p> <p>19 then surveillance practical exercise. So the 3.5</p> <p>20 hours is classroom surveillance, giving them</p> <p>21 instruction on how to conduct foot surveillance,</p> <p>22 how to conduct moving surveillance, how to take</p>
1172	<p>1 A That's in addition to the 19 hours.</p> <p>2 Q What else would you like to talk about</p> <p>3 on this page? We were going to talk about</p> <p>4 evidence, but if you would like to do it in a</p> <p>5 different order, feel free.</p> <p>6 A Actually, evidence could come up. If</p> <p>7 you look at lines 37 through 40 on page 2, the</p> <p>8 BIT students received some instruction and</p> <p>9 practical exercise in terms of crime scene</p> <p>10 photography, which is about two hours, how to</p> <p>11 take the appropriate photographs at a crime</p> <p>12 scene, how to document that. Then they have a</p> <p>13 crime scene management class that they go</p> <p>14 through, which is about three hours, talking</p> <p>15 about how to manage a crime scene, which evidence</p> <p>16 to collect first, taking photographs, assigning</p> <p>17 different controls and responsibilities for</p> <p>18 the -- the team that's at the crime scene.</p> <p>19 Then the next one down is the crime</p> <p>20 scene practical. That's six hours. That's a</p> <p>21 practical exercise where they go through --</p> <p>22 they're divided up into teams, and they have</p>	1174	<p>1 photos while you're conducting that surveillance.</p> <p>2 And then the second part, which is the</p> <p>3 surveillance practicals, there's actually two</p> <p>4 practical exercises that they do. One of those</p> <p>5 is a night surveillance exercise, where they</p> <p>6 do -- after class hours, one of the staff</p> <p>7 instructors will give them a scenario. Maybe</p> <p>8 they're investigating an individual for the theft</p> <p>9 of mail and they need to do surveillance on that</p> <p>10 individual.</p> <p>11 So they will actually follow the staff</p> <p>12 instructor throughout any part of Maryland,</p> <p>13 depending on where the staff instructor would</p> <p>14 like to take them. And, usually, they'll stop</p> <p>15 somewhere. They'll drop some evidence. The</p> <p>16 students will have to be responsible for</p> <p>17 collecting that evidence. And then the next --</p> <p>18 the -- and that's about four hours.</p> <p>19 Then they have an all-day surveillance</p> <p>20 exercise, which -- they're divided up into two</p> <p>21 teams, and they basically have a scenario, and</p> <p>22 they follow staff instructors for the entire day</p>

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1175	<p>1 based upon the case that they're working. And so</p> <p>2 that's their surveillance practical exercises</p> <p>3 that they do.</p> <p>4 You may see, also on here, line 43,</p> <p>5 where it talks about electronic surveillance, and</p> <p>6 then it says practice. The electronic</p> <p>7 surveillance basically deals with undercover</p> <p>8 surveillance, wiring up individuals for</p> <p>9 consensual or nonconsensual surveillance.</p> <p>10 And then all the tools, as I call them,</p> <p>11 or the electronic equipment that we have at our</p> <p>12 disposal, they practice wiring each other up,</p> <p>13 walking around the facility and, you know, making</p> <p>14 sure that they're doing it correctly so they get</p> <p>15 good audio or video, because there are practical</p> <p>16 exercises in the training where they actually --</p> <p>17 it's part of their exercise that they have to</p> <p>18 wire someone up. So we want to make sure they</p> <p>19 know how to do that before they're put into that</p> <p>20 situation.</p> <p>21 Q I think you testified earlier that the</p> <p>22 PPOs don't receive this training?</p>	1177
1176	<p>1 A No, ma'am.</p> <p>2 Q Okay. Go ahead.</p> <p>3 A The other thing I wanted to point out</p> <p>4 which -- and I hate to refer you -- keep</p> <p>5 referring back to page -- pages, but on page 1, a</p> <p>6 portion of the training on line 27 -- it's the</p> <p>7 last line of page 1 -- is actually their physical</p> <p>8 training. Postal Inspectors, the BIT students,</p> <p>9 are required to participate in basic -- I mean,</p> <p>10 physical training. Typically, it's two hours a</p> <p>11 week that they do the PT with their staff</p> <p>12 instructors, and then they're required to do one</p> <p>13 PT session on their own a week.</p> <p>14 Typically, the PT involves running or</p> <p>15 calisthenics. I prefer the running since we get</p> <p>16 to run through the beautiful neighborhoods in</p> <p>17 Potomac. And then it culminates in a 4.7-mile</p> <p>18 run in the last week of the training. The PPO</p> <p>19 students do not do the physical training.</p> <p>20 The other -- just -- the other thing --</p> <p>21 a couple of things I wanted to point out that's,</p> <p>22 I think, a significant difference between the PPO</p>	1178

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1179	<p>1 about a drug parcel coming in. They'll intercept 2 the drug parcel and get the affidavit and search 3 warrant for the parcel and do a delivery of that 4 parcel and, again, culminating with the arrest 5 and processing and interview of the suspect at 6 that time. 7 Q Okay. So if you go to Postal Service 8 exhibits, Volume 2, and you turn to Exhibit 9 D-3 -- let's make sure everybody's on the -- it's 10 not D-3. It's D-13. Excuse me. I forgot the 11 one. You'll see the -- we just had some 12 testimony about this. 13 A Is that the Grade Evaluation Guide? 14 Q You've got it. 15 A Okay. 16 Q And I'd like you to just review, if you 17 would, Inspector McDaniel, the language that 18 begins halfway down on page 3 and then beginning 19 at the top of page 7. It's just a couple of 20 pages on -- a couple of paragraphs on page 3. 21 You'll see the language that relates to training, 22 and then at the top of page 7.</p>	1181
1180	<p>1 A Okay. 2 Q The other one's just the first real 3 paragraph on page 7, I think. 4 A Is that -- 5 Q I think I'm wrong. It's the last 6 paragraph on page 7. Excuse me. It starts out 7 with "the primary emphasis." 8 A Okay. 9 Q You ready? 10 A Yes, ma'am. 11 Q Okay. As the Postal Service's training 12 expert, is the training based upon these 13 descriptions closer to -- of the -- of the 14 PPOs -- is the training of the PPOs closer to 15 security guard or police? 16 A The training that the Postal Police 17 Officers receive is more consistent with the -- 18 what's described in here as security guards. 19 Q And why do you say that? 20 A Because they're trained in terms of 21 protecting the postal property, and this last 22 paragraph or this paragraph that -- on page 3</p>	1182

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1183	<p>1 alarm activation at the Potomac post office, and 2 so that would be their scenario. If you have 3 inspectors and you're training them, their 4 scenario may be you have a search warrant for a 5 residence located in Potomac, Maryland. 6 Basically, the fact pattern of the 7 scenario may be a little bit different, but in 8 that example that I gave, you're looking for the 9 same techniques, because they're taught the same 10 techniques in terms of building entry and room 11 clearing procedures. 12 Q Okay. So that -- that's about the 13 overlap in the training that takes place? There 14 is some overlap? 15 A In terms of in-service? 16 Q In terms of skills. Yes, in-service. 17 A Yes. 18 Q Yes, in-service. 19 A Yeah. Yes. I mean, there is overlap 20 in terms of in-service training. There is no -- 21 the two basic training programs do not overlap at 22 all. They don't do anything together or there's</p>	1185	<p>1 the in-service training similarities between the 2 PPOs and the inspectors in terms of, I guess, 3 threat management. You've already alluded to 4 this. 5 A I guess I don't understand -- 6 Q Well, they all get trained in weapons, 7 for example. 8 A Correct. They're all trained in -- in 9 the use of their firearm. They're all trained in 10 the use of their defensive tactics and officer 11 survival skills, so those are the same training 12 that they receive in terms of the threat 13 management. 14 Q Are -- 15 ARBITRATOR OLDHAM: Just to be clear, 16 how are we supposed to be understanding the 17 expression "in-service" as opposed to what we 18 just finished? 19 MS. GONSALVES: Okay. So how often -- 20 I can -- I can quantify -- I can have her 21 quantify how often they get trained in each area. 22 ARBITRATOR OLDHAM: But basically, what</p>
1184	<p>1 no threat management training together with the 2 basic training programs. 3 Q Okay. 4 ARBITRATOR OLDHAM: What you just said, 5 that they were the same skills, I take it that 6 comment -- what did you mean by that comment? 7 THE WITNESS: They are the same skills, 8 but -- 9 ARBITRATOR OLDHAM: And what are the 10 they? 11 THE WITNESS: Building clearing 12 techniques in terms of entering a room. You 13 know, if you're going to clear a room, there are 14 techniques in how to clear that room. The 15 techniques are the same for a Postal Police 16 Officer as it is a basic inspector training 17 student, but they're -- in the basic training 18 program, they're not in the same classroom or the 19 same scenarios. 20 BY MS. GONSALVES 21 Q So let's talk about the common -- in 22 terms of in-service training, let's talk about</p>	1186	<p>1 you're talking about now are things -- ongoing 2 training that occurs after the basic training -- 3 MS. GONSALVES: Yes. 4 ARBITRATOR OLDHAM: -- that they're -- 5 THE WITNESS: Yes. 6 MS. GONSALVES: I apologize for not 7 making that clear. Let me also say that -- I was 8 trying to expedite this, make it shorter, so I 9 wasn't going through each aspect, but -- but we 10 can do that quickly. 11 BY MS. GONSALVES 12 Q First, let's talk about firearms 13 training. What does firearms training focus on? 14 A And just so I'm clear for Arbitrator 15 Oldham, we are talking -- when I say in-service, 16 that's post-graduate, basically, you know, what 17 they're doing in the field after they've 18 completed their basic training. 19 For firearms, the in-service component 20 of what they have to do, they have to qualify 21 twice a year. And when I say "they," it's Postal 22 Police Officers and inspectors. We have to</p>

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1187	<p>1 qualify with our weapon twice a year. We also 2 have to demonstrate proficiency in certain 3 techniques and tactics. Some of those techniques 4 we have to do twice a year, for instance, 5 handcuffing. We have to demonstrate proficiency 6 in handcuffing twice a year. We have to 7 demonstrate proficiency with our expandable 8 baton. 9 For some other techniques, then we only 10 have to demonstrate proficiency once a year. An 11 example of that would be with firearms. We set 12 up a stress course or we do low-light firing, 13 where you don't have as much light, so you have 14 to practice your firing skills in a low-light 15 situation. We do that once a year. There are 16 some defensive tactics skills and officer 17 survival skills that we only do once a year. 18 Felony vehicle stops, we only do once a year. 19 Building clearing techniques, we only do once a 20 year. 21 Q Okay. So, whereas, with basic 22 training, the instruction is completely separate,</p>	1189	<p>1 that at least familiarization with the training. 2 So if we make an entry with an MP5 operator and 3 that MP5 operator goes down, we should be able to 4 pick that weapon up in a deadly-force situation 5 and be able to utilize that weapon. 6 With the Postal Police Officers, 7 they're not required to have that MP5 8 familiarization. I do know, in some divisions, 9 they do it for them, but they're not required to 10 have that. 11 Q And I think you've already said this, 12 but none are certified on it? 13 A Correct. 14 Q So have you now covered all the 15 in-service training for PPOs, threat management, 16 legal? You talked about the periodic legal 17 training. Is there anything else there? 18 A No, ma'am. 19 Q Okay. What about in-service training 20 for inspectors? And I think you've already 21 testified that they do the same threat management 22 part with the -- I don't know all the -- officer</p>
1188	<p>1 is this -- is it correct to call this refresher 2 training? 3 A Correct. 4 Q This refresher training takes place 5 with both PPOs and inspectors, correct? 6 A Yes. 7 Q I wanted to just -- since we've had 8 some testimony about it, I wanted to ask you 9 about submachine guns, MP5s. Could you just talk 10 about the differences there? 11 A The MP5 is a weapon that -- as a 12 inspector, we receive familiarization training 13 with that weapon. We're shown how to load it, 14 how to unload it, how to render it safe, how to 15 fire it. We have the opportunity to fire it. 16 But that is a weapon that you have to be a 17 certified operator on, and only an inspector can 18 be a certified operator on that weapon. And 19 that's an additional one week worth of training 20 on just that weapon that you have to go through 21 to become a certified MP5 operator. 22 PPOs -- inspectors are mandated to have</p>	1190	<p>1 survival, defensive tactics, and I want to say 2 weapons, but it's not called that. 3 A Firearms. 4 Q Firearms. What other sort of 5 in-service training do inspectors receive? 6 A They also have periodic field legal 7 refresher training, but in addition to those two 8 types of training, they can become threat 9 management instructors. They also receive job 10 specific to their criminal assignment training. 11 I can -- you know, advanced mail theft, 12 advanced mail fraud. We have basic mail fraud, 13 basic mail theft, robbery/burglary training, 14 dangerous mail investigations training, 15 prohibited mailing narcotics training, prohibited 16 mailing child exploitation training, revenue 17 investigations training. That's kind of all I 18 can think off the top of my head, but -- 19 Q So, on E-1, Postal Service E-1, you 20 were kind of talking about the -- that there was 21 a large -- on this second page, you said that 22 these are some of the topic areas that they're</p>

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1191	<p>1 exposed to --</p> <p>2 A Yes.</p> <p>3 Q -- because they don't yet know what</p> <p>4 their assignment is, but they kind of get this</p> <p>5 broad overview?</p> <p>6 A Right.</p> <p>7 Q Would the additional in-service</p> <p>8 training be on one of those subject areas?</p> <p>9 A Correct. If they leave the academy and</p> <p>10 they're assigned to a mail fraud team, most</p> <p>11 likely, they're going to be sent to the next</p> <p>12 available mail fraud training, and then, probably</p> <p>13 down the road, they'll go to advanced mail fraud</p> <p>14 training. So it's not just the basic foundation</p> <p>15 that they received at our academy. They receive</p> <p>16 more in-depth training on how to specifically</p> <p>17 conduct those investigations.</p> <p>18 Q It's more than an hour?</p> <p>19 A Oh, absolutely. Some are a week or</p> <p>20 longer.</p> <p>21 Q Okay. So, Inspector McDaniel, could</p> <p>22 you please summarize your testimony?</p>	1193	<p>1 the -- the -- some of the differences that --</p> <p>2 that I pointed out through my testimony. I think</p> <p>3 that would be about it.</p> <p>4 Q As to -- as to the OPM guide</p> <p>5 classification, what would you conclude in</p> <p>6 that -- on that point?</p> <p>7 A Based upon these documents, that they</p> <p>8 are more -- the training that they receive is</p> <p>9 more consistent with the security guard as</p> <p>10 described in this document.</p> <p>11 MS. GONSALVES: Thank you, Inspector</p> <p>12 McDaniel.</p> <p>13 CROSS-EXAMINATION BY COUNSEL FOR</p> <p>14 THE</p> <p>15 UNION</p> <p>16 BY MR. STEPHENS</p> <p>17 Q Good morning.</p> <p>18 A Good morning, sir.</p> <p>19 Q Inspector McDaniel, you were questioned</p> <p>20 about the -- the academy. It's accredited by the</p> <p>21 Federal Law Enforcement Training --</p> <p>22 A Accreditation.</p> <p>23 Q -- Accreditation. And why is that --</p>
1192	<p>1 A Basically, in summary, I -- there are</p> <p>2 some similarities between the PPO BT program and</p> <p>3 the BIT training program, and I've pointed those</p> <p>4 out. But there are some significant differences</p> <p>5 to the BIT and PPO basic training program. Both</p> <p>6 training programs were created on their job</p> <p>7 duties and responsibilities. The PPO basic</p> <p>8 training program was created on their job duties</p> <p>9 and responsibilities to provide security for the</p> <p>10 Postal Service in terms of property, assets and</p> <p>11 personnel. And the Inspection Service training</p> <p>12 was created to their job duties and</p> <p>13 responsibilities, conducting criminal</p> <p>14 investigations.</p> <p>15 The PPOs don't receive in-depth</p> <p>16 investigation training or any investigation</p> <p>17 training of how to conduct an investigation.</p> <p>18 They don't receive training on collecting</p> <p>19 evidence. They may receive an introductory</p> <p>20 course in how to secure evidence, but not</p> <p>21 collecting evidence. They receive no training on</p> <p>22 surveillance. And, you know, I think those are</p>	1194	<p>1 what are the minimum requirements for that</p> <p>2 accreditation? Just without going into great</p> <p>3 detail, which I'm sure there is a lot of detail,</p> <p>4 can you just give us a brief overview of that?</p> <p>5 A Well, basically, as I testified, there</p> <p>6 are 52 standards for just the program. On top of</p> <p>7 those 52, there's an additional 20 standards that</p> <p>8 we have to meet for our academy accreditation.</p> <p>9 So, in total, we have 72 standards that we have</p> <p>10 to meet for our academy accreditation.</p> <p>11 Q And that accreditation is a</p> <p>12 certification of what exactly?</p> <p>13 A It's basically certification that our</p> <p>14 training has been created and it meets all the</p> <p>15 standards under these guidelines that have been</p> <p>16 set forth by federal law enforcement.</p> <p>17 Q While I've been on my phone, it has not</p> <p>18 just been texting. It's actually -- I wanted to</p> <p>19 pull up what the FLETA described itself as, and I</p> <p>20 wonder if you'll -- without, of course, having an</p> <p>21 exhibit, I'll represent to you -- and tell me if</p> <p>22 I'm right in saying this -- that the -- the</p>

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<p style="text-align: right;">1195</p> <p>1 accreditation of a federal law enforcement 2 academy or program provides assurance to the 3 citizens they serve that they have voluntarily 4 submitted to a process of self-regulation and 5 have successfully achieved compliance with a set 6 of standards that have been collectively 7 established by their peers within their 8 professional community that demonstrate their 9 adherence to quality, effectiveness and 10 integrity. 11 Would you agree with that statement of 12 what FLETA accreditation is for? 13 A You read that correctly. 14 Q Okay. Thank you. I appreciate your 15 trust. But FLETA -- 16 ARBITRATOR OLDHAM: But the answer was 17 nonresponsive. 18 MR. STEPHENS: I'm betting that's one 19 to check the transcript. 20 THE WITNESS: Yes, sir. 21 BY MR. STEPHENS 22 Q And FLETA also -- the -- there's you</p>	<p style="text-align: right;">1197</p> <p>1 are PPOs trained to identify themselves when 2 they're in a security situation and have to 3 approach an individual, a suspect? 4 A Police. 5 Q And why is that? 6 A The instant recognition. Postal 7 Inspectors are also trained -- some say Postal 8 Inspector, and we tell them to say police. So 9 you get that instant recognition and that instant 10 adherence to your authority. 11 Q But is it appropriate for them to 12 identify themselves as police? 13 A Yes. 14 Q Why is that? 15 A Because they're Postal Police Officers. 16 Q Are -- are Postal Police Officers at 17 the academy told at one or more points that, as a 18 result of their training, they no longer have the 19 luxury of calling the police if an incident 20 arises because they now are police? 21 ARBITRATOR OLDHAM: I don't understand 22 the question.</p>
<p style="text-align: right;">1196</p> <p>1 referenced FLETC. Can you just briefly describe 2 what FLETC is? 3 A FLETC is the Federal Law Enforcement 4 Training Center. 5 Q And what is -- can you -- who all is 6 trained at FLETC, just without an exhaustive 7 list, if you -- if you know? 8 A I -- I've never been to FLETC. I do 9 know other federal agencies do do a lot of their 10 training at FLETC. 11 Q Now, FLETC has to be accredited by 12 FLETA in much the same way as the CDU, CDD, 13 correct? 14 A They don't have to be, but it is 15 becoming a best practice, I think. But, yes, 16 they are accredited. 17 Q By FLETA? 18 A Yes. 19 Q In the same way that the post office 20 academy is also accredited by FLETA? 21 A Correct. 22 Q When -- how are -- in the academy, how</p>	<p style="text-align: right;">1198</p> <p>1 MR. STEPHENS: I'm sorry. 2 ARBITRATOR OLDHAM: Do it again. 3 MR. STEPHENS: Okay. I -- it's a 4 long-winded question. 5 BY MR. STEPHENS 6 Q Are -- are the PPOs informed that they 7 are police? Is that something that they're 8 instructed at the academy? 9 A They're instructed that they're Postal 10 Police Officers, and if they respond to a 11 scenario -- some -- I'll give you an example, if 12 I may. 13 Q Sure. 14 A They may be told they're responding to 15 a fight on the workroom floor between two 16 employees, and when they respond to that scene, 17 wherever it may be, it may be two employees 18 physically fighting on the -- we don't have 19 workroom floors in Potomac, but the simulated 20 area -- so they have to respond and deal with the 21 situation. 22 I do know that sometimes we have Postal</p>

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1199	<p>1 Police Officers and even basic inspector training 2 students who do not have a law enforcement 3 background that will stand there and not do 4 anything. And the monitor at that point will 5 prompt them, and they will say, well, I would 6 call the police. And the monitor would most 7 likely say, well, you are the police. You need 8 to go and -- and intervene in this situation. 9 Q And in the event of a -- there has been 10 some discussion of different kinds of training 11 given to postal employees in the event of an 12 active shooter situation in a postal building. 13 Is it correct that the -- the 14 instruction given to Postal Police Officers and 15 inspectors is different than the instruction 16 given to general postal employees about what 17 their instincts should be if there is an active 18 shooter? 19 A There are two different active shooter 20 trainings that are currently out there. We have 21 an active shooter training program that we 22 developed for our postal employees, and the basic</p>	1201	<p>1 supposed to act as if they were the police? 2 A They're given training to respond to 3 that situation. It's -- it's really not much 4 different than the training we received in the 5 past in terms of dealing with and stopping a 6 threat. It's a person with a gun. 7 Q I guess regardless of whether or not it 8 would change, the -- the response is to act as if 9 they are the police, correct, not to call another 10 agency that might actually be the police? 11 Is that a fair statement? 12 A They are armed, so they are trained, 13 and they're -- they're given techniques to 14 respond to an active shooter. 15 Q Is it fair to say that Postal Police 16 Officers are training to be first responders to 17 certain situations? 18 A Yes. 19 Q And that they're not trained, based on 20 your testimony, in conducting investigations; is 21 that correct? 22 A No. They're not trained to conduct</p>
1200	<p>1 components are that -- and we've heard testimony 2 on parts of it -- is to call out, get out, hide 3 out and take out. Those are the four components 4 to that active shooter training that we're giving 5 to postal employees. 6 The active shooter training for our 7 armed personnel is a component of our officer 8 survival training, and that's basically tactics 9 and techniques to respond and address a threat of 10 an active shooter. 11 Q And is one of the components for the 12 Postal Police to pick up the telephone and call 13 the -- and if it happened in D.C., are they 14 supposed to pick up the phone and call the 15 Metropolitan Police Department to come and handle 16 the situation? 17 A In what type of -- you mean an active 18 shooter -- 19 Q In an active shooter -- 20 A -- situation? 21 Q -- correct. I guess my question is: 22 Are they supposed to call the police, or are they</p>	1202	<p>1 investigations. 2 Q Their first responder training includes 3 first aid and CPR and AED; is that correct? 4 A At the academy, it does, yes. 5 Q And they're trained in -- in -- in 6 sizing up -- doing the initial assessment of a 7 crime scene, and they're trained in preliminary 8 fact-finding, correct? 9 A I don't understand what you mean by 10 sizing up -- 11 Q Okay. 12 A -- a crime scene. 13 Q Maybe I'll -- they are -- what is 14 preliminary fact-finding? 15 A Getting general information, like I 16 said, the who, what, when, where, why, that 17 information, identifying -- you know, if you walk 18 into a room and there's two people in the room 19 and you're responding to someone who's been 20 assaulted, well, who's the victim? Is the 21 suspect in here? What does the suspect look 22 like? That preliminary information.</p>

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1203	<p>1 Q And that preliminary information is 2 then given to inspectors, who then handle the 3 investigation; is that correct? 4 A Correct. 5 Q But they are trained in -- Postal 6 Police Officers are trained in the importance of 7 being accurate in the preliminary fact-finding 8 that they perform; is that correct? 9 A Correct. 10 Q Would you describe the -- would you 11 say -- is it fair to say that Postal Police 12 Officers are trained in responding to hazards 13 that other -- some other postal employees who 14 don't work for the Inspection Service would not 15 regularly come across? Is that true? 16 MS. GONSALVES: Objection. I think 17 that's a little too general for her to respond 18 to. 19 BY MR. STEPHENS 20 Q Well, are -- are they -- are -- are -- 21 in terms of the hazards, are Postal Police 22 Officers trained, for example, in -- let me ask</p>	1205	<p>1 that door frame because that frames them. 2 Basically, it's a fatal funnel. So we want them 3 to break through that fatal funnel as quick as 4 possible or clear that fatal funnel as quick as 5 possible so they're not a frame to where, if 6 someone were hiding in this room, would basically 7 have that person framed up to possibly shoot or 8 harm. 9 Q Just one moment, please. 10 A Okay. 11 Q Ms. McDaniel -- Inspector McDaniel, 12 just one -- one moment, please. Sorry. 13 Inspector, the -- just in terms of the 14 ongoing training that Postal Police Officers 15 receive, does it include -- or can it include -- 16 well, first, is it -- is it sometimes different 17 in different divisions, the -- the in-service 18 training that Postal Police Officers receive, 19 if -- if you know? 20 A We have mandated training. They may 21 receive additional depending upon the division. 22 Q In some divisions, do they receive</p>
1204	<p>1 you -- let me back up. I'm sorry. 2 Can you tell us -- what is the fatal 3 funnel? 4 A It's commonly referred to. It's a door 5 or a hallway. It's -- or a staircase. 6 Basically, if you're in that fatal funnel, you're 7 framing yourself up for a target if someone were 8 in the room on -- or on the other side of the 9 door. 10 Q And are PPOs trained in how to approach 11 that -- how to -- how to avoid making themselves 12 a victim in that kind of a situation? 13 A Staying out of the fatal funnel, yes. 14 Q Okay. And why is that training 15 something that they are given? Is it something 16 that they -- they come across in their 17 employment? 18 A That's part of their officer survival 19 training. If they are responding to an alarm 20 activation and they have to clear a room -- say, 21 for instance, if they were going to come in and 22 clear this room, we don't want them standing in</p>	1206	<p>1 training in felony car stops? 2 A That's part of the mandated training. 3 Q Okay. And in the felony car stop 4 training, if there is both an inspector and a PPO 5 present, is it the training that the officer who 6 should perform the stop should be the one who's 7 more tactically sound? 8 A Correct. 9 Q And that could be a Postal Police 10 Officer; is that right? 11 A They could be. I don't -- I would have 12 to do an assessment of the two individuals. I 13 don't know. 14 Q Does it include training on how to 15 handle emotionally disturbed persons? Is that 16 in-service training? 17 A That's not a specific mandated 18 training. I mean, you have to learn to deal with 19 different people, but that's not a specific 20 component of the training like a felony vehicle 21 stop or handcuffing. 22 Q How about crowd control? Is that</p>

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1207	1209
<p>1 something that PPOs receive training in? 2 A That's part of their basic training 3 program. 4 Q And how about responding to hazardous 5 materials? 6 A That's part of their basic training. 7 Q There's been some discussion of 8 ballistic shields. Is that new training, or is 9 that something that they get at the academy? 10 A They don't get any at the academy. 11 They may get an introduction, just -- this is a 12 ballistic shield. Once you get to the field, you 13 may see them. But they don't get any -- get any 14 specific training on ballistic shields. 15 We are actually purchasing -- we have 16 purchased new ballistic shields at this point, 17 which they will probably receive training on 18 those shields in an in-service capacity sometime 19 in the future. 20 Q Okay. So those shields have been -- 21 have been deployed, but there has not been full 22 training on them yet; is that correct?</p>	<p>1 however, that we do not have an issue of whether 2 the PPOs ought properly be characterized as CIs. 3 That's not a question we're pursuing. 4 One of the things that came out when 5 the union's case was put on was the suggestion by 6 many of the PPOs who testified that in the world 7 of policing, in municipalities, for example, the 8 comparison really would be for -- between -- the 9 CI would be comparable to a detective, and the 10 police then would turn to the detective for the 11 investigation in much the same way as has been 12 described here from the PPO to the CI. 13 I wonder if you would comment on 14 whether that seems fair or accurate, that general 15 comparison, if you are in a position to. 16 THE WITNESS: I -- I can only speak to 17 my -- my experiences and -- and what I can bring 18 to the table. I -- I came from a local law 19 enforcement arena, where we did have -- we didn't 20 call them detectives. We called them 21 investigators. And I was a uniformed patrol 22 officer for five years before I became an</p>
1208	1210
<p>1 A They have been deployed. There has 2 been some initial shield training from our 3 previous shields, but these shields are a little 4 different. So there is some -- some training 5 that they will receive in the field specific to 6 those shields. 7 Q Specific to the -- the -- 8 A The new shields. 9 Q -- new shields. 10 A Right. 11 MR. STEPHENS: I see. Inspector 12 McDaniel, thank you very much. I have no further 13 questions for you. 14 MS. GONSALVES: No redirect. 15 ARBITRATOR OLDHAM: We have a few, I 16 think. 17 THE WITNESS: Okay. 18 ARBITRATOR OLDHAM: Inspector McDaniel, 19 thank you for your testimony. It was very clear 20 and informative for us. 21 THE WITNESS: No problem. 22 ARBITRATOR OLDHAM: We all understand,</p>	<p>1 inspector. And over these last few days, I've 2 tried to relate my experience to our Postal 3 Police Officers and my duties as a uniformed 4 patrol officer compared to our investigators or, 5 as people say, detectives. And I know the 6 training I went through to become a -- I was a 7 deputy sheriff, but we didn't have police in my 8 county, so we did patrol function. 9 And based on the training that that 10 Postal Police Officers receive, it's more geared 11 toward the security and a security guard in terms 12 of the training that they receive. If their job 13 duties were to be increased, then we would have 14 to reevaluate their training based upon those new 15 job duties. But based upon their training and 16 the exhibits that I've testified to, it's more 17 equivalent with a security guard. 18 Now, in terms of investigator, 19 detective, police officer, I think those are 20 titles. And I deal with training, and I can't -- 21 we don't develop a training program for a title. 22 We develop a training program for job duties and</p>

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1211	<p>1 descriptions, and they're trained to be Postal 2 Police Officers, which is our security force. So 3 I don't know if I answered your question or not. 4 ARBITRATOR OLDHAM: I don't think so, 5 but you did what you had to do. And -- fair 6 enough. You -- I mean, of course, the starting 7 point here is that these employees are called 8 police officers. They're not called security 9 guards because the Postal Service doesn't have 10 that job classification, as far as I understand 11 it. Maybe it does. But I believe all of the 12 subcontracting that has gone out has been to 13 people who are called security guards, and that 14 background just may not be relevant to us. 15 But, you know, this is a world that's 16 new to me, to Jim, too, some of it, but -- so 17 we're doing a lot of learning here, and that's 18 why I just asked that broad question. 19 THE WITNESS: And my expertise is 20 certainly not in job classifications. 21 ARBITRATOR OLDHAM: Right. I think Jim 22 has a question or two for you.</p>	1213	<p>1 In your experience as a patrol officer, 2 were you trained significantly -- significantly 3 in each one of those aspects, or were you given 4 kind of a broad general training to encompass 5 many of those things? 6 THE WITNESS: In my previous training, 7 before I became an inspector, we were given a 8 basic foundation in a lot of these different 9 topics. I actually received a lot more training 10 in the areas of rape and sexual assault, because 11 I was the only female patrol officer we had. So 12 I had to interview and work on those cases with 13 the investigators, so I received specialty 14 training dealing with that. 15 And depending upon different interests 16 in our department and different things happening, 17 we actually had -- you could go and receive 18 additional training. I went to a crime scene 19 photography course for a week in terms of taking 20 photographs at a scene. But in our basic 21 training, we only received a basic foundation in 22 a lot of these different subjects.</p>
1212	<p>1 ARBITRATOR BJORK: Yeah, just three 2 quick ones. Can a security guard -- can a 3 security guard identify themselves as police when 4 confronting a subject? 5 THE WITNESS: I don't know. 6 ARBITRATOR BJORK: Okay. The second 7 one is on page 3 of D-13. 8 THE WITNESS: I'm sorry. Could you 9 speak -- speak up, because there's a fan -- 10 ARBITRATOR BJORK: Oh, I'm sorry. 11 THE WITNESS: -- and I can't quite -- 12 ARBITRATOR BJORK: Page 3 of D-13. 13 THE WITNESS: D-13. Okay. 14 ARBITRATOR BJORK: The paragraph, 15 "police are specifically trained." And then it 16 goes on and says -- 17 ARBITRATOR OLDHAM: Middle of the page. 18 ARBITRATOR BJORK: Yeah, right in the 19 middle -- to deal with misdemeanors and felonies, 20 which can range from petty theft, and it goes on 21 to number of other felonious types of crimes. 22 Now, that's a range of training.</p>	1214	<p>1 ARBITRATOR BJORK: Okay. And the 2 second part right below that is for security 3 guards training. And if you go down to the third 4 line in that paragraph, it says, "train to 5 apprehend and detain." 6 Now, "apprehend" and "detain" are terms 7 of art that differ from the term of art "arrest," 8 correct? 9 THE WITNESS: I think that might be 10 better suited for a legal mind -- 11 ARBITRATOR BJORK: Okay. 12 THE WITNESS: -- to address that issue. 13 ARBITRATOR BJORK: All right. Thank 14 you. And my last question is on page 4 of that 15 same document. And if you can, the first 16 paragraph of the nature of police work, I'd like 17 you to point out anything in that paragraph that 18 doesn't relate to the duties performed by PPOs. 19 THE WITNESS: The paragraph that starts 20 with "primary mission"? 21 ARBITRATOR BJORK: The primary mission, 22 yeah.</p>

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1215	<p>1 MS. GONSALVES: You realize this isn't 2 specific to training, right? 3 ARBITRATOR BJORK: Yes. 4 MS. GONSALVES: This is general -- 5 ARBITRATOR BJORK: Yeah. Well, and I'm 6 asking that from the standpoint that you develop 7 your training based on what PPOs do. 8 So are these duties -- do these duties 9 equate with what PPOs could be expected to do on 10 the job? 11 THE WITNESS: I -- the one thing that 12 jumps out at me here is the "investigate 13 violation of laws, rules and regulations 14 involving accident, crimes and misconduct." 15 ARBITRATOR BJORK: Now, could that also 16 be preliminary investigation, though? 17 THE WITNESS: The preliminary 18 fact-finding? I mean, I don't think that's 19 investigating. I think that's asking preliminary 20 questions. I don't consider that investigating 21 violations. 22 ARBITRATOR DUFEK: I just had one</p>	1217	<p>1 assignment or area that we were responsible for 2 patrolling at night or whatever shift we were 3 working, but in addition to that, we had 4 enforcement powers of, you know, traffic 5 enforcement. We worked motor vehicle accidents. 6 We arrested drunk drivers. On a limited 7 capacity, we served -- I wouldn't say 8 prosecutors, but sometimes, on misdemeanor cases 9 or traffic citations, we appeared before the 10 judge and we testified and basically acted on 11 behalf of the Commonwealth as a prosecutor in 12 terms of presenting the case to them. So I spent 13 a lot of time -- on my off days, it usually ended 14 up in court. 15 I also did surveillance with the 16 investigators in our department. We -- if they 17 had a big operation and they needed manpower, we 18 would go out with them and do the surveillance 19 exercise. 20 We did limited investigations into 21 different crimes. Sometimes, if we expressed an 22 interest, we could do more investigative effort</p>
1216	<p>1 question for you. You heard Inspector Bowers' 2 testimony about -- as to his view of the 3 difference between general police work in the 4 community and the role of a Postal Police Officer 5 within the United States Postal Service. I think 6 you might be singularly situated to elaborate on 7 that given your background. Inspector Bowers 8 talked about the breadth and scope of -- of 9 metropolitan police or county or city or state 10 police officer. 11 What's your perspective on the 12 differences between police officer in a 13 metropolitan department or a county or state and 14 the Postal Police? 15 THE WITNESS: Again, I can only speak 16 to my limited scope of experience based upon my 17 previous occupation and -- and talk to a training 18 perspective of the training that I received in 19 that job, plus the duties that I did. 20 I mean, I was in uniformed patrol for 21 three years, and I was also on the bike patrol 22 for two years, where we had a particular</p>	1218	<p>1 if -- if -- if time allowed for that and we were 2 willing to do something like that. I was kind of 3 unique because I was the only female, so I got to 4 be involved in a lot of the investigations, as I 5 said, being -- you know, for the rape and the 6 sexual assaults. 7 So I think in terms of the training 8 that I was -- received based upon what I was 9 doing on my job there was more involved than the 10 training that Postal Police Officers receive that 11 we give them to perform and fulfill their jobs. 12 ARBITRATOR OLDHAM: Thank you very 13 much. 14 THE WITNESS: Okay. 15 ARBITRATOR OLDHAM: I think that 16 concludes your testimony. 17 (Witness excused.) 18 MS. GONSALVES: I just wanted to 19 explain -- I know it doesn't -- the comparison 20 between inspector and police may not make sense 21 now, but it will once we get to the 1003(c) 22 argument.</p>

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1219	1221
<p>1 ARBITRATOR OLDHAM: All right. And 2 what's your preference now, Teresa? 3 ARBITRATOR DUFEK: It's 12:08. 4 MS. GONSALVES: 12:08. I think lunch 5 might be in order. 6 ARBITRATOR OLDHAM: All right. Let's 7 break for lunch and let's resume at one o'clock. 8 (Whereupon, at 12:08 p.m., a 9 luncheon recess was taken.) 10 11 12 13 14 15 16 17 18 19 20 21 22</p>	<p>1 comparability has always been the standard for 2 PPOs. And I want to look at the two documents 3 that have set this standard. The first is the 4 fact-finding panel, the fact-finding award that 5 was issued in 1994. At that point, the Postal 6 Police Officers wanted to be compared to 7 municipal police officers. And in that report, 8 the panel expressly found that, quote, consistent 9 with the finding of previous Postal Service 10 interest arbitration panels which embraced the 11 statutory directive of private sector 12 comparability and recognized the concept of 13 moderate restraint in wage determination, the 14 fact-finding panel finds no indication in the act 15 that the public -- that public sector 16 comparisons -- this isn't qualified -- are 17 appropriate for PPOs. 18 So there's no indication that public 19 sector comparisons are appropriate. So I believe 20 this was an exhibit to my opening statement, and 21 it's exhibit -- 22 MS. BRAMESCO: Ten.</p>
1220	1222
<p>1 AFTERNOON SESSION 2 (1:05 p.m.) 3 ARBITRATOR OLDHAM: Folks, everybody's 4 back. Let's go forward. 5 MS. GONSALVES: So I'm going to begin 6 just with an attorney presentation, which I 7 talked about a little bit earlier. The attorney 8 presentation is on Section 1003 of Title 39. And 9 then we will have Larry Katz testify about that 10 statute, among others. 11 So, as I have noted a couple times, the 12 Postal Service was quite surprised to hear this 13 argument that Postal Police Officers should be 14 considered under the standard that's set forth in 15 1003(c), and the reason, as expressed earlier, 16 was because this argument had never been made 17 before, and -- although the argument that they 18 should be compared to the public sector has been 19 made and it's consistently been rejected. This 20 new iteration is just so far off base it should 21 be rejected here as well. 22 So, as I mentioned, private sector</p>	<p>1 MS. GONSALVES: That's okay. We can 2 find it later. 3 And, secondly, in 2008, the Postal 4 Police Officers wanted to be compared to the 5 federal sector generally. This one's really 6 important, because this issue was fully and 7 fairly litigated and it was finally decided upon 8 by the panel. And it was rejected in the award, 9 and that award is behind Joint Exhibit 2. And in 10 that award, at page 9 -- so if you turn to Joint 11 Exhibit 2, which should be in the joint exhibits 12 binder, turning at the -- the very beginning of 13 that, under subsection B -- C. 14 ARBITRATOR DUFEK: What page is this? 15 MS. GONSALVES: Page 9. Turning to 16 wages and benefits -- oh, are you with -- I'll 17 wait a moment while they're -- 18 ARBITRATOR BJORK: Oh, it's okay. 19 MS. GONSALVES: It's okay? 20 ARBITRATOR BJORK: Go ahead. 21 MS. GONSALVES: Turning to wages and 22 benefits, the union presented evidence of the</p>

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1223	<p>1 salaries received by police officers who work for 2 other federal entities. Although the union 3 strenuously argued that PPOs perform duties 4 similar to other federal agency police forces but 5 are paid less than those police officers and 6 presented evidence on those points -- this is the 7 key language -- it is clear that the Postal 8 Reorganization Act requires that pay comparisons 9 be made to the private sector, not to the public 10 sector. And then it cites to Section 1003(a), 11 which is the private sector comparability 12 statute. Thus, just like a fact-finding panel in 13 1994 concluded that comparisons to the public 14 sector are not appropriate when the union 15 presented evidence concerning pay for municipal 16 officers -- municipal police officers, the same 17 conclusion is required here when the comparison 18 is attempted to be made to the federal sector. 19 It goes on to say, while this 20 requirement may present some evidentiary 21 challenges, given the nature of PPO work, the 22 panel cannot ignore its statutory mandate. As is</p>	1225	<p>1 officers employed by other federal agencies, the 2 panel responded that the Postal Reorganization 3 Act requires that pay comparisons be made to the 4 private sector. However -- so he doesn't dispute 5 that. However, the union did provide evidence 6 that PPOs are compensated below the level of 7 compensation for the Amtrak police officers. 8 And, in that respect, he dissented because he 9 thought Amtrak should have been looked at, but he 10 did not dissent to the finding of the panel 11 regarding private sector comparability. 12 Now, as to the intent behind and the 13 meaning of Section 1003(c), I'm going to leave 14 that to the testimony of Larry Katz. I will 15 mention that it's complicated, and former 16 Inspector Katz is very knowledgeable. He's going 17 to try to keep his testimony as short and sweet 18 as possible. I welcome the questions of Arlus at 19 the end of it. But it is complicated, so -- but 20 I think at the end of the day, you will 21 definitively conclude that not only was this 22 issue fully and fairly litigated and a final</p>
1224	<p>1 the case with other postal positions, the 2 evidence needed in an interest arbitration 3 proceeding must evaluate the wages and benefits 4 that are provided for similar work and/or similar 5 skill levels in the private sector of the 6 economy. 7 What I also want to focus on is the 8 last page of this award. 9 ARBITRATOR OLDHAM: This have an 10 expression? 11 MS. GONSALVES: This is basically the 12 dissenting in part -- it's on a page -- separate 13 expression, correct. 14 This is the opinion or decision that 15 was written by the partisan arbitrator, the party 16 arbitrator for the PPOA. And what I want to note 17 here is that the party arbitrator did not dissent 18 from the finding of the panel with respect to 19 private sector comparability. That's the second 20 paragraph. 21 In response to the union's comparison 22 of PPO compensation to the compensation of police</p>	1226	<p>1 decision reached, thus making the Postal Police 2 Officers union collaterally estopped from making 3 this argument again, but it also has no place -- 4 legally speaking, it's just completely off base 5 legally. So I call to the stand Larry Katz. 6 So we're having technical difficulties 7 right now. Okay. If we could just stay here -- 8 if we sit in place for a moment, the IT people 9 are going to try to unfreeze the screen. 10 (Brief recess.) 11 ARBITRATOR OLDHAM: Let's swear in the 12 witness, please. 13 WHEREUPON, 14 LAWRENCE KATZ 15 called as a witness, and having been first duly 16 sworn, was examined and testified as follows: 17 THE WITNESS: I do. 18 DIRECT EXAMINATION BY COUNSEL FOR 19 THE 20 POSTAL SERVICE 21 BY MS. GONSALVES: 22 Q Could you please state and spell your name for the record?</p>

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<p style="text-align: right;">1227</p> <p>1 A Yes. My name is Lawrence Katz. 2 Lawrence is L-A-W-R-E-N-C-E. Katz is K-A-T-Z. 3 Q And what is your current employment? 4 A I'm currently employed by the West 5 River Group as a contractor. I perform a variety 6 of legal services for the Postal Inspection 7 Service in that role. 8 Q So you were previously with the Postal 9 Inspection Service. Could you describe your 10 employment history with the Postal Service? 11 A Yes. I was with the Postal Service for 12 a total of 42 years. I started my postal career 13 in 1969 as a distribution clerk in New York City. 14 In 1974, I was appointed to the position of 15 Postal Inspector, assigned to the New York 16 Division, where I worked a variety of criminal 17 investigations. 18 In 1980, I was promoted to a 19 supervisory position, Postal Inspector team 20 leader, where I supervised a -- different teams 21 of inspectors specializing in mail theft, 22 embezzlements and a variety of financial crimes.</p>	<p style="text-align: right;">1229</p> <p>1 is comprised of the chief inspector, the deputy 2 chief inspectors and the chief counsel. And the 3 executive committee essentially decides policy, 4 operations, priorities for the Inspection 5 Service. 6 MS. GONSALVES: Just before we 7 continue, Mr. Katz's slides are in Volume 2, Tab 8 F-1. 9 BY MS. GONSALVES: 10 Q Before we go into your overview, is it 11 safe to say that you're familiar with the laws 12 that apply to the Inspection Service? 13 A I'm very familiar with the laws which 14 apply to the Inspection Service, including the 15 ones I'll discuss this afternoon from two 16 perspectives. One, during my tenure in the 17 counsel's office, I had to deal with a variety of 18 issues involving these statutes. In addition, I 19 was member of the litigation team that defended 20 the Postal Service in a collective action lawsuit 21 which started in 2004, which was -- it dealt with 22 Postal Inspector compensation and it involved the</p>
<p style="text-align: right;">1228</p> <p>1 In 1990, I lateraled -- I transferred 2 over to the Inspection Service's counsel's 3 office. I remained in New York for a -- for a 4 number of years working as an inspector attorney, 5 where I would handle a variety of -- of legal 6 issues that would come up. I also helped develop 7 and was an instructor for the Inspection 8 Service's forfeiture program. 9 In 1999, I was promoted to the position 10 of deputy counsel in the Inspection Service's 11 office of counsel here at national headquarters. 12 In that capacity, I would handle the day-to-day 13 operations of the counsel's office, managing the 14 attorneys, the paralegals and the various support 15 personnel there. 16 A year later, 2000, I was promoted to 17 the executive position of chief counsel for the 18 Inspection Service, where I had overall 19 responsibility for all legal operations, served 20 as principal legal advisor to the chief 21 inspector. In that role, I was also a member of 22 the Inspection Service executive committee, which</p>	<p style="text-align: right;">1230</p> <p>1 interpretation of 1003(c), the Postal Inspector 2 comparability statute, as well as 18 U.S.C. 3061, 3 which provides the criminal investigative 4 authority for Postal Inspectors, as well the 5 security authority for -- for Postal Police 6 Officers. 7 That case was quite complex and 8 prolonged. The complaint was filed in about 9 April of 2004, had a procedural history up and 10 down through the Ninth Circuit Court of Appeals, 11 which finally remanded it to the district court, 12 the Central District of California, and the trial 13 was held in January of 2012. The verdict was in 14 favor of the Postal Service on all grounds. The 15 plaintiffs appealed the decision in February of 16 2012. In November of 2013, the Ninth Circuit 17 Court of Appeals affirmed the decision of the 18 district court. The plaintiffs again filed for a 19 motion for a rehearing before the Ninth Circuit. 20 And I forget if it was late December or early 21 January the Ninth Circuit affirmed its decision, 22 upholding the verdict.</p>

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1231	<p>1 Q Let's go ahead and provide an overview 2 of the topics you're going to cover in your 3 presentation. 4 A Sure. This afternoon I'm going to 5 discuss the Law Enforcement Availability Pay Act, 6 or LEAPA, as it's known as, talk about a couple 7 of federal statutes, in particular 39 U.S.C. 8 1003(c), which is the Postal Inspector 9 comparability statute, 18 U.S.C. 3061, which 10 we've had some testimony on before. 11 I will also talk a little bit about the 12 Law Enforcement Officers Safety Act of 2004, the 13 acronym known as LEOSA, which is at 18 U.S.C. 14 926. It's actually 18 U.S.C. 926(b) and (c), 15 there are two different parts of it, and I also 16 briefly discuss Postal Service transformation, in 17 particular, transformation that occurred within 18 the Inspection Service. 19 Q So turning to Slide No. 4, let's talk 20 about the precursors to Section 1003(c), just to 21 set the stage and provide a little bit of 22 context.</p>	1233	<p>1 overtime, or AUO. And it was a very cumbersome 2 process. They had to get permission to work on 3 the surveillance or extend their day, and the 4 scale under which they paid -- were paid overtime 5 was a sliding scale. 6 So, in response, Congress enacted LEAPA 7 in 1994, which generally provided a flat premium 8 that federal criminal investigators would receive 9 to compensate them for the extended hours that 10 they were expected to work due to the nature of 11 their position. And what essentially that 12 provided was a 25 percent premium to a criminal 13 investigator's base pay, as long as they met 14 certain criteria. If they met the criteria -- 15 which if the panel wants to, I -- I can certainly 16 go into details about it, but in general, as long 17 as they worked an average of a ten-hour day over 18 the course of a year and they responded when they 19 were called to, they would receive this 20 25 percent premium as opposed to receiving AUO. 21 Q So I think you've already said this. 22 That LEAPA, this 1994 enactment, applied to</p>
1232	<p>1 A Okay. So we've heard testimony about 2 federal criminal investigators or OPM Series 1811 3 federal criminal investigators perform criminal 4 investigations. Postal Inspectors are also 5 considered federal criminal investigators, 6 although as a technical matter, they're not 7 Series 5 1811, because the Postal Service is 8 governed by Title 39 of the U.S. Code and the 9 Code of Federal Regulations. 10 So prior to 1994 for the other Series 11 1811 agents, FBI, Secret Service, DEA and so 12 forth, the job of a federal criminal investigator 13 oftentimes requires extended hours of work during 14 a regular workday, work on weekends, work on 15 holidays. And prior to '94, for those extended 16 hours -- for example, if you're in the middle of 17 a surveillance and it's five o'clock but 18 something is going on, you just couldn't leave 19 the surveillance. 20 So for those other agencies, the manner 21 in which they received overtime was under a 22 system called administratively uncontrollable</p>	1234	<p>1 federal criminal investigators, but not to the 2 Postal Service? 3 A That's correct. 4 Q So let's go ahead and turn to 5 exhibit -- is this an excerpt -- on Slide 5, is 6 this an excerpt from LEAPA? 7 A Yes, it is. 8 Q Okay. 9 A And -- and as noted, the purpose of 10 this section was to provide premium pay to 11 criminal investigators to ensure the availability 12 of criminal investigators for unscheduled duty in 13 excess of a 40-hour work week based on the needs 14 of the employing agency. 15 I -- I should also note that one of the 16 changes under LEAPA also was that it was the 17 actual criminal investigator who arranged his or 18 her own schedule. They were expected to stay if 19 they had to stay 15 hours in a day or, if the 20 nature of the work required extended work, work 21 on weekends. It would be the agents themselves 22 that would schedule the work as opposed to having</p>

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1235	<p>1 to get permission from a supervisor. 2 Q Before we go into 1003(c), this -- this 3 provision that you've excerpted here includes the 4 phrase "criminal investigator." 5 A Yes. 6 Q What does that mean, turning to the 7 next slide? 8 A Federal criminal investigator has a -- 9 a definition in the code, and it's also spelled 10 out in 5 U.S.C. 5545(a), which defines -- for 11 purposes of the act, to get LEAPA, you have to be 12 a qualified law enforcement officer. And for the 13 act, criminal investigator is a law enforcement 14 officer who possesses a knowledge of 15 investigative techniques, laws -- knows laws of 16 evidence, rules of criminal procedure, knows 17 about precedential court decisions regarding 18 admissibility of evidence, constitutional rights, 19 laws of search and seizure and related issues. 20 Also, the individual also has to 21 recognize, develop and present evidence which 22 reconstructs events, sequences and time elements</p>	1237	<p>1 investigators, that would be great. 2 A Okay. Under the general rubric of 3 criminal investigators, they're not only reactive 4 to situations that occur, but it's expected that 5 they will do intelligence gathering and identify 6 trends which will lead them on an investigative, 7 you know, path. Also, a lot of the cases that 8 are worked are -- are long and complex, and in 9 some cases, particularly in the case of 10 Inspection Service mail fraud cases, can take 11 years. 12 Also, criminal investigators have to be 13 able to demonstrate that they know the elements 14 of a crime, what the evidence is. They have to 15 develop the probable cause needed either to 16 obtain search warrants or -- or arrest warrants. 17 And certainly, as the F notes, the ability to 18 follow leads which indicate crimes have been 19 committed or are about to be committed. 20 Q Now, is this a complete definition? 21 A No. It -- it -- it -- it gets a bit 22 more extensive. This -- this provides a general</p>
1236	<p>1 for presentations at various legal proceedings 2 and court proceedings. They have to demonstrate 3 skills in applying surveillance techniques -- and 4 I'll just stop for a moment. 5 Inspector McDaniels, this morning, 6 talked about surveillance. And inclusive in this 7 and through the OPM regulations, when we talk 8 about surveillance, it is generally -- it 9 is covert surveillance, which can be either 10 undercover or not, also requires the use of a 11 variety of electronic techniques, video 12 surveillance, audio surveillance, electronic 13 intercepts, which are commonly referred to as -- 14 you know, as wire taps, as well as inspectors 15 going in in an undercover capacity and also 16 involves the use of confidential informants. 17 Q Okay. Mr. Katz, I don't think we need 18 to go through every -- 19 A Okay. 20 Q -- single, but if you want to highlight 21 anything or if you want to talk about any other 22 requirements that are applicable to criminal</p>	1238	<p>1 overview of -- of what a criminal investigator 2 does. 3 Q Can you talk to us about some of the 4 other requirements, like the age requirements, 5 things like that -- 6 A Sure. 7 Q -- education? 8 A Sure. For federal criminal 9 investigators across the board, there is a 10 maximum entry age to which you can be appointed 11 to the position, and that currently is 37. 12 There's also a mandatory retirement age, which is 13 currently 57. 14 Now, as a result, federal criminal 15 investigators do receive enhanced federal 16 retirement benefits. And sometimes it's referred 17 to as the 20 years at age 50, but the 18 entry-level -- the maximum entry age and the 19 mandatory retirement age ensures that the 20 20 years at age 57, so at the time you mandatorily 21 have to retire, you will have had the 20 years 22 and you do get enhanced retirement benefits.</p>

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1239	<p>1 Q Is that true with PPOs?</p> <p>2 A No, it is not. There -- there is no</p> <p>3 maximum entry age for appointment of a PPO, nor</p> <p>4 is there a mandatory retirement age.</p> <p>5 Q What about educational requirements?</p> <p>6 A For federal criminal investigators --</p> <p>7 and again, depending on the agency, the absolute</p> <p>8 minimum is a four-year degree from an accredited</p> <p>9 college or university. There are also physical</p> <p>10 requirements, not only to get into the position,</p> <p>11 which are extensive, but there's an ongoing</p> <p>12 requirement condition of employment that you</p> <p>13 maintain a certain level of -- of physical</p> <p>14 fitness.</p> <p>15 In fact, in the -- in the OPM regs that</p> <p>16 interpret these statutes, it talks about a</p> <p>17 workforce that is young and vigorous. And in</p> <p>18 effect, what federal agents, Postal Inspectors</p> <p>19 and others, periodically, depending on age -- it</p> <p>20 could be every year, every, you know, two</p> <p>21 years -- have to undergo physical examinations as</p> <p>22 part of their job to ensure that they still have</p>	1241	<p>1 extensive as that required for a foreign agent.</p> <p>2 There is no minimum or maximum age for starting</p> <p>3 or ending, and the security clearance that a PPO</p> <p>4 has to be able to acquire and maintain is a</p> <p>5 sensitive clearance, as opposed to the top secret</p> <p>6 clearance.</p> <p>7 Q I think we've already had a lot of</p> <p>8 testimony on the statute itself, but if there's</p> <p>9 anything else you want to highlight in terms of</p> <p>10 contrasting Postal Police Officers, this is your</p> <p>11 opportunity, because we're moving on now to</p> <p>12 1003(c).</p> <p>13 A For -- for Postal Inspectors, as well</p> <p>14 as other federal criminal agents, as a result</p> <p>15 of -- of LEAPA, you have to be available 24/7</p> <p>16 to -- to respond. What -- I -- I don't know</p> <p>17 exactly how all the other agencies do it, but</p> <p>18 certainly for Postal Inspectors, each Postal</p> <p>19 Inspector obviously doesn't sit in their office</p> <p>20 or sleep in their office 24/7, but they're given</p> <p>21 PDAs, you know, these days. When -- when I</p> <p>22 started, we didn't even have pagers yet. But</p>
1240	<p>1 the physical wherewithal to perform the various</p> <p>2 physical duties.</p> <p>3 Q How about clearance requirements?</p> <p>4 A Federal criminal investigators, as well</p> <p>5 as Postal Inspectors, have to obtain and be able</p> <p>6 to maintain a top secret -- at least a top secret</p> <p>7 security clearance, I think Inspector Milke</p> <p>8 testified earlier. Some agents have even higher</p> <p>9 than top secret, but failure to obtain and</p> <p>10 maintain the top secret clearance are grounds for</p> <p>11 a dismissal.</p> <p>12 Q Okay. You've already done some of</p> <p>13 this, but could you compare and contrast those</p> <p>14 requirements to what Postal Police Officers are</p> <p>15 required to have --</p> <p>16 A Okay.</p> <p>17 Q -- or to do?</p> <p>18 A Postal Police Officers do not have an</p> <p>19 education requirement for -- for appointment.</p> <p>20 They don't need a high school diploma. While</p> <p>21 there is a physical examination that they have to</p> <p>22 undergo before they're appointed, it's not as</p>	1242	<p>1 inspectors have PDAs or BlackBerries issued to</p> <p>2 them. They have to carry them at all times and</p> <p>3 be able to -- be able to respond, if not</p> <p>4 physically, at least to -- to the call that comes</p> <p>5 in, be it, you know, at the end of the day, on</p> <p>6 weekends, holidays and while they're on vacation.</p> <p>7 Q Could you contrast that with Postal</p> <p>8 Police Officers?</p> <p>9 A Postal Police Officers work an</p> <p>10 eight-hour tour, and once they leave, they are,</p> <p>11 you know, off the clock as -- you know, as is</p> <p>12 known, they are not issued, you know, PDAs or --</p> <p>13 you know, or generally called on to respond 24/7.</p> <p>14 Q Okay. Turning to Slide No. 7, let's</p> <p>15 talk about 1003(c), and I think you've already at</p> <p>16 least started to tell us why you're familiar with</p> <p>17 1000(c)(sic).</p> <p>18 Are you familiar with why Title 39</p> <p>19 U.S.C. Section 1003(c) was passed?</p> <p>20 A I am. So Postal Inspectors were not,</p> <p>21 as a legal matter, included under the Law</p> <p>22 Enforcement Availability Pay Act, since they're</p>

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1243	<p>1 not covered under Title 5. The implementation of 2 LEAPA dramatically changed the way federal agents 3 were paid. Before, they had their base salary 4 and they received -- if they did the work, extra 5 work, they received AUO pay. When LEAPA was -- 6 was enacted -- so now, besides their base pay, 7 they also got a 25 percent premium, assuming they 8 worked, you know, the hours, and they also 9 received locality pay, so a huge increase in what 10 their salary was. 11 Now, Postal Inspectors never received 12 overtime payment. In fact, prior to LEAPA, 13 Postal Inspectors actually got a slightly higher 14 base salary. They were able to reach their top 15 level a little quicker than an FBI agent, but 16 LEAPA totally changed that landscape. So in 17 response to -- 18 ARBITRATOR OLDHAM: Excuse my 19 interruption. This is the first you've mentioned 20 locality pay. Was that specifically for -- where 21 did that come from, locality pay? 22 THE WITNESS: Locality pay, was, again,</p>	1245	<p>1 levels of work in the executive branch outside of 2 the Postal Service. And it defines Postal 3 Inspectors as agents to whom investigative powers 4 are granted under 18 U.S.C. 3061. And this was 5 enacted in 1996, and it probably took a -- a year 6 or so -- what -- what happened after it was 7 enacted is a task force was put together -- since 8 this was a dramatic change to the payroll system 9 for inspectors, a task force was put together to 10 develop a pay system for Postal Inspectors, which 11 was comparable to that of the other federal 12 criminal investigators. 13 BY MS. GONSALVES: 14 Q And -- and that was the system called 15 ISLE, which I don't think we need to go into 16 detail right now, but -- 17 A That's correct. 18 Q The PPOA has taken the position -- 19 ARBITRATOR OLDHAM: I'm sorry. What 20 was the acronym? 21 MS. GONSALVES: ISLE. He can tell you 22 what it stands for. Go ahead.</p>
1244	<p>1 a creature of OPM, and there are other employees 2 other than federal agents that get locality pay. 3 Prior to LEAPA, various agencies would 4 give some type of premium to agents in high-cost 5 cities, your New Yorks, your Los Angeles and 6 your -- and your San Francisco. But OPM came out 7 with the concept of -- of locality pay. And I'm 8 not sure of the year, but in 1996, when -- 1994, 9 actually, when LEAPA was enacted, federal agents 10 now received, as Mr. Stephens mentioned 11 yesterday, three components to their pay, base 12 pay, LEAP and locality pay. 13 Now, Postal Inspectors did not receive 14 LEAP and they did not receive locality pay. So, 15 in an effort to ensure that Postal Inspectors 16 were on the same footing as their FBI and Secret 17 Service counterparts, they enacted 39 U.S.C. 18 1003(c), which provides that the compensation and 19 benefits for Postal Inspectors has to be 20 maintained on a standard of comparability. It's 21 not -- not exact, but it must be comparable to 22 the compensation and benefits paid for comparable</p>	1246	<p>1 THE WITNESS: Prior to -- prior to 2 LEAPA, Postal Inspectors were paid on a Postal 3 Service Executive Administrative Scale, the EAS 4 scale, which had grades and it had ranges. There 5 weren't steps. Federal agents are paid on the 6 general schedule, or a GS scale, I think there 7 was some testimony yesterday. Basically, there 8 are 15 grades, and in each grade, there are ten 9 steps. So the Postal Service had to do several 10 things. One, it had to create a pay scale that 11 was comparable to the GS scale, so it created the 12 ISLE, I-S-L-E, which stands for Inspection 13 Service Law Enforcement scale, which has the same 14 15 grades and ten levels going across. It's -- 15 it's an exact mirror -- mirror image to that. 16 BY MS. GONSALVES: 17 Q So -- 18 A And -- and, as part of that, the 19 Inspection Service had to develop a policy for 20 applying LEAP, the 25 percent, the -- the 21 conditions, the requirements, and also had to 22 implement, you know, locality pay. And that</p>

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1247	<p>1 process of coming up with a system took -- took 2 about a year or so to implement. 3 Q And you were involved with that? 4 A Not initially, but after it started, 5 I -- I was involved, yes. 6 Q Okay. And so would it -- is this 7 correct? Is it correct that Postal Inspectors 8 don't get LEAPA pay, but get LEAPA-like pay? 9 A They get LEAP-like pay, that's correct. 10 And, as a matter of the law, the only folks that 11 get LEAP is if you're actually covered under 12 5545(a), but for all intents and purposes, it 13 is -- it is the exact. It's comparable. 14 Q Okay. So I think you're aware that the 15 Postal Police Officers Association has taken the 16 position that that last sentence of Section 17 1003(c), that they're included in the definition 18 of Postal Inspector because the provision says 19 that a single -- they interpret that to mean that 20 the single investigative power makes it apply to 21 you; is that correct? And, if not, could you 22 please explain that using Section 3061 on the</p>	1249	<p>1 THE WITNESS: Yes, sir. 2 MS. GONSALVES: Sorry. 3 THE WITNESS: Okay. So 3061, and part 4 of it -- it's not underlined in the actual 5 statute. I think that was done here for 6 illustrative purposes. Subject to (b) in the 7 section, Postal Inspectors and other agents of 8 the United States Postal Service designated by 9 the board of governors to investigate criminal 10 matters related to the Postal Service and the 11 mails may -- so let me stop here for a moment. 12 There are only two categories of 13 employees who work for the Postal Service that 14 are granted criminal investigative authority by 15 the Postal Service's board of governors. Those 16 are United States Postal Inspectors and special 17 agents of the -- of the United States Postal 18 Service Office of Inspector General. That's it 19 for criminal investigative authorities. 20 Now, just as a historical footnote, 21 prior to the Postal Reorganization Act, which 22 you've heard some testimony about, it had been</p>
1248	<p>1 next page? 2 A I can certainly state that that 3 assertion is absolutely not correct. And if we 4 turn to the next slide -- 5 Q Now, that -- the underlying -- the 6 language of 1003(c), does that correlate to this 7 language that's on this particular Slide 8? 8 A Yes, it does. 9 Q Does it correlate to the underlying 10 language that's on Slide 8? 11 A Well, in 1003 -- 1003(c) defines Postal 12 Inspector includes any agent to whom 13 investigative powers are granted under 3061 of 14 Title 18. And we can walk through briefly 18 15 3061(a) and (b) as it applies to Postal 16 Inspectors. 17 ARBITRATOR OLDHAM: First a clarifying 18 question, please. 19 THE WITNESS: Sure. 20 ARBITRATOR OLDHAM: On PowerPoint page 21 7, is this a direct quotation of 1003(c)? 22 MS. GONSALVES: Yes.</p>	1250	<p>1 the postmaster general, because under the 2 Reorganization Act, one of the specific powers 3 granted to the Postal Service was the ability to 4 investigate offenses committed against the Postal 5 Service, and that was assigned to Postal 6 Inspectors by the PMG. 7 With the passage of the Postal Reorg 8 Act and the post office department became the 9 United States Postal Service, an independent 10 establishment of the executive branch, the board 11 of governors was created and the authority to 12 designate criminal investigative authority was 13 vested in Postal Inspectors. 14 Now, at the time that change was made, 15 there weren't agents of the United States Postal 16 Service Office of Inspector General. The -- that 17 was a separate act. The IG act was amended. 18 Also, around 1996, prior to that time, the 19 post -- the Chief Postal Inspector, I should say, 20 performed a dual role. He was the Chief Postal 21 Inspector and served as the Inspector General for 22 the Inspection Service. Accordingly, Postal</p>

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1251	<p>1 Inspectors also performed the functions that are 2 now -- have now since been assumed by the OIG. 3 Although the IG Act was passed in '96, it did 4 take a couple of years for the IG to ramp up, get 5 people, equipment and -- and so forth, so 6 inspectors still continued that type of work. 7 So one -- (1) through (5) in (a) 8 describes what those criminal investigative 9 authorities are -- serving warrants; making 10 arrests with or without warrants; carrying 11 firearms; making seizures of property as provided 12 by law; and seizures of property provided by law 13 relates to the ability of the Postal Inspectors 14 to conduct asset forfeiture investigations. 15 The Postal Service is somewhat unique. 16 It's one of the few non-Department of 17 Justice/Department of Treasury organizations -- 18 probably the only one that has the ability to 19 seize assets from -- you know, from criminals, 20 forfeit them to the Service and -- and that's 21 that. 22 (b) notes that the powers that were</p>	1253	<p>1 language, I might add, was inserted into the 2 statute. It was amended in 2006 as a result of 3 amendments made by the Postal Accountability and 4 Enhancement Act, which changed the Postal 5 Reorganization Act. So effective in 2006 -- 6 Q Wait before you go on. 7 A Yes. 8 Q We're on Slide 9. 9 A Oh, I'm sorry. 10 Q I think you're there. You're there. 11 I'm just noting for the record that we're on 12 Slide 9. 13 A Okay. 14 Q So go ahead. 15 A Okay. So beginning in 2006, the 16 authority for PPOs, which was taken in substance 17 from another part of the code which related back 18 to the Postal Reorganization Act, that language 19 was taken from Title 40 -- I think it was 40 20 U.S.C. 318 -- and it was placed into 3061(c)(1) 21 and (2). 22 Q So it's exactly the same language?</p>
1252	<p>1 granted relate to the enforcement of laws and 2 property in the custody of the Service, use of 3 the mails -- which is very important -- and other 4 postal offenses. And (2) talks about that the 5 Attorney General can authorize Postal Inspectors 6 to investigate other offenses. If there is a -- 7 they could impact the Postal Service. That's 8 been relied on on many occasions. In fact, 9 the -- the Attorney General also often requests 10 Postal Inspectors to be involved in a variety of 11 high profile investigations which may not 12 necessarily relate to the Postal Service. 13 BY MS. GONSALVES: 14 Q So, Mr. Katz, I think you've testified 15 that these two subsections, (a) and (b) of 3061, 16 applies mainly to Postal Inspectors, but also to 17 some special agents of the OIG? 18 A Those are the only two groups these 19 apply to. 20 Q So what provision of 3061 applies to 21 Postal Police? 22 A Okay. Postal Police and -- and this</p>	1254	<p>1 A Essentially the same -- substantively, 2 it's the same language. The -- the 40 U.S.C. 3 318 -- again, stepping back in time for a little 4 bit, once the Postal Service came into being, the 5 government actually transferred to the Postal 6 Service the buildings, the property and the 7 assets that had previously been part of the 8 government when it was the Post Office 9 department. 10 So with GSA -- General Services 11 Administration had the responsibility for 12 protecting the building and -- and the property. 13 So when the Postal Service came into being, the 14 authority to hire -- under 40 318, it was -- I 15 forget if it was guards or special police -- I 16 forget the exact language -- that authority was 17 transferred to the Postal Service. In fact, on a 18 yearly basis prior to 2006, there would be an 19 appropriation passed under the, you know, 20 Treasury Act which authorized the Service year by 21 year to employ what are now Postal Police 22 Officers to conduct that building security,</p>

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1255	<p>1 protect employees and protect property. 2 In 2006, that 40 318 section went away, 3 and under the Reorg Act, that language was 4 transferred to 3061(c)(1) and (2), which 5 basically says that Postal Service may employ 6 police officers for duty in connection with 7 protection of property owned or occupied by the 8 Service under its control and persons on that 9 property. 10 And then (2) talks about with respect 11 to that property -- which is a reference to the 12 property owned or operated by the Postal 13 Service -- these offices have the -- the power to 14 enforce federal laws and regulations for 15 protection of persons and property -- essentially 16 the workplace rules of the Postal Service. They 17 can carry firearms and authority to make arrests 18 without a warrant for certain offenses. 19 Q The first question is: Must the Postal 20 Service have police officers? 21 A They are not required to. It's 22 permissive, and since 1970, 1971, in some</p>	1257
1256	<p>1 iteration or other, we've had Postal Police 2 Officers. 3 Q So I take it that if it chooses to have 4 police officers, then it must empower them to do 5 what's listed under (c)(2)? 6 A That's correct. 7 Q Okay. What about (c)(3) on the next 8 slide, Slide 10? 9 A Okay. This language was not in 40 318, 10 but was added along with that amendment to the 11 Postal Accountability and Enhancement Act. It's 12 a permissive section, and with respect to the 13 property which was referred to earlier, the 14 officers may have, to the extent that the Postal 15 Service prescribes regulations, additional 16 powers, specifically to serve warrants and 17 subpoenas or conduct -- and conduct 18 investigations both on and off the property. 19 I believe you've heard testimony that 20 Postal Police authority is limited to property 21 owned or operated by the Service. It's limited. 22 So if the Service chose to -- and they're not</p>	1258
1257	<p>1 required to -- they could expand the PPOs' 2 authority and give them some additional limited 3 authority to conduct investigations, which would 4 relate to offenses against postal property or 5 persons on that property. 6 Q Okay. We need to advance the slide. 7 A Oh, sorry. 8 Q But let me ask you this: Has the 9 Postal Service exercised that authority? 10 A It has not. 11 Q Okay. Can we talk about what 12 happened -- were you on the executive committee 13 at the time that this amendment was made or -- 14 A I was. 15 Q Okay. What did -- what did you do? 16 A So when we learned that this additional 17 part was put in, the executive committee met and 18 the predecessors to -- to Inspectors Milke and 19 Bowers -- who, you know, are the experts in the 20 area -- went around and, you know, determined -- 21 you know, did a review to determine the benefits 22 should the Service avail itself of prescribing</p>	1258
1258	<p>1 additional powers, you know, to PPOs. 2 The recommendation which was made at 3 that time was that, no, it was not needed. We 4 still needed the security force to perform the 5 primary function for which they were hired, the 6 protection of property, employees and assets, and 7 that the inspectors were well equipped to 8 continue performing the criminal investigations. 9 And several times after 2006, it would 10 be, you know, reviewed periodically, and the 11 decision, as far as I know -- and I've -- I 12 should have mentioned before I retired in March 13 of -- of 2011, but my understanding is that 14 decision has remained the same. 15 Q So just to kind of get into a little 16 more detail here, has the Postal Service 17 promulgated regulations empowering PPOs to serve 18 warrants and subpoenas? 19 A It has not. 20 Q How about regulations empowering PPOs 21 to conduct investigations as set forth in (B)? 22 A It has not.</p>	1259

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1259	<p>1 Q So let's talk a little bit about the</p> <p>2 regulations the Postal Service has</p> <p>3 promulgating -- promulgated regarding the duties</p> <p>4 of PPOs. If you turn to the next slide, which is</p> <p>5 Slide No. 11.</p> <p>6 A So --</p> <p>7 Q I know this isn't a full -- the font</p> <p>8 got a little too small when we --</p> <p>9 A Okay. So this is not the full slide,</p> <p>10 but I believe there was testimony earlier today</p> <p>11 about Poster 7, which is based on 39 CFR 232.1,</p> <p>12 which, in a sense, basically describes the</p> <p>13 workplace rules for the Service and permitted</p> <p>14 conduct on Postal Service property, specifically</p> <p>15 the prohibitions: cannot carry weapons; cannot</p> <p>16 solicit; cannot distribute leaflets; cannot</p> <p>17 possess explosives; cannot possess alcohol,</p> <p>18 narcotics and -- and so forth.</p> <p>19 (q) of 232.1 notes that it is members</p> <p>20 of the Postal Service security force who exercise</p> <p>21 the authority that they have granted by</p> <p>22 3061(c)(2) for enforcing those -- those</p>	1261	<p>1 involves ensuring the safety and integrity of the</p> <p>2 United States mail.</p> <p>3 So I think it was Inspector Bowers</p> <p>4 mentioned that Postal Inspectors are responsible</p> <p>5 for the enforcement of some 200 federal statutes.</p> <p>6 And, certainly, I couldn't -- I don't think I can</p> <p>7 get to a quarter of them, but they do involve --</p> <p>8 they involve mail theft. They involve</p> <p>9 pornography. They involve bank fraud. They</p> <p>10 involve money laundering. Postal Inspectors are</p> <p>11 also authorized to investigate narcotics offenses</p> <p>12 which are under Title 21, but, by agreement with</p> <p>13 the Drug Enforcement Administration, if the mail</p> <p>14 is used, Postal Inspectors can investigate, you</p> <p>15 know, those as well. So it's -- it's a much</p> <p>16 broader nature.</p> <p>17 Q So let's just --</p> <p>18 ARBITRATOR OLDHAM: May I stop you for</p> <p>19 a moment?</p> <p>20 MS. GONSALVES: Yes.</p> <p>21 ARBITRATOR OLDHAM: Just looking at</p> <p>22 this excerpt or this section, am I right that --</p>
1260	<p>1 regulations.</p> <p>2 Q Is this the only regulation that</p> <p>3 applies to PPOs specifically?</p> <p>4 A There are -- there are a variety of --</p> <p>5 of regulations, not -- not all, you know, printed</p> <p>6 here. I mean, when you go through 232.1, it's a</p> <p>7 pretty --</p> <p>8 Q That's what I'm talking about, 232.</p> <p>9 I'm calling that a single --</p> <p>10 A Okay. Yes.</p> <p>11 Q Is 232.1 the only set of regulations</p> <p>12 that apply to Postal Police Officers?</p> <p>13 A Those are basically it, yes.</p> <p>14 Q What regulations apply to inspectors?</p> <p>15 A Postal Inspectors -- and I believe this</p> <p>16 was referred to earlier today -- Postal</p> <p>17 Inspectors certainly can enforce building</p> <p>18 regulations and property regulations as well, but</p> <p>19 Postal Inspectors are responsible for a much</p> <p>20 broader range. It's not just -- as part of the</p> <p>21 Postal -- the Inspection Service's mission. It</p> <p>22 goes beyond just a security mission, but it also</p>	1262	<p>1 when the -- when the rule refers to U.S. Postal</p> <p>2 Service's security force, is that synonymous with</p> <p>3 PPOs?</p> <p>4 THE WITNESS: I would refer back to</p> <p>5 the -- you know, I think it does refer to the --</p> <p>6 you know, it was meant to refer to the uniformed</p> <p>7 security force as -- I don't know if it was</p> <p>8 Inspector Milke or Inspector Bowers talked about</p> <p>9 the big S-F and the small S-F --</p> <p>10 ARBITRATOR OLDHAM: I'm just asking</p> <p>11 about terminology here. A moment ago, counsel</p> <p>12 asked you a question of whether this was the</p> <p>13 section that applies explicitly to PPOs, and your</p> <p>14 answer was yes.</p> <p>15 THE WITNESS: Yes.</p> <p>16 ARBITRATOR OLDHAM: And I'm looking for</p> <p>17 where it says that.</p> <p>18 MS. GONSALVES: Well, to tell you the</p> <p>19 truth, I don't know if, in this case, security</p> <p>20 force refers to the collective contract security</p> <p>21 plus PPOs, but it definitely applies to PPOs.</p> <p>22 THE WITNESS: Yeah. My -- my</p>

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1263	<p>1 understanding and interpretation has been this 2 does apply to the Postal Police force. But, 3 again, there are parts of -- there are other 4 parts of the -- of 39 CFR which also have -- 5 Postal Inspectors are able to enforce these as 6 well. 7 ARBITRATOR OLDHAM: Okay. I'm just 8 looking at language, and I gather that the 9 security force, whatever it does encompass, which 10 includes PPOs, doesn't include Postal Inspectors 11 because we have subpart three, which is a special 12 provision for Postal Inspectors. 13 THE WITNESS: Right. 14 ARBITRATOR OLDHAM: Which wouldn't, I 15 suppose, be needed if -- 16 MS. GONSALVES: Right. 17 ARBITRATOR OLDHAM: -- Postal 18 Inspectors are automatically part of the security 19 force. Am I reading that correctly? 20 THE WITNESS: I think so, and that's 21 why three was put in that Postal Inspectors and 22 OIG agents can also enforce these. But</p>	1265	<p>1 Q And how do you know that? 2 A If you look at the entire 1003 statute, 3 everyone falls under (a) unless you are exempted. 4 And two notable exemptions are Postal 5 Inspectors -- and what we don't have a slide for 6 is 1003(b). It's kind of like the Postal 7 Inspector comparability provision, but it applies 8 to special agents of the USPS OIG, that their 9 benefits and compensation are comparable to other 10 OIG special agents. 11 The other couple of exemptions refer to 12 some of the officers of the Postal Service, and I 13 couldn't give you the all-inclusive list, but the 14 postmaster general and some of the, you know, 15 vice presidents. But Postal Police clearly fall 16 under -- under (a). 17 Q And you said that you know that from 18 the language of the statute. Is there anything 19 else that would inform your knowledge that 20 1003(a) -- aside from the arbitration decisions I 21 already mentioned, is there anything else that 22 would inform your decision?</p>
1264	<p>1 specifically, (q) was put in the illustrate that, 2 you know, the security force, Postal Police, do 3 enforce these on building regulations. 4 MS. GONSALVES: We can find out the 5 answer of what security force was intended to 6 mean in this context. I just don't know the 7 legislative history. 8 ARBITRATOR OLDHAM: I don't need us to 9 find out things that we don't need to know, but 10 if it's relevant, let's answer it. 11 BY MS. GONSALVES: 12 Q So I just want to review your testimony 13 on 1003(c). So does it apply to PPOs? 14 A 1003(c) applies solely to Postal 15 Inspectors. 16 Q And is there any reasonable room for 17 doubt? 18 A No. 19 Q All right. What does apply to PPOs, 20 turning to the next slide, Slide No. 12? 21 A So for comparability purposes under 39 22 1003(a), PPOs fall within the ambit of 1003(a).</p>	1266	<p>1 A Well, I believe at the prior -- the 2 most recent collective bargaining decision, the 3 arbitrator in that case also found that it is (a) 4 that applies in the private sector comparison, 5 not the public sector. 6 Q Well, on the next page is a case that 7 you brought to my attention. Could you just 8 describe this decision? I guess it doesn't 9 directly relate, but let's go ahead and go to 10 Slide 13. 11 Are you familiar with this decision? 12 A I am. So the excerpt here is -- is 13 taken from the decision of the United States 14 District Court for the Southern District of New 15 York back in 1997. The court found PPOs function 16 as security guards for the Postal Service and 17 supplement the efforts of Postal Inspectors, who 18 are the primary law enforcement agents of the 19 Postal Service. Although PPOs carry weapons in 20 carrying out their job duties, the Postal Service 21 contends that PPOs are not authorized to engage 22 in any investigative efforts beyond preliminary</p>

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1267	<p>1 fact-finding and that they generally are not 2 authorized to effect arrests. Their role is 3 essentially one of crime prevention rather than 4 law enforcement. 5 This section was taken from a decision 6 wherein post -- the predecessor -- one of the 7 predecessor unions to the Postal Police 8 challenged the ability of the Inspection Service 9 to tell them how to do their job, when to make 10 arrests or not make arrests, as well as some 11 other items. The government moved for summary 12 judgment, which -- which was granted. 13 ARBITRATOR OLDHAM: So -- I'm sorry to 14 play law professor here -- 15 THE WITNESS: Sure. 16 ARBITRATOR OLDHAM: -- but looking at 17 this language, I'm not sure what to make of it. 18 And I know it's confirmatory and not central to 19 the position that's being put forward, but once 20 one comes halfway through it, where we say the 21 Postal Service contends, the rest of that 22 paragraph is not relevant to me because that's a</p>	1269	<p>1 necessary. 2 THE WITNESS: Okay. We'll move on. 3 BY MS. GONSALVES: 4 Q Okay. Let's turn to the next point in 5 your presentation, which is LEOSA. There's a 6 word missing from the top of this. 7 A Yes, there is. 8 Q Which would be Law Enforcement Officers 9 Safety Act. And I don't think we need to spend a 10 lot of time here, but you're familiar with the 11 Fishgold decision -- 12 A I am. 13 Q -- which is Joint Exhibit 2. And 14 you're aware of the language that he included 15 regarding LEOSA -- the panel included in the 16 decision regarding LEOSA, correct? That's on 17 page 7. So if you turn to Joint Exhibit 2 -- 18 there should be a binder that says Joint Exhibit 19 2. 20 A Okay. I'm sorry. 21 MS. GONSALVES: And I don't know if you 22 really need to turn there. He's just going to</p>
1268	<p>1 contention and not judicial -- not a judicial 2 voice. 3 I don't know how much weight to give 4 the prior language, and I simply make those 5 observations. 6 THE WITNESS: And I could represent 7 that the -- that was a contention made by the -- 8 made by the Service and the -- the judge did 9 grant summary judgment in -- in favor of the -- 10 you know, of the government, and this was part of 11 the court's ruling. 12 ARBITRATOR OLDHAM: Yes, and I don't -- 13 I mean, I'm not arguing that I go there, but I 14 don't know the circumstances and situation in the 15 case. I don't know whether this is a holding or 16 dictum -- 17 THE WITNESS: If it would help, I could 18 give you the two-minute summary of what the case 19 was about. 20 ARBITRATOR OLDHAM: Only if I need to 21 know. 22 MS. GONSALVES: I don't think it's</p>	1270	<p>1 basically summarize what the panel found. 2 ARBITRATOR OLDHAM: Good. 3 BY MS. GONSALVES: 4 Q Just summarize. I don't want you to 5 really read. I just want you to -- 6 A All right. What page are you on? I'm 7 sorry. 8 Q Page 7, first real paragraph. Just use 9 this as a way to explain what LEOSA is. 10 A Okay. So -- so very briefly, LEOSA, 11 which was enacted in 2004, granted the right of 12 certain qualified law enforcement officers to 13 possess a firearm, to carry a concealed firearm 14 if they met certain conditions, either active or 15 retired, notwithstanding any local requirements 16 to obtain a license or a carry permit. 17 What it did not do was it did not grant 18 any authority to those individuals. They did not 19 get any benefits, any law enforcement authority. 20 It just exempted them if they met the 21 qualifications from having to go through a permit 22 or a license process.</p>

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1271	<p>1 And in -- during the prior</p> <p>2 negotiations, it was the union's position that</p> <p>3 LEOSA authorized and actually required the Postal</p> <p>4 Service to respect their right to bring weapons</p> <p>5 onto Postal Service property. One of the things</p> <p>6 in LEOSA, besides granting the right to carry,</p> <p>7 made it clear that LEOSA did not usurp any</p> <p>8 governmental, local or regulatory authority to</p> <p>9 set down restrictions on the carriage of</p> <p>10 firearms. So, for example, in Maryland, if</p> <p>11 Maryland law says you cannot carry a weapon into</p> <p>12 a school, into FedEx Field, into a library or</p> <p>13 into a park, the fact that you're allowed to</p> <p>14 possess a weapon without a license under LEOSA</p> <p>15 still does not permit you to carry that weapon</p> <p>16 onto one of those restricted properties. You</p> <p>17 cannot under LEOSA carry your weapon with you in</p> <p>18 the cabin of an aircraft or in the sterile area</p> <p>19 of an aircraft and so forth.</p> <p>20 So the panel found that there was no</p> <p>21 grounds, that there was no private right that,</p> <p>22 you know, PPOs or anybody had for that reason, by</p>	1273	<p>1 Q That was my next question. Does the</p> <p>2 Postal Service require PPOs to be armed outside</p> <p>3 their tour of duty?</p> <p>4 A It does not.</p> <p>5 Q Are PPOs required to have their</p> <p>6 credentials on them at all times when they leave</p> <p>7 the house?</p> <p>8 A No, they are not. They are required to</p> <p>9 have their credentials for entering into a postal</p> <p>10 facility for when they do their job. The</p> <p>11 Inspection Service does not require them to carry</p> <p>12 their credentials at any time. I should note,</p> <p>13 just to have this all make sense, that part of</p> <p>14 LEOSA requires that -- besides meeting the</p> <p>15 various criteria for years of service and so</p> <p>16 forth requires that an individual also possess a</p> <p>17 photograph identification that's issued by the</p> <p>18 agency.</p> <p>19 Now, prior to LEOSA, Postal Police were</p> <p>20 not authorized to use their credentials for any</p> <p>21 reason other than getting into a building. But</p> <p>22 after LEOSA was passed, that policy was changed</p>
1272	<p>1 virtue of LEOSA, to be able to bring a weapon</p> <p>2 into the workplace. Those Postal Service rules</p> <p>3 and regulations do not permit carriage of weapons</p> <p>4 other than for an official purpose, and there is</p> <p>5 no official purpose under LEOSA.</p> <p>6 Q All right. I just want to make sure a</p> <p>7 couple points are clear.</p> <p>8 A Sure.</p> <p>9 Q Did LEOSA confer law enforcement</p> <p>10 authority on anyone?</p> <p>11 A Absolutely not.</p> <p>12 Q Does LEOSA apply to the Postal Police</p> <p>13 Officers' official weapon?</p> <p>14 A It does not. Postal Police Officers</p> <p>15 are only authorized by the Service to carry a</p> <p>16 weapon while they're on duty, which the Service</p> <p>17 issues. They check out the weapon at the</p> <p>18 beginning of their tour, and at the end of the</p> <p>19 tour, they check it back in. They are not</p> <p>20 required to or authorized by the Postal Service</p> <p>21 to possess a firearm outside of their tour of</p> <p>22 duty.</p>	1274	<p>1 to enable Postal Police to take advantage of the</p> <p>2 benefits of being able to carry a weapon outside</p> <p>3 of work. However, in the FAQs and the</p> <p>4 instruction that was given, you know, at the</p> <p>5 time, they were told, the Service is allowing</p> <p>6 active PPOs to use their credentials for carrying</p> <p>7 a weapon, they could not use it to purchase a</p> <p>8 weapon, and that any actions they took using</p> <p>9 their LEOSA-authorized weapon would be on their</p> <p>10 own. They'd be treated the same as any private</p> <p>11 citizens. Neither the Service would back them</p> <p>12 nor would the Department of Justice, since it was</p> <p>13 strictly a private matter.</p> <p>14 ARBITRATOR OLDHAM: So if I understand</p> <p>15 you, you previously said LEOSA did not confer</p> <p>16 authority on anyone to carry a weapon outside of</p> <p>17 duty hours, and now you're telling me that it</p> <p>18 permitted them to do so, provided that it was in</p> <p>19 conformance with local authority?</p> <p>20 THE WITNESS: Let me -- maybe I --</p> <p>21 maybe I misspoke. LEOSA does not confer any law</p> <p>22 enforcement authority. It just negates the need</p>

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1275	<p>1 to obtain a permit or a license. PPOs only carry 2 a weapon issued by the Service during their tour 3 of duty. They are not required to be armed at 4 any other time. If they choose to, they may -- 5 if they otherwise qualify under LEOSA, they can 6 carry a weapon, a personal weapon outside of 7 duty. They cannot bring it on to Postal Service 8 property. They cannot use it for any official 9 purpose. It would be the same as any citizen 10 obtaining a -- a carry or a license permit. 11 ARBITRATOR OLDHAM: Yes. The only 12 thing I'm confused about is why we care about 13 what LEOSA said about what they could optionally 14 do according to state or local law, because 15 wouldn't each citizen have that right? 16 MS. GONSALVES: I mean, that's our 17 question, too. I mean, that's -- we're just 18 covering this because it was brought up 19 previously. And he happened to know a lot about 20 LEOSA, so we just wanted to explain that it 21 doesn't matter. 22 ARBITRATOR OLDHAM: Yeah. I mean --</p>	1277	<p>1 criminal investigators in general. It defines 2 law enforcement officer one way. 3 Under LEOSA, it also uses the term "law 4 enforcement officer," but for purposes of that 5 act, it can include prison guards, security 6 guards, police, criminal investigators. It's a 7 much, much broader term. 8 BY MS. GONSALVES: 9 Q It also includes retirees, right? 10 A Yes, it does. 11 Q You are included? 12 A Yes, I am. 13 Q All right. And the next point as 14 well -- this is also kind of a responsive point, 15 but let's not spend a lot of time on it, then, 16 shall we? 17 A We shall not. 18 Q The first question is on Slide 15. Was 19 postal transformation a response to 9/11 or the 20 anthrax crisis? 21 A No. Transformation involved -- I 22 should say not only Postal Police, but it</p>
1276	<p>1 ARBITRATOR DUFEK: I'm a little 2 confused, too. 3 MR. STEPHENS: I'll be asking some 4 cross, if that would be -- 5 ARBITRATOR DUFEK: Well, I think what 6 you're saying -- what I'm hearing you say is that 7 if a Postal Police Officer chooses to carry a 8 weapon, his personal weapon, off duty across 9 state lines and -- and/or uses or engages with 10 that weapon, he would be treated as a private 11 citizen? 12 THE WITNESS: That is totally correct, 13 accurate, yes. I believe, if I may -- and I was 14 not here for -- for opening statements, but I did 15 read the opening statements, and I believe it was 16 referenced or a tie-in to being a qualified law 17 enforcement officer and LEOSA. But it should say 18 under the definition of LEOSA, a qualified law 19 enforcement officer is a broad encompassing term, 20 unlike law enforcement officer for purposes of 21 federal retirement -- enhanced retirement 22 benefits for criminal investigators or the -- for</p>	1278	<p>1 involved the entire Postal Service, all of its 2 organizations, including the Inspection Service. 3 The chief inspector was directed -- this goes 4 back to the early 2000s -- to reduce -- reduce 5 its personnel, and the Inspection Service is 6 comprised -- I think we heard testimony of three 7 groups of employees, Postal Inspectors, PPOs and 8 PTAs, professional technical and administrative 9 support personnel, which include secretaries, 10 intelligence analysts, general analysts, 11 laboratory personnel and so forth. 12 So what the Service had to do, what the 13 chief had to do, was come up with a plan to 14 reduce the number of personnel. No one lost 15 their job or was fired, but the actual authorized 16 complement of personnel that the service, the 17 Inspection Service was allowed to have was 18 dramatically cut. So what had to happen was 19 those cuts had to be allocated amongst the three 20 groups, which, you know, in large part, ended up 21 resulting in the number of PPOs that are 22 currently employed. And number of inspectors are</p>

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1279	<p>1 dramatically different than they were 10 or 15 2 years ago. 3 Q So it was a postal-wide transformation? 4 A It was applied postal-wide. 5 Q Okay. I just want to move on to one 6 last topic that is not directly referenced in 7 your slides, and that has to deal with the name 8 of the Postal Police Officers. I'd like you to 9 talk about the name changes that you're aware of, 10 and I want to reference you so you don't have to 11 do this as a memory game -- there are three -- 12 three exhibits. Volume 1, A-5 is the first. 13 I've talked about these in my opening 14 statement, but I know the opening statement's not 15 evidence, so -- so if you -- if you want to 16 just -- once everybody's there, if you want to 17 just start talking, I can tell people where to 18 find the document, to the extent there is one. 19 A Okay. So this -- this exhibit is a 20 memorandum of understanding which was entered 21 into between the chief postal inspector and the 22 president of the Federation of Postal Security</p>	1281	<p>1 A I'm not exactly sure. I think the 2 first iteration in 1971 might have been a little 3 bit different, but I know when I came on board 4 in -- as an inspector in 1974, PPOs were known as 5 SPOs. 6 Q Okay. So the next change that you're 7 aware of would be the 1994 change? 8 A Yes. 9 Q Okay. And that's behind Joint Exhibit 10 1. It's just the -- the current, but now 11 expired, collective bargaining agreement between 12 the Postal Police and the Postal Service. And if 13 you take a look at page 96 -- and just hold on 14 until everybody's there. 15 A Yes. 16 ARBITRATOR DUFEK: This is ridiculous. 17 MS. GONSALVES: Well, you won't have 18 that problem again. 19 ARBITRATOR DUFEK: It's Friday 20 afternoon. 21 ARBITRATOR OLDHAM: You've got a point. 22 All right. I have --</p>
1280	<p>1 Police, which is one of the predecessor 2 collective bargaining units to the -- to the 3 current one. 4 During one of the collective bargaining 5 sessions, there was a -- there was an agreement 6 to change the title prior -- prior to this MOU, 7 security force, the officers were known as 8 Security Police Officers or SPOs. So in '81, 9 that name was changed from SPO, Security Police 10 Officer, to Postal Police Officer or -- or PPO, 11 and the -- the MOU which was agreed upon pointed 12 out that it did not confer any additional 13 standing, responsibilities or -- or other 14 authority changes. It was a name change that was 15 agreed upon. 16 Q And you see that language at the bottom 17 of the MOU, "it is understood"? 18 A Yes. 19 Q Okay. Do you happen to know -- I mean, 20 so as of 1981, the language -- the title was 21 Security Police Officer. Do you happen to know 22 how long they had that title for?</p>	1282	<p>1 BY MS. GONSALVES: 2 Q So we're on page 96. 3 A Yes. 4 Q Are you aware that this was signed in 5 1994? 6 A Yes, I am. 7 Q Okay. What did this one do? 8 A This one changed the various, you know, 9 decals and signage, if you -- if you will, on 10 officers -- offices and the police vehicles, the 11 Postal Police cruiser vehicles, to make sure they 12 read Postal Police as opposed to Security Force. 13 And again, it was a -- a change to reflect the 14 agreement that the officers are now called PPOs. 15 The signage and the decals should reflect that as 16 well. 17 Q And did it extend -- expand their 18 duties at all? 19 A It did not. 20 Q Are you aware of any other changes? 21 A There was one other change, and I 22 believe it was either in -- I -- I believe it was</p>

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1283	<p>1 during the last collective bargaining round of</p> <p>2 negotiations. It might have been the one before,</p> <p>3 but although the language on the vehicles was</p> <p>4 changed, the decals were changed to read Postal</p> <p>5 Police. The emblem that was affixed to the</p> <p>6 vehicles was the standard Postal Service seal.</p> <p>7 As a part of collective bargaining negotiations,</p> <p>8 it was agreed that the Postal Service seal would</p> <p>9 be replaced with the Inspection Service seal, and</p> <p>10 that was facilitated after that agreement.</p> <p>11 Q And why were these changes made?</p> <p>12 A It was agreed upon during collective</p> <p>13 bargaining. It was, you know, one of the</p> <p>14 demands, if that's the right word, made by the</p> <p>15 union, and the Postal Service agreed to make the</p> <p>16 change.</p> <p>17 Q So just to summarize this, did the</p> <p>18 designation of Postal Police Officer change the</p> <p>19 nature of the duties of the postal -- Postal</p> <p>20 Police Officers?</p> <p>21 A It did not.</p> <p>22 Q Okay. Could you please summarize?</p>	1285
1284	<p>1 A Yes. I believe I've testified that the</p> <p>2 correct application for comparison purposes for</p> <p>3 PPOs is properly found at 1003(a), not 1003(c),</p> <p>4 which strictly applies to Postal Inspectors --</p> <p>5 Q Mr. Katz, could you just move the</p> <p>6 slide, please?</p> <p>7 A Oh, I'm sorry. I keep forgetting.</p> <p>8 I briefly mentioned -- I hope it was</p> <p>9 brief enough -- the Law Enforcement Safety Act</p> <p>10 and what it allows certain qualified law</p> <p>11 enforcement officers to do, to carry a weapon</p> <p>12 without regard to local regulations, and that the</p> <p>13 transformation of the Postal Police force in the</p> <p>14 reduction of its numbers was largely due to</p> <p>15 nationwide transformation involving all of the</p> <p>16 organizations of the Postal Service and a mandate</p> <p>17 to cut down on on-board personnel.</p> <p>18 MS. GONSALVES: No further questions.</p> <p>19 MR. STEPHENS: Can we take a break? I</p> <p>20 need to --</p> <p>21 MS. GONSALVES: A comfort break.</p> <p>22 ARBITRATOR OLDHAM: Yes, let's take ten</p>	1286
	<p>1 minutes, please.</p> <p>2 MR. STEPHENS: Could we take a half</p> <p>3 hour? Would that be okay?</p> <p>4 ARBITRATOR OLDHAM: The request is that</p> <p>5 we come back at 2:30. That's all right.</p> <p>6 (Brief recess.)</p> <p>7 CROSS-EXAMINATION BY COUNSEL FOR</p> <p>8 THE</p> <p>9 UNION</p> <p>10 BY MR. STEPHENS:</p> <p>11 Q Good afternoon.</p> <p>12 A Good afternoon.</p> <p>13 Q Let's talk for a moment about</p> <p>14 compensation. I believe you said that prior</p> <p>15 to -- prior to 39 U.S.C. 1003 being amended,</p> <p>16 Postal Inspectors and -- well, basically, all</p> <p>17 employees of the Post Office were subject to the</p> <p>18 private comparability; is that correct?</p> <p>19 A I don't believe I said that.</p> <p>20 Q Is that correct?</p> <p>21 A Can you repeat that? Were all --</p> <p>22 Q All --</p> <p>23 A I --</p>	

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1287	<p>1 Q Prior to the amendment to 1003(c), 2 there was a move to increase the pay of Postal 3 Inspectors, correct? 4 A I don't know that there was a move. 5 Certainly with the other federal agents getting, 6 you know, the benefits of LEAPA, you know, as 7 well, I'm sure inspectors wanted to, you know, 8 receive that type of benefit. 9 Q LEAPA -- and locality pay, correct? 10 A That's what -- that's what inspectors 11 ended up getting because of 1003(c). 12 Q Because prior to that, they were 13 treated under 1003(a), correct? 14 A I don't know if they were actually 15 covered under (a) or they fit into one of the 16 exceptions. I -- I really did not become 17 involved in the pay aspects until after LEAPA was 18 enacted, so I really couldn't tell you. 19 Q And there were task force -- task 20 forces created with -- inside the Inspection 21 Service to come up with ways to increase the pay 22 for Postal Inspectors because the thought was</p>	1289	<p>1 with the 1003(c) and an arbitration award. 2 Postal Inspectors are not covered under 3 collective bargaining agreements, so I'm missing 4 the connection. 5 Q There was a representation made that 6 the Postal Police should be covered by 1003(a), 7 correct? That's -- that's the contention of 8 management here, right? 9 A I believe that's the -- yes, and that 10 was as was stated in the prior arbitration award 11 from four years ago, that they are covered under 12 1003(a). 13 Q Right. And that arbitration award 14 referenced a 1994 award, correct? 15 A I'd have to look through the entire 16 award again. I was not involved in '94, but I 17 could certainly look through it. 18 Q You testified, though, about the 2008 19 award, correct? 20 A Yes. I was more familiar with the 2008 21 award. I participated in part. 22 Q You testified on a slide, if I'm not</p>
1288	<p>1 that they were not being paid enough; is that 2 right? 3 MS. GONSALVES: Objection. What's the 4 time frame you're talking about? 5 MR. STEPHENS: Prior to the amendment 6 to 1003(c). 7 THE WITNESS: I don't know. I know of 8 the task force that was put together after 9 1003(c). I would not have been involved in -- 10 ARBITRATOR OLDHAM: And just -- just to 11 keep the timing straight, when was the (c) 12 amendment? 13 THE WITNESS: 1996. 14 ARBITRATOR OLDHAM: Thank you. 15 BY MR. STEPHENS: 16 Q So as of 1994, 1003(c) didn't even 17 exist, correct? 18 A That is correct. 19 Q So an arbitration award from 1994 that 20 talked -- that didn't mention 1003(c) actually 21 wouldn't be very remarkable, correct? 22 A I -- I'm not sure where you're going</p>	1290	<p>1 mistaken, Slide 12. 2 A I believe my testimony on Slide 12 was 3 that 1003(a) applies to Postal Police Officers as 4 opposes to 1003(c). 5 ARBITRATOR DUFEK: It's F-1. 6 ARBITRATOR OLDHAM: Thanks. 7 BY MR. STEPHENS: 8 Q And if I remember right, though, you 9 based that -- you relied on a 2008 arbitration 10 decision to support that proposition, correct? 11 A I don't know if I specifically -- yeah, 12 I -- I did -- I'm sorry. I did say that in 2008, 13 the panel affirmed the comparability for Postal 14 Police was 1003(a). I believe that was my 15 testimony. 16 Q And it -- it's fair to say, though, 17 there actually was no legal argument made in that 18 proceeding at all concerning 1003(c)? 19 A I -- 20 MS. GONSALVES: Objection. The record 21 will speak for itself on that. If you want to 22 submit the transcripts, we can do that.</p>

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1291	<p>1 MR. STEPHENS: I'm saying there's no 2 mention in the award about any discussion -- 3 MS. GONSALVES: Oh, I see what you're 4 saying. 5 MR. STEPHENS: -- of 1003(c). 6 MS. GONSALVES: I stand corrected. I 7 don't know if there was or not. 8 I don't know if you know. 9 THE WITNESS: I have not seen the award 10 in years, so I could not tell you personally what 11 it says or doesn't say. 12 BY MR. STEPHENS: 13 Q In terms of -- are you aware of 14 anything anywhere in any of the briefs where an 15 argument was made that 1003(c) actually provided 16 the proper measure of comparability? 17 A Other than this proceeding, I am not -- 18 I have no personal knowledge of 1003 being 19 mentioned anywhere. 20 Q Okay. So you're not aware that it's 21 ever been litigated before, correct? 22 A I am not aware.</p>	1293	<p>1 Q Well -- 2 A -- by 1003(c). 3 Q -- let's go to Slide 7. 4 A Just one moment. 5 Q And if we can go -- if you could read 6 out loud the second sentence. 7 A Second sentence. As used in this 8 subsection, the term Postal Inspector, in quotes, 9 included any agent to whom any investigative 10 powers are granted under Section 3061 of Title 11 18. 12 Q So the definition section for 1003(c) 13 did not incorporate the definition of -- any 14 other definition anywhere in federal law; is that 15 correct? 16 A I don't -- I don't know about any 17 federal law, but for purposes -- 1003 referred 18 back to 18 3061, and I think I may have mentioned 19 earlier that Title 5 provisions as a general 20 rule, although there are exceptions, do not apply 21 to Postal Inspectors. 22 Q I'm sorry. And I asked the question</p>
1292	<p>1 Q Okay. Now, if I could direct you back 2 to the fifth page of your presentation. 3 A Yeah. 4 Q This is a definition of criminal 5 investigator for purposes of -- of the -- of 6 LEAPA, correct? 7 A That is correct, yes. 8 Q And this is what gives the 25 percent 9 boost -- one of the things that gives a 10 25 percent boost to the pay of inspectors, 11 correct? 12 A If you meet the -- you know, the 13 definition, yes. 14 Q Right. But this is not the definition 15 of investigator -- or this is not the definition 16 that's in 1003(c), is it? 17 A 1003(c) is a comparability. It's not a 18 definition section, other than it refers Postal 19 Inspector to Postal Inspector -- and I'd have to 20 look at the statute to be absolutely sure, but 21 Postal Inspector and agents designated by the 22 board of governors --</p>	1294	<p>1 poorly. The -- the definition in -- of -- 2 using -- using the -- the eligibility definition 3 contained in this section refer -- it does refer 4 to 18 U.S.C. 3061, but it does not refer, for 5 example, to 5 U.S.C. Section 5545; is that right? 6 A It refers to 3061, that's correct. 7 Q Okay. And so is it correct that if -- 8 if -- if -- if it -- if an agent has been granted 9 any investigative powers under 3061, for purposes 10 of this subsection only, they're -- they are 11 treated as being eligible for federal sector 12 comparability; is that right? 13 A I'm not sure I understand the question, 14 but if -- could you rephrase it, because I -- 15 Q I'll try to rephrase it. 16 A It's a bit confusing for me. 17 Q It's a bit long, and I'll struggle 18 to repeat it exactly as it was, but it's lost to 19 time, so I'll ask it again. 20 A Okay. 21 Q For purposes of this -- well, I guess 22 what I'm asking is: The -- the -- is it your</p>

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1295	<p>1 understanding that this statute -- this statute 2 includes a -- includes eligibility using a, 3 quote, Postal Inspector, but limits that to a 4 definition contained in the second sentence? Is 5 that fair to say? 6 A The second sentence includes Postal 7 Inspector, and it defines Postal Inspector as any 8 agent who is granted investigative authority 9 under 3061 of Title 18. 10 Q Any investigative powers, correct? 11 A That's what 1003 says, any 12 investigative powers granted. 13 Q This doesn't deem -- this does not 14 cause -- if someone -- someone could qualify for 15 this, and yet not be treated as a Postal 16 Inspector for some other purpose of the law, 17 correct? 18 A I would not agree with that, because if 19 I look at -- and the reading and the 20 interpretation as I know it, based from my 21 experience and participating in the trial that I 22 referred to, 3061 is --</p>	1297	<p>1 sought to also get FLSA -- Fair Labor Standards 2 Act -- overtime, based on the theory that since 3 the FLSA applies to the Postal Service and 4 inspectors are not covered under 5545(a), that 5 they should also receive some other premium. 6 That's the sum of it. 7 Q And it went to the federal circuit, 8 went to the ninth circuit. It took quite a 9 circuitous path? 10 A For the past nine years, yes. 11 Q And nowhere in any of that litigation 12 was there ever any -- any need to define who was 13 included in 1003(c) and who was not, correct? 14 A No, that's not correct. 15 Q Well they were covered by 1003(c), 16 correct? 17 A Postal Inspectors are covered by 18 1003(c). 19 Q And there was no dispute that they 20 were, correct? 21 A Well, it depends on whose side, you 22 know, you were on. The government's -- you know,</p>
1296	<p>1 Q Okay. 2 A -- is pretty specific in, A, talking 3 about Postal Inspectors and other agents who, as 4 I said before, refer to IG special agents of the 5 Postal Service designated by the board of 6 governors to investigate criminal matters. There 7 are only two criminal investigator types granted 8 powers by the board of governors, Postal 9 Inspectors and OIG special agents. 10 Q And we'll get there. I want to talk to 11 you about that litigation now. 12 A Sure. 13 Q This is the Nigg case, correct? 14 A That is correct. 15 Q N-I-G-G versus the Post Office? 16 A Nigg and Lewis versus United States 17 Postal Service. 18 Q And these were some inspectors who -- 19 who were seeking -- in addition to having gotten 20 LEAPA, they wanted to get paid overtime, correct, 21 in addition? 22 A Current and retired Postal Inspectors</p>	1298	<p>1 the government's, you know, position was that 2 1003(c) provided for specific, you know, 3 comparability, whereas the plaintiffs actually 4 took a little bit of a, you know, different 5 argument. So I believe their interpretation 6 would not be in accord with yours. 7 Q Plaintiffs disputed that they were 8 covered by 1003(c)? 9 A Well, they claimed there were other 10 parts that -- that applied to them as well in 11 addition. You know, because they -- 1003(c) 12 discusses -- and I -- I'm happy to get into the 13 Nigg litigation, although, as I said, it was 14 quite -- quite prolonged. But 1003(c) discusses 15 comparability. And the plaintiff's position was 16 that the comparability was not made to the right 17 groups and the actual money was paid and they 18 were entitled to FLSA overtime. 19 Q Right. But the issue was not whether 20 they were covered; it was an argument within the 21 coverage, correct? 22 A In a sense, yes.</p>

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1299	<p>1 Q Okay. Let's go on to 18 U.S.C. 2 3061(c). 3 A Okay. 4 Q This is Slide 9. 5 A I'll pull that up. 6 ARBITRATOR DUFEK: Can I ask just one 7 question? 8 MR. STEPHENS: Yes. 9 ARBITRATOR DUFEK: Is it the union's 10 contention, just so I understand as a member of 11 the panel, that PPOs are granted investigative 12 authority by the board of governors? 13 MR. STEPHENS: The coverage is under 14 (c)(3), and (c)(3) -- again, this is just our -- 15 our contention. (c)(3) provides -- and it's on 16 Slide 10 -- as we -- Mr. Katz testified, it's 17 permissive that the Post Office has the varying 18 degrees of -- it may decide to give as much as it 19 wishes -- as much investigative authority as 20 wishes. And (c)(3)B is a congressional grant of 21 authority to the Post Office to act as it chooses 22 by regulation to grant that authority or not to</p>	1301	<p>1 your argument is not, then, determined on the 2 basis of (a)? 3 MR. STEPHENS: That's correct. 4 ARBITRATOR DUFEK: At all? 5 MR. STEPHENS: Our argument is -- is -- 6 has been the (c)(3) argument. 7 ARBITRATOR DUFEK: Okay. 8 MR. STEPHENS: And that under -- I 9 mean, that's -- at least as we developed it in 10 our brief, that was our argument. 11 ARBITRATOR DUFEK: Okay. 12 BY MR. STEPHENS: 13 Q Now, Mr. Katz, you're familiar with the 14 regulations of the Post Office, I trust? Some -- 15 I won't hold you to every single one of them, 16 but -- 17 A I was going to say, not all, but a 18 number of them. 19 Q And are you familiar with -- I 20 apologize. One moment, please. I have too many 21 apps on my phone -- 39 CFR 211.2? 22 A I'd have to say, without seeing it, I</p>
1300	<p>1 grant the authority. And the argument that the 2 union has made -- which I'm not aware that it has 3 ever made before; I didn't represent this union 4 at the last interest arbitration. 5 ARBITRATOR DUFEK: Right. I want to -- 6 I want to develop that, too, later, but -- 7 because it -- I mean, I think the fundamental 8 point that was made in the last interest 9 arbitration is comparability to the federal 10 sector. 11 MR. STEPHENS: Correct. 12 ARBITRATOR DUFEK: That was what was 13 litigated. Whether it was pursuant to (c) or 14 not -- 15 MR. STEPHENS: Correct. There was 16 no -- they didn't make any legal argument that 17 I'm aware of. 18 ARBITRATOR DUFEK: But they made the 19 argument of being compared to the federal sector? 20 MR. STEPHENS: They brought in evidence 21 of -- there was no legal argument, correct. 22 ARBITRATOR DUFEK: But your point is --</p>	1302	<p>1 make it a habit ever since I've been a lawyer -- 2 Q And I apologize -- 3 A -- never to try and memorize or quote 4 from statutes without having them in front of me. 5 Q And I understand that. And I don't 6 have it as an exhibit, but it was -- it was set 7 forth in full in our prehearing brief, which I'm 8 reading on my telephone because I -- of all the 9 papers here, I don't have a copy of it. 10 MS. GONSALVES: You don't have it as 11 one of your exhibits? 12 MR. STEPHENS: No. 13 MS. GONSALVES: Okay. I think -- 14 which -- which one are you referencing? Can you 15 say it again? 16 MR. STEPHENS: If you have my -- 17 MS. GONSALVES: We may have it. 18 MR. STEPHENS: -- brief. If you have 19 my brief -- 20 MS. GONSALVES: I don't. 21 MR. STEPHENS: It's page 17 of the 22 brief.</p>

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<p style="text-align: right;">1303</p> <p>1 MS. GONSALVES: But what's the -- could 2 you give me the citation again? 3 MR. STEPHENS: Sure. The title of the 4 regulation is "Regulations of the Postal 5 Service," and it's 39 CFR 211.2(a). 6 MS. GONSALVES: We thought we might 7 have had it in our excerpts, but we don't. 8 BY MR. STEPHENS: 9 Q You're not -- 10 A I'm -- sitting here now, no. 11 Q As it was represented in our brief, it 12 is a regulation that purports to set forth all of 13 the documents that constitute regulations for 14 purposes of the -- it's a bootstrapping 15 regulation that the Post Office issues certain 16 publications. The Post Office has deemed them to 17 be regulations. And there's court authority, 18 ninth circuit, Hines (phonetic) against the 19 United States. And another case we cited was 20 Carrero against Frank, District of Massachusetts, 21 both treating handbooks issued by the Post Office 22 as regulations because that -- handbooks are one</p>	<p style="text-align: right;">1305</p> <p>1 A Okay. I'm there. 2 Q Do you recognize this document? 3 A Yes, I do. 4 Q What is this document? 5 A This is the IS-702 or the PPO -- Postal 6 Police Officers' guide or handbook. 7 Q If I could direct you, just for 8 example, to page 4 of this document, and if I can 9 direct you specifically to Section 1-3.8.1.3. 10 A Okay. 11 Q And what is the title of that? 12 A The title is "Investigative Efforts." 13 Q And what is the -- can you just read 14 out loud the first sentence? 15 A Security force personnel are not 16 authorized to extend their investigative efforts 17 on their own beyond preliminary fact-finding in 18 any given situation. 19 Q And is it fair to say that this section 20 sets forth some of the Post Office's 21 authorization for the investigative powers of the 22 Postal Police Officers?</p>
<p style="text-align: right;">1304</p> <p>1 of the things that are treated as regulations 2 under that regulation, under 39 CFR 211. 3 So are you familiar -- you're not 4 familiar with that? 5 A I -- I'd really have to see it. I'm 6 just -- 7 (Document tendered.) 8 MR. STEPHENS: Oh, maybe I can... 9 BY MR. STEPHENS: 10 Q I guess the handbooks in question that 11 we've cited are in the -- if you turn in the 12 opening joint exhibits, it's documents 7 and 8. 13 MS. GONSALVES: I think it's the one 14 with the contract in it that Bob ripped out. Oh, 15 I think it's right there. 16 ARBITRATOR OLDHAM: What? 17 MS. GONSALVES: I think it's at the 18 bottom to your right -- to your left. 19 BY MR. STEPHENS: 20 Q Can I direct you to Tab 8? 21 A Eight? 22 Q Yes, sir.</p>	<p style="text-align: right;">1306</p> <p>1 A Just give me a moment to read through 2 rest of the -- 3 Q Yes, sir. 4 A -- paragraph. 5 Okay. I'm sorry. If you can repeat 6 your question, I'll try and answer it. 7 Q Yes, sir. Does this constitute some of 8 the investigative -- the authority granted to 9 Postal Police Officers by the Inspection Service? 10 A No, I -- to me, it's a -- it's a 11 statement to the -- you know, to the police 12 officers that other than fact -- initial 13 fact-finding, they are not authorized to conduct 14 investigative efforts on their own and that any 15 requests that might be made to them by Postal 16 Inspectors would have to be reported through the 17 chain of the command -- chain of command, but it 18 does not, to me, grant them any investigative 19 authority. 20 Q Other than the initial fact-finding? 21 A Other than the initial fact-finding. 22 Q And if I can direct you, sir, to</p>

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<p style="text-align: right;">1307</p> <p>1 page -- the bottom of page 5 and the top of page 2 6, Section 1-3.8.3. 3 A Just give me a moment. 4 Q Yes, sir. I'm going to be asking you a 5 question about (e). 6 A Okay, sure. 7 Okay. 8 Q And is it correct that -- that -- that 9 (e), collect, preserve evidence, record names of 10 witnesses, et cetera in civil and criminal 11 matters as required in cooperation with local 12 management and authorized Inspection Service 13 personnel is a -- is a statement of authority of 14 Postal Police Officers -- actually, an 15 expectation of what they're supposed to be doing 16 under the IS-702? 17 A You're supposed to -- as I read it, 18 you're supposed to do it as -- as required. So 19 if -- if asked, if required to do so, you would 20 perform those functions, but as I believe I heard 21 the testimony earlier today, PPOs' duties with 22 respect to evidence in general are to preserve</p>	<p style="text-align: right;">1309</p> <p>1 Q Sure. 2 A Okay. 3 Q And what is an investigative detention, 4 to your understanding? 5 A Well, I could probably spend hours 6 talking about investigative detention. But, you 7 know, in general, it's the -- it's when a law 8 enforcement authority would -- I hate to use the 9 word, but detain or temporarily prevent somebody, 10 you know, from moving for -- for a particular 11 reason. 12 Q And -- 13 A It may or may not be -- you know, 14 generally investigative detentions are not, you 15 know, considered arrests. They may turn into 16 arrests, but it's a -- it's detaining someone for 17 a short period of time, which is defined on -- on 18 the circumstances for the purpose of developing 19 additional information which may or may not 20 result in further criminal action. 21 Q And the Supreme Court has carved out 22 a -- a body of Fourth Amendment law that grants,</p>
<p style="text-align: right;">1308</p> <p>1 and protect the evidence, make sure the scene, 2 you know, is not contaminated, as opposed to 3 going through and doing what inspectors will 4 actually do, and that is process the evidence, 5 put it in the correct type of container, affix 6 the various, you know, bar codes and scanners for 7 the chain of evidence and so forth. 8 ARBITRATOR OLDHAM: Well, this says 9 what it says. It says collect and preserve 10 evidence. 11 THE WITNESS: As required, yes. 12 BY MR. STEPHENS: 13 Q And just one more question about this, 14 and I'll turn to another subject here. 15 If I can direct you, sir, to page 15 of 16 this document, in particular, 2-2.5.3. 17 A I'm sorry, page 15? 18 Q Yes, sir. Two-point -- I'm sorry -- 19 2-2.5.3. 20 A 2-2.5. Investigative detention? 21 Q Yes, sir. 22 A Okay. Just give me a moment.</p>	<p style="text-align: right;">1310</p> <p>1 I think, perhaps, some additional ability of law 2 enforcement officers to conduct a limited search 3 without it turning -- I -- I'm not going to weigh 4 too much on the Fourth Amendment because it's -- 5 A Okay. 6 Q But is it correct that it is a -- it is 7 a type of -- I don't want to say preliminary 8 investigation, but it is a -- well, perhaps you 9 can explain a Terry stop rather than me trying to 10 explain it. 11 A Well, Terry stops have different parts 12 in them. Of course, there is investigative 13 detention and there may or may not be a pat-down 14 and frisk associated with it. So those are 15 separate. But under the law of Terry, a law 16 enforcement officer, based on their experience 17 and training, depending on the circumstances -- 18 in Terry, I believe it was a -- it may have been 19 a detective that had witnessed an individual 20 casing an establishment. I think it was a 21 jewelry store. I'm not -- not entirely sure. 22 And based on that officer's observations, he, you</p>

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1311	<p>1 know, questioned the individual for a -- you 2 know, for a period of time. The individual 3 claimed he was, you know, detained unlawfully, 4 and thus we have, you know, Terry, which does 5 permit under certain circumstances temporary 6 detentions of individuals to determine if a crime 7 has occurred or is about to occur. 8 Q Thank you. 9 A But you have to be able to articulate 10 the particular facts and have the appropriate 11 training to determine -- you know, to justify 12 that type of stop. 13 Q And Postal Police Officers are trained 14 to make Terry stops, correct? 15 A They are, yes. 16 Q And there's -- this is an authorization 17 for them to make Terry stops, correct? 18 A I don't know if it's an authorization. 19 It, you know, describes what they might do based 20 on, you know, reasonable -- reasonable suspicion, 21 yes. 22 Q Thank you.</p>	1313	<p>1 the -- and that's administered by the -- when it 2 says Postal Service, that represents the 3 postmaster general. 4 Q Well, can we turn you back, then, to 9 5 for a second? 6 A Sure. 7 Q Now, it does say -- and there's -- 8 18 U.S.C. 3061(c)(1) does say that the post 9 office may employ police officers, correct? 10 A That is correct. 11 Q It is not required to employ police 12 officers, correct? 13 A That's correct. 14 Q But if I'm -- with respect to 15 subsection (c)(2), isn't it correct that to the 16 extent it does employ such officers, such 17 officers shall have the power to perform all of 18 the items set forth in (a), (b) and (c), correct? 19 A Yes, that is correct. 20 Q So that is something -- that is a 21 congressional determination, not a determination 22 that is subject to decision by the postmaster</p>
1312	<p>1 Turning back to 3061 for a moment, 2 under (c) -- this will be Slide 9. Actually, I'm 3 sorry. I directed you to the wrong slide. 4 Could I direct you to Slide 11, please? 5 A Sure. 6 Q Now -- 7 A Let me find my corresponding slide, 8 which is 232.1. Okay. 9 Q Now, the Congress granted law 10 enforcement authority with respect to enforcing 11 federal laws and regulations on postal property 12 to police officers, correct? 13 A No, not correct. 14 Q Well, to, among other people, Postal 15 Police Officers, correct? 16 A No, Congress did not grant Postal 17 Police Officers authority. The Postal Police 18 Officer authority to do what they do is actually 19 contained in -- is actually granted by the 20 postmaster general and administered through the 21 chief postal inspector. 22 3061 provides that the Service may, and</p>	1314	<p>1 general, correct? 2 A If granted, that would -- that would be 3 congressional authority, yes. 4 Q Okay. So turning back to slide 11 for 5 a moment, subsection (q)(1) -- and this is a -- 6 just one subsection of a relatively long 7 regulation, correct? 8 A Yes. 9 Q Subsection (q)(1) authorizes the 10 members of the security force to exercise those 11 powers, but those powers are limited to police 12 officers, correct, under (c)(2)? 13 A Under (q)(1), not (c)(2). (c)(2) is in 14 3061. 15 Q No, I understand. But -- 16 A Okay. 17 Q I'm sorry. And I sometimes jump ahead 18 of where I'm talking, so... 19 A Okay. 20 Q In (q)(1), it says members of the U.S. 21 Postal Service Security Force shall exercise the 22 powers provided by 18 U.S.C. 3061(c)(2), correct?</p>

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<p style="text-align: right;">1315</p> <p>1 A That's correct. 2 Q And under -- but Congress, in Section 3 (c)(2), limited the exercise of authority to 4 people who were police officers, correct? I 5 mean, I understand that other agents also have 6 inspectors and OIG agents also have power to 7 enforce federal law, but -- 8 A I don't know if it's limited under 9 18 U.S.C. 3061(c)(2), because if you go back to 10 3061(a) and (b), the ability to do everything 11 that is contained in (c)(2) is also subsumed in 12 (a) and (b), that Postal Inspectors, as well as 13 other agents, have the ability to make arrests, 14 serve warrants and so forth in the enforcement of 15 laws regarding property in the custody of the 16 Postal Service, property of the Postal Service, 17 the use of the mail, as well as other postal 18 offenses. 19 Q So is your argument they could appoint 20 people who weren't even -- who had no -- any 21 training at all to enforce those federal laws? 22 A No, I did not say that.</p>	<p style="text-align: right;">1317</p> <p>1 A I believe the full regulation says 2 persons on postal property, so it would include 3 postal customers as well. 4 Q It also includes tenant agencies who 5 are on postal real estate, correct? 6 A I would have to look at the full 7 regulation to see if it says that. I just -- I 8 don't memorize it. I just don't know it offhand. 9 Q It also includes any portions of real 10 property that are leased to private tenants, 11 correct? 12 A I don't know without reading the entire 13 regulation. 14 Q And it also includes sidewalks on the 15 frontage of postal property, correct? 16 A I would have to see the entire 17 regulation. 18 Q Is it true the regulation also covers, 19 among other items, the use of recording 20 equipment? 21 A I would -- again, I would have to look 22 at the entire regulation to see exactly what it</p>
<p style="text-align: right;">1316</p> <p>1 Q Okay. But it -- are you saying that 2 they could -- how is -- 3 ARBITRATOR OLDHAM: Let's -- 4 MR. STEPHENS: I'm sorry. I'll -- 5 ARBITRATOR OLDHAM: Let's not quibble 6 about this. 7 MR. STEPHENS: Okay. All right. 8 ARBITRATOR OLDHAM: (c)(2) doesn't 9 limit anything. It authorizes. 10 MR. STEPHENS: Authorizes. Okay. 11 BY MR. STEPHENS: 12 Q The -- you described 39 CFR 232.1 as -- 13 did you describe it as basically workplace rules? 14 A Conduct, workplace rules. I use those 15 terms synonymously. I think the title -- the 16 title is conduct on postal property. What one 17 may -- or actually, the statute is what -- the 18 regulation is what one may not do on postal 19 property. 20 Q And the applicability of all the rules 21 applies actually not just to employees of the 22 Post Office, correct?</p>	<p style="text-align: right;">1318</p> <p>1 proscribes. 2 Q Is it correct to say that it actually 3 covers quite a bit more than just workplace 4 conduct issues? 5 A It may. As I said, it was my term, 6 summarizing it. It's conduct on postal property. 7 Q Well, we'll get a full copy. I'm sorry 8 I don't have one today. I apologize. 9 Can I refer you, sir, to Slide No. 13? 10 A Yes, sir. 11 Q Isn't it correct that this -- this 12 decision was dismissed on summary judgment, not 13 on the merits, but based on procedural arguments? 14 A It was based on the standard of summary 15 judgment that no cause -- summary judgment 16 standard, no -- no cause of action was stated. 17 What -- what -- what happened, as I recall, 18 back -- back in that day, Postal Police 19 questioned the ability or actually -- yeah, 20 contested the ability of the Inspection Service 21 to direct them in the performance of their 22 duties, just my word summarizing what they did.</p>

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<p style="text-align: right;">1319</p> <p>1 They believed that they had -- their powers of 2 arrest that were authorized by federal statute 3 could be exercised by them without any type of -- 4 of guidance. 5 And in effect, what was happening was 6 arrests would be made by PPOs for what they 7 believed were offenses, such as minor offenses 8 such as loitering or littering on postal 9 property. And what the Inspection Service in New 10 York did at the time, because the Service did not 11 have any interest in pursuing a federal case 12 against an individual who might have just been, 13 you know, loitering, sitting on the steps or 14 sleeping, you know, on the steps, so it directed 15 the PPOs that notwithstanding the authority that 16 they have by virtue of the position, they were to 17 exercise it in a manner as prescribed by -- by 18 their, you know, management. And they did not 19 believe that was appropriate. 20 They also questioned the ability of the 21 Inspection Service to search their lockers for -- 22 for weapons and so forth. So they filed this</p>	<p style="text-align: right;">1321</p> <p>1 Q Right. There were -- there were other 2 issues in the case, but the issue about the 3 arrest issue was dismissed for procedural 4 grounds; isn't that correct? 5 A I -- I don't recall that. 6 ARBITRATOR DUFEK: We have the benefit 7 of a law professor as the -- 8 MR. STEPHENS: Yes. 9 ARBITRATOR DUFEK: -- neutral on the 10 panel. If the parties want to submit the 11 decision -- 12 ARBITRATOR OLDHAM: Yeah, we would be 13 happy to look at it. 14 ARBITRATOR DUFEK: -- we would be happy 15 to look at it. 16 MR. STEPHENS: We'd like to introduce a 17 document. It's Exhibit No. 97. 18 (Document tendered.) 19 THE WITNESS: Thank you. 20 BY MR. STEPHENS: 21 Q Now, if I can direct you to page 9, 22 the -- the -- and this is a -- after the court</p>
<p style="text-align: right;">1320</p> <p>1 lawsuit in the Southern District of New York. 2 And the, you know, full decision as -- as I 3 recall, it was dismissed on a summary judgment 4 motion, finding that Postal Police had no private 5 right of action, that the employer, the Postal 6 Service, was fully within its authority to 7 regulate the exercise of their authority. 8 Q But it was the -- the -- this -- the 9 quoted subject matter actually had nothing to do 10 with the decision of the Court; isn't that 11 correct? 12 A The quoted section -- section is part 13 of the Court's issuance of its summary judgment 14 motion describing the -- the background and 15 the -- and the facts of the case. 16 Q But it was dismissed because she found 17 that the union should have pursued a grievance 18 under the grievance procedure, correct? 19 A Not -- not to my recollection. I have 20 to look at the, you know, full case closely, but 21 essentially the Court held there was no private 22 right of action of -- of PPOs.</p>	<p style="text-align: right;">1322</p> <p>1 decision, wasn't there an arbitration between the 2 union and the management regarding the arrest 3 issues? And the arbitrator recites, as you said, 4 that one of the arguments was that the union 5 would try to make -- take advantage of a 6 particular federal statute, which did not confer 7 a private right of action. But I believe when we 8 review the decision, we -- the Court represented 9 that -- I'm sorry. 10 First of all, I should ask, Mr. Katz, 11 so it will be a fair question, do you have 12 knowledge of this arbitration award? 13 A Not specifically. I'm looking at it 14 now. I've heard the name. Charles Feigenbaum 15 was an arbitrator who heard PPO cases. And 16 Mr. Sinkway, Inspector Sinkway, did work for me, 17 as did John Covell, you know, at the time. So 18 I'm sure, at some point, my -- my office 19 obviously was involved. I don't believe I had 20 involvement in it. I don't right now as we sit 21 here have any recollection of what happened here. 22 I'd be happy to read through the document, but</p>

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1323	<p>1 independently, I just -- I do not remember this 2 decision. 3 MS. GONSALVES: Can I -- 4 MR. STEPHENS: If that's the case, I 5 don't think it's appropriate to ask -- ask that 6 many questions about it. I think that would not 7 be appropriate, but we'll -- we can maybe talk 8 afterwards, Teresa, if there's another -- 9 MS. GONSALVES: This is a national 10 level award, though, right? 11 MR. STEPHENS: It's not being -- it's 12 not being introduced necessarily for -- 13 MS. GONSALVES: Precedent. 14 MR. STEPHENS: -- precedent. It's 15 being introduced as a finding by the arbitrator, 16 discussion by the arbitrator of certain practices 17 by the Inspection Service, vis-à-vis, the police 18 in New York. Those are set forth being on page 19 9. Beyond that, I don't think it would be 20 appropriate to -- 21 BY MR. STEPHENS: 22 Q I assume, sir that you would have</p>	1325	<p>1 Q It -- I mean, among other things, it -- 2 it trumps state and local laws regarding the 3 possession of a handgun -- of a concealed 4 handgun, correct? 5 A No, it -- it -- it trumps state or 6 local laws to the extent that an individual who 7 otherwise meets the qualifications spelled out in 8 LEOSA does not have to obtain a license or a 9 permit as a private citizen would have to. 10 However, it specifically says it does not usurp 11 state or local authority with respect to where 12 that weapon may be carried. 13 Q Right. There's -- there's still 14 restrictions within that -- that -- that are 15 required to be abided by, but the general laws 16 regarding carrying are -- are trumped, correct? 17 A It trumps the license -- license 18 requirement as it were. 19 Q But Postal Police Officers, for 20 example, are not required to obtain any kind of 21 license to -- to carry their firearms, correct? 22 A If they have a personal firearm and</p>
1324	<p>1 knowledge of it based on this particular slide, 2 No. 13, but apparently that's not the case. I 3 apologize. 4 ARBITRATOR OLDHAM: We're going to 5 leave it in the record, though. 6 MR. STEPHENS: Okay. 7 BY MR. STEPHENS: 8 Q Let me -- can I ask you a second about 9 the LEOSA? 10 A Yes, sir. 11 Q LEOSA grants -- is a federal law, 12 correct? 13 A Yes, it is. 14 Q And it basically takes advantage of the 15 supremacy clause of the constitution to trump 16 state and local laws -- certain state and local 17 laws governing the possession of firearms, 18 correct? 19 A I haven't thought about it in those 20 terms, but it is a federal law and it does 21 supersede some state or local regulation and 22 laws, yes.</p>	1326	<p>1 they otherwise meet the qualifications, either as 2 a qualified current law enforcement officer or 3 retired law enforcement officer, they are 4 permitted under LEOSA to carry their personal 5 weapon. Certainly, they're not required to by 6 statute, nor does the Postal Service require them 7 to, but they would be allowed to carry a personal 8 weapon without having to obtain a license or a 9 permit from a local jurisdiction, you know, 10 generally where they live. 11 Q So, for example, a Postal Police 12 Officer because of LEOSA is authorized to carry a 13 personal firearm with him or her at all times in 14 the District of Columbia, save for, perhaps, 15 schools, without regard for District of Columbia 16 law, correct? 17 A Yeah. Or post offices for that matter, 18 yes. 19 Q But to qualify, one must be deemed a 20 law enforcement officer for purposes of that 21 statute, correct? 22 A As I testified before, there is a</p>

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1327	<p>1 separate definitional section in LEOSA, which 2 defines for purposes of LEOSA what a qualified 3 law enforcement officer is and what a qualified 4 retired law enforcement officer is. There are 5 two different sets of rules, depending on your 6 status. 7 Q But Postal Police Officers qualify 8 under both of them, correct? 9 A If they otherwise meet the 10 qualifications. The -- the fact that -- they 11 qualify for purposes of being a qualified law 12 enforcement officer because they are -- they are 13 sworn, they work for a municipal or governmental 14 agency, they have powers of arrest, and during 15 their job, they are authorized to carry firearms. 16 For the -- the other parts they have to qualify 17 for separately. 18 Q Including not being under the influence 19 of drugs? 20 A Not being under the influence of drugs. 21 If they're retired -- and the statute was 22 amended -- I believe it was, you know, last year.</p>	1329	<p>1 credentials. I believe it's a flat badge, at 2 least it is for the inspectors, that goes with 3 their credentials, which, again, is used for the 4 same purpose as the credentials in the event 5 during an emergency they need to get to the place 6 of employment, because I believe it was found 7 that sometimes a badge speaks greater volumes 8 than a -- than credentials alone. 9 Q Okay. Thank you. 10 You testified -- if I can direct you, 11 sir, to USPS exhibits volume 1, and I think it 12 is -- it's the memorandum you -- I think it's Tab 13 No. 5. 14 MS. GONSALVES: A? 15 MR. STEPHENS: I'm sorry. Yes. A-5. 16 It's the memorandum of understanding from 1981. 17 THE WITNESS: Okay. 18 BY MR. STEPHENS: 19 Q Is it correct that this memorandum of 20 understanding was signed approximately -- well, 21 in 1994, we had -- let me step back. I'm sorry, 22 sir.</p>
1328	<p>1 It used to be you needed an aggregate of 15 years 2 of law enforcement service. Now it's ten years. 3 You used to have to have a vested interest in a 4 retirement plan. I believe that was taken away. 5 And if you're a current employee, you have to be 6 current in your qualifications and not under, you 7 know, any other disciplinary actions or actions 8 that would prevent you from carrying a firearm 9 for the -- that you carry for your agency. 10 Q Okay. Thank you. Let me ask you about 11 credentials. Isn't it correct that since your 12 retirement, Postal Police Officers do have -- 13 carry their credentials -- have a badge and 14 credentials which they're supposed to carry 15 with -- have with them at all times? 16 A No, that's not my understanding. 17 Q What is your understanding? 18 A My understanding is they're required to 19 carry their credentials when they need to for 20 work. I believe that they were recently -- and 21 this is very recently -- as were inspectors, 22 issued another badge to go with their</p>	1330	<p>1 Inspector McDaniel testified earlier 2 today, I believe, that PPOs started going to the 3 Federal Law Enforcement Training Center, FLETC 4 police academy training, in 1994. Is that your 5 understanding? 6 A That's the testimony I heard this 7 morning, yes. 8 Q And that was 13 years after this 9 memorandum; is that right? 10 A The math is correct, yes, sir. 11 Q Okay. Mr. Katz, you mentioned 12 something about law enforcement retirement. Do 13 you recall that testimony? 14 A I believe I mentioned that Postal 15 Inspectors and other criminal investigators are 16 entitled to enhanced law enforcement retirement 17 benefits. 18 Q And they're -- and Postal Police 19 Officers are not, correct? 20 A Correct. 21 Q But there are other federal law 22 enforcement agents that also aren't -- don't</p>

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<p style="text-align: right;">1331</p> <p>1 receive that retirement, correct? 2 A I'm sorry? 3 Q I guess my question is: Receiving that 4 type of retirement actually is not the -- the 5 sole indicia about whether one is a law 6 enforcement agent, correct? 7 A Correct. 8 Q There are other federal agents -- law 9 enforcement agents who also don't receive that 10 type of retirement, correct? 11 A There are a number of other federal -- 12 under OPM rules -- classifications other federal 13 investigators that are not full-fledged criminal 14 investigators that do not receive enhanced 15 retirement benefits. 16 Q And there -- there are some uniformed 17 federal police that do receive the 20-year 18 retirement, and there's others who do not, 19 correct? 20 A I believe that's correct. 21 MR. STEPHENS: I'd like to introduce, 22 just for the panel's benefit, a GAO report we'll</p>	<p style="text-align: right;">1333</p> <p>1 ARBITRATOR DUFEK: Yeah, just as a 2 matter of curiosity, for whatever reason, I seem 3 to have jumped from 92 to 97. Did I -- 4 MR. STEPHENS: Oh, I know -- 5 MS. MCKINNON: We suspended. 6 MR. STEPHENS: -- because we suspended 7 some exhibits that -- the last exhibits, 8 which are -- 9 ARBITRATOR DUFEK: Okay, great. 10 MR. STEPHENS: I'm assuming that 11 they're Mr. Katz. 12 ARBITRATOR DUFEK: That makes sense. 13 MR. STEPHENS: The questions that I was 14 going to pose to Mr. Bowers, you asked me to 15 withhold for another witness. 16 MS. GONSALVES: Oh, so those are 17 coming. 18 MS. BRAMESCO: No, that's the -- 19 MS. GONSALVES: I think he's the legal 20 witness. 21 MR. STEPHENS: So -- so I should raise 22 them with Mr. Katz?</p>
<p style="text-align: right;">1332</p> <p>1 mark as some high number. 2 ARBITRATOR DUFEK: Ninety-seven was the 3 last one, so this -- 4 MS. MCKINNON: Ninety-eight? 5 ARBITRATOR DUFEK: This has to be 98. 6 Although I might be missing a couple. Mine 7 jumped a little bit on the 97. 8 (Document tendered.) 9 MS. GONSALVES: Soon we're not going to 10 be able to see each other. 11 ARBITRATOR DUFEK: Unless I just 12 misplaced one. It's possible. 13 MR. STEPHENS: And, Mr. Katz, I'm not 14 going to hold you to any knowledge about this. I 15 think you just confirmed what you just said. I 16 just wanted to get it into the record for the 17 panel's benefit. 18 MS. GONSALVES: I haven't seen it yet. 19 MR. STEPHENS: We'll get it to you. 20 MS. GONSALVES: Thank you, Chris. 21 ARBITRATOR DUFEK: Thank you. 22 ARBITRATOR BJORK: Thanks.</p>	<p style="text-align: right;">1334</p> <p>1 MS. GONSALVES: He's the legal witness, 2 so -- 3 MR. STEPHENS: Okay. 4 MS. GONSALVES: I don't know what all 5 your questions were -- 6 MR. STEPHENS: Okay. Sure. 7 MS. GONSALVES: -- but to the 8 extent they were legal questions, they -- I'm not 9 saying he knows everything. He's human, after 10 all. 11 ARBITRATOR OLDHAM: There was one 12 regulation he didn't know by heart. 13 MS. GONSALVES: I was shocked. 14 THE WITNESS: I'll go home tonight and 15 study. 16 BY MR. STEPHENS: 17 Q So, Mr. Katz, if I could direct you 18 to -- this is the USPS Binder No. 2, and I 19 believe it's Exhibit D-13. 20 A Grade evaluation? 21 Q Yes, sir. 22 MS. GONSALVES: Are these all of them?</p>

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1335	<p>1 MS. MCKINNON: Yes. 2 MS. GONSALVES: Okay. 3 BY MR. STEPHENS: 4 Q So you were present for Mr. Bowers' 5 testimony, Inspector Bowers' testimony, where he 6 represented that in his opinion, Postal Police 7 Officers should be treated as -- as guards for 8 purposes of classification as either an 085 or an 9 083; is that correct? 10 A I heard that testimony, yes, sir. 11 Q And I asked him a question, and on page 12 3 of the -- the second paragraph from the 13 bottom -- 14 A I'm sorry. Where are we? 15 Q I'm sorry. We're at Exhibit D-13 -- 16 A Yes. 17 Q -- and we are on the third page of that 18 document, page 3. 19 A Okay. 20 Q If I can direct you to the bottom of 21 the page, the second to last paragraph -- 22 A Yes, sir.</p>	1337	<p>1 3310 -- 5 U.S.C. 3310. 2 Q Okay. So it's your belief that they 3 are considered guards? 4 A That's my understanding. 5 Q So under 5 3310, isn't it correct that 6 one must be a veteran in order to apply for that 7 position? 8 A That's not correct. 9 Q Okay. What -- can you explain that? 10 A Yes. My understanding is that if 11 you're appointed as -- in order to appoint a PPO 12 from outside of the Postal Service, you need to 13 be a preference eligible veteran. For PPOs that 14 come from within the ranks of the Postal 15 Service -- in other words, you're a letter 16 carrier, you're a mail handler, you're a 17 distribution clerk -- you do not have to be a 18 preference eligible vet. It's solely for outside 19 hiring, and it's my understanding that PPOs have 20 come from the ranks of the Postal Service since 21 approximately 2002 solely from -- from within the 22 ranks.</p>
1336	<p>1 Q -- and read -- I asked Mr. Bowers to 2 read it, which he did, and then I asked him if it 3 was important then to know the distinction 4 whether someone is an 083 or 085 and if there are 5 legal ramifications for one or the other. 6 A Just let me finish reading -- 7 Q Yes, sir. 8 A -- one second. Okay. 9 Q Are you familiar with this -- this -- 10 these -- these statutes? 11 A I have some familiarity with it. 12 Again, I couldn't -- couldn't quote them for you, 13 but I'm aware of the application of the guards 14 and the preference eligibles to be appointed to 15 guard positions, yes. 16 Q So, under the statute, is it correct -- 17 and I think -- it's correct that these statutes 18 are made applicable to the Post Office by 19 implementing the statute in 39 U.S.C.; is that 20 correct? 21 A I believe Postal Police, for purposes 22 of the statutes, are considered guards under 5</p>	1338	<p>1 Q I'm sorry. Where is this in 3310? 2 A Again, I don't have the statute you 3 were -- 4 Q The statute is -- it's one of the 5 documents that was just handed to you. 6 A What was just handed to me was a -- 7 okay. All right. My -- I'll reiterate. 8 Q Yeah. 9 A My understanding of the -- of this 10 statute is that in order to be -- if you're going 11 to hire from outside of the Postal Service -- 12 again, another one of those Postal Service being 13 somewhat -- you know, somewhat unique. If you 14 hire from within, if a PPO -- if a current postal 15 employee, a -- a mail handler, a clerk, a carrier 16 is going to be transferred to a PPO position, 17 one, the Service need not give veterans 18 preference. They would have got the veterans 19 preference, you know, coming in. 20 They take -- the examination is taken, 21 and I believe the testimony was how that works, 22 and I'm not all that familiar with that part.</p>

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1339	<p>1 However, if the Postal Service were to go outside 2 of the Postal Service and accept applications for 3 PPOs, those individuals would have to be 4 preference eligible individuals. 5 Q I'm sorry. I don't see in any of these 6 laws any exception for individuals who are 7 currently employed by the agency. 8 A This is my understanding of how it 9 works, based on research that has been done in 10 the past concerning this issue. 11 Q Well, you're aware that not all PPOs 12 came over from somewhere else in the Post Office, 13 correct? 14 A My understanding is that since 2000 -- 15 approximately 2002, PPOs have come from within 16 the ranks of the Postal Service. I can't tell 17 you what happened prior to 2002 or what the 18 hiring practices were. I was -- in whatever 19 position I had, I was just not involved with that 20 HR function, but my understanding is since 2002, 21 solely from within the ranks of the Postal 22 Service.</p>	1341
1340	<p>1 Q It's correct, isn't it, that PPOs 2 resign their employment with the Post Office 3 before they're hired into their Inspection 4 Service jobs, correct? 5 A No, that's not my understanding. 6 Q It's not your understanding that 7 they're required to sign a form saying that they 8 acknowledge their resignation from the -- from 9 employment with the Post Office to accept a 10 position with the Inspection Service? 11 A No, that's not my understanding. 12 Q Okay. But it is correct, you'll admit, 13 that the -- it is a competitive examination to 14 become a PPO, correct? 15 A There is -- it's a postal examination. 16 Again, it's strictly within the Postal Service. 17 It's an examination, as there are other 18 examinations for Postal Service positions. 19 Q And there's grades for that, correct? 20 You're graded on your exam? 21 A That's the testimony I heard. Again, I 22 was not -- have never been involved in the -- in</p>	1342

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1343	<p>1 be Document No. 99. 2 (Document tendered.) 3 THE WITNESS: Thanks. 4 MS. GONSALVES: Thank you. 5 BY MR. STEPHENS: 6 Q Mr. Katz, do you recognize this 7 document? 8 A I do. 9 Q What is this document? 10 A It is a memorandum that was issued from 11 my office, when it was my office, to two 12 inspectors in charge concerning a state-by-state 13 listing of peace officer status. 14 Q Now, you state in this -- directing 15 your attention to the third paragraph and the 16 second sentence, can you read that out loud? 17 A Second sentence of the third paragraph? 18 Q Yes, sir. 19 A Most commonly, this -- 20 Q I'm sorry. I'm sorry. I have -- I 21 have to -- perhaps -- have I handed you the right 22 document?</p>	1345	<p>1 citizens and at their own risk when they attempt 2 to enforce nonfederal laws. 3 BY MR. STEPHENS: 4 Q Now, is the purpose of this memo to 5 explain to Postal Inspectors and Postal Police 6 Officers what is their status acting as federal 7 agents to enforce state laws on a state-by-state 8 basis? 9 A No. 10 Q Okay. 11 A The purpose of the memo was -- 12 frequently, Postal Inspectors, as well as PPOs, 13 are authorized to enforce federal laws, not state 14 laws. There may be occasion -- and particularly 15 with inspectors more so than with PPOs -- where 16 they may be involved in an investigation -- let's 17 say a mail theft investigation -- which, although 18 it does violate federal law for one reason or 19 another, the U.S. Attorney's Office will decide 20 not to accept a case for prosecution. So working 21 with other local law enforcement agencies, the 22 case may be taken locally as opposed to -- to</p>
1344	<p>1 A I don't know. 2 Q This is -- 3 ARBITRATOR DUFEK: The second sentence 4 of the third paragraph starts with -- 5 MS. GONSALVES: Oh, I think you're -- 6 ARBITRATOR OLDHAM: -- the United 7 States. 8 MS. GONSALVES: -- at the fourth. 9 ARBITRATOR DUFEK: The United States 10 does not have a -- 11 THE WITNESS: Oh, I'm sorry. I -- I 12 meant -- my fault. I'm sorry. 13 MS. GONSALVES: Do you have one? 14 THE WITNESS: The United States does -- 15 MR. STEPHENS: Yeah, okay. My fault. 16 MS. GONSALVES: I was with you, Larry. 17 I'm not sure why. 18 THE WITNESS: The United States does 19 not have a national police force where federal 20 agencies can enforce all laws in every 21 jurisdiction and without an express grant of 22 state authority. Federal agents act as private</p>	1346	<p>1 federally. 2 Now, if Postal Inspectors work along 3 with a local law enforcement agency -- let's say 4 in executing a search warrant at a house of 5 suspected mail thief -- technically, they do so 6 at their own peril. In the event they are sued 7 for something that comes up as a result of that 8 search, they would not be afforded -- generally, 9 they would not be or don't have to be afforded 10 protection by the Department of Justice under -- 11 under the Bivens line of cases, which provides 12 protection for federal law enforcement personnel 13 if they act within the scope of their official 14 duties. But there is no provision for Postal 15 Inspectors or PPOs in that matter to participate 16 in the scenario I just described. 17 Certain states, however, will -- peace 18 officer status is, in its simplest terms, a 19 liability status, that if -- if you are sued -- 20 and in the scenario I -- I described, if an 21 action was brought against a -- a Postal 22 Inspector and the Service or Department of</p>

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<p style="text-align: right;">1347</p> <p>1 Justice decided not to provide representation and 2 defend that case, certain states will say that 3 person was acting as an agent and will defend 4 them. 5 Q Now, randomly directing your attention 6 to page 4 of the attachment, is this the -- is 7 this part of a state-by-state assessment? Is 8 that fair to describe? 9 A Well, I think it starts on -- I think 10 the state-by-state starts on page 3 of mine, 11 but -- 12 Q Right. No, and -- and I'm sorry. When 13 I refer to page 4, I'm referring to the fourth 14 page of the -- it was just the one that happened 15 to be open. Up at the top, it's Kansas. 16 Do you see that? 17 A I'll get there in a moment. Okay. 18 Q And is it correct that at least at the 19 time this memo was written, Kansas law did not 20 provide peace officer status for either Postal 21 Inspectors or Postal Police Officers? 22 A Yes, that's -- that's what this says,</p>	<p style="text-align: right;">1349</p> <p>1 A I'll admit I was present here, but 2 after listening to all of the testimony, they do 3 kind of blend, you know, in my mind, and frankly, 4 I -- I could not separate them. But I -- I 5 remember her being here and I remember her 6 testifying. 7 Q With all these white binders, it's hard 8 to know what all you have in front of you and 9 what all you don't, but the document just beneath 10 that binder is another binder in your left hand. 11 Is that marked union exhibits? 12 A Union exhibits, yes, it is. 13 Q Can I ask you to turn in that to -- 14 MS. GONSALVES: Union exhibits. 15 Arlus, I just wanted to tell you that 16 about ten minutes ago -- I know it's not an exact 17 science, but about ten minutes ago -- 18 MR. STEPHENS: We passed. 19 MS. GONSALVES: -- you surpassed my -- 20 the length of my direct. 21 MR. STEPHENS: I am -- this is my 22 last -- this will be my last -- actually, I don't</p>
<p style="text-align: right;">1348</p> <p>1 and I'm assuming if it came out of my office, it 2 was correct at the time it was written. 3 Q I'm sure it was. And in Kentucky, 4 Postal Police Officers and Postal Inspectors do 5 not have peace officer status under Kentucky law, 6 but Kentucky law did grant certain other -- 7 didn't enumerate certain agencies that did? 8 A That's what it says, yes. 9 Q And at the bottom, for example, 10 Michigan, Michigan law did grant peace officer 11 status for federal law enforcement officers, 12 including both Postal Inspectors and Postal 13 Police Officers? 14 A Yes, that's what the memo says. 15 Q Okay. My final set of questions 16 pertain to the transformation. And, Mr. Katz, 17 you've been present for the proceedings, correct? 18 A Other than opening statements, yes. 19 Q Okay. Were you present for former 20 officer Tammy Michaelson's testimony about 21 documents she received in 2002 regarding 22 transformation?</p>	<p style="text-align: right;">1350</p> <p>1 even know if it's really necessary to do it. You 2 know what, actually, it's not necessary. The 3 document's in. I'll let it go. 4 As I represented to you, the 5 cross-examination yesterday went longer, I 6 thought, because of the subject matter, but I 7 did -- obviously, I'll make an effort not to do 8 it again. So I actually don't have any further 9 questions beyond that document, and it's not 10 necessary, so I'll go ahead and let -- thank you. 11 MS. GONSALVES: No further questions. 12 ARBITRATOR OLDHAM: Bob? 13 ARBITRATOR DUFEK: No. 14 ARBITRATOR OLDHAM: Mr. Katz, thank you 15 very much. 16 (Witness excused.) 17 Now what? 18 MS. GONSALVES: Well, I think we're 19 going to reconvene on the 6th. We have the 6th 20 and the 7th. We are optimistic that we'll be 21 able to finish the presentation of our case 22 within those days. I will circulate a note to</p>

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1351	<p>1 the panel, as I assume Arlus will also do, about 2 our availability on the 24th and 25th of 3 February, just in case we need more time. 4 ARBITRATOR DUFEK: Is that the 24th and 5 25th -- 6 MS. GONSALVES: Of February. 7 ARBITRATOR DUFEK: -- or 25th and 26th? 8 MS. GONSALVES: Maybe it's the 25th and 9 26th. I have it noted, but I don't have it 10 memorized. 11 ARBITRATOR OLDHAM: 25th and 26th. 12 MS. GONSALVES: 25th and 26th, okay. 13 So I'll circulate a note as soon as I find out if 14 that's available. 15 ARBITRATOR BJORK: Are we -- everybody 16 is fine with the 25th and 26th? 17 MR. STEPHENS: Tentatively, it's fine. 18 I have my -- I brought my calendar for February. 19 It looks like -- 20 MS. GONSALVES: We still have three 21 more -- yeah, three more witnesses. One is 22 fairly long. So I think -- I think we'll --</p>	1353	<p>1 MR. STEPHENS: Yes. 2 (Document tendered.) 3 MR. STEPHENS: I just wanted to get 4 this to the panel. This is -- Professor Belman, 5 when he returned, realized he had made an error 6 in the roll-up, and he has asked the panel if he 7 could resubmit these as his -- as his revised 8 numbers. 9 Now, I will say when we received the -- 10 the exhibits from the post office for the 11 testimony today -- well, let me step back. One 12 of the questions that Professor Belman was asked 13 was on which proposal did he do his costing, 14 because, remember, until the end of December, the 15 post office's proposal in this proceeding was to 16 execute a 5 percent reduction to wages for all 17 Postal Police Officers. And that -- the post 18 office amended that proposal in its brief -- 19 prehearing brief, changing the proposal to -- 20 asking the panel to award the -- the -- what it 21 described as the pattern of -- from the other 22 recent contract settlements and arbitrations.</p>
1352	<p>1 we'll still be okay. We may not need to use 2 those dates. You may need to use them for 3 executive session. 4 ARBITRATOR OLDHAM: Well, there may be 5 rebuttal testimony. 6 MS. GONSALVES: Well, of course, yes. 7 MR. STEPHENS: I only have one more 8 matter for this afternoon, with the panel's 9 indulgence. I have a letter that I'd like to -- 10 we'd like to -- 11 MS. GONSALVES: I was just wondering, 12 before we leave the scheduling, February 13th is 13 no longer one of our days, right? 14 ARBITRATOR OLDHAM: Unfortunately, 15 that's -- 16 MS. GONSALVES: That's okay. 17 ARBITRATOR OLDHAM: -- the baseball 18 arbitration. They may settle, but I can't know. 19 MS. GONSALVES: Right. No worries. 20 But we have the 25th and 26th for rebuttal? 21 ARBITRATOR OLDHAM: Yeah. 22 This is supposed to be 100?</p>	1354	<p>1 So that is the -- the zero, zero, 2 one-and-a-half, one, one. So that's -- and I 3 think Professor Belman testified it was off of 4 that proposal that he did all of his costing. 5 We received a -- a slide from the Post 6 Office for a -- for one of its witnesses which 7 suggests that a proposal -- management is 8 amending its proposal again, and actually is, I 9 guess, withdrawing its proposal -- its second 10 proposal and is suggesting a third completely 11 different economic proposal, which we had no 12 knowledge of prior to opening up the e-mail and 13 the PDF. 14 So Professor Belman has not been able 15 to do anything because we didn't even know about 16 it, and we haven't obviously had any discussions 17 with the post office about it. So we are on the 18 third economic proposal within about 31 days. So 19 Professor Belman's costing obviously can't be 20 costing on that one because we just got it. I 21 just wanted -- it's the limitation, I guess, of 22 this and -- just for what it's worth.</p>

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1355	<p>1 MS. GONSALVES: Okay. I would just 2 like to briefly respond to that. 3 ARBITRATOR OLDHAM: Please do. 4 MS. GONSALVES: First of all, it is 5 disingenuous, to say the least, for counsel for 6 the PPOA to claim no knowledge of the Postal 7 Service's pattern-based proposal. I'd have to 8 quantify the number, but I know it was more than 9 once that the Postal Service proposed the pattern 10 to the PPOA and that the PPOA rejected it. 11 MR. STEPHENS: That's not true. That's 12 not true, Teresa. 13 MS. GONSALVES: Let me just finish 14 here. 15 Secondly, the brief proposes only the 16 pattern, two years of wage freeze followed by 17 three years of modest wage increases, and that is 18 exactly what the slide is. So there were no -- 19 there was a 5 percent wage cut originally. It 20 was the same proposal we made to all of the 21 unions. We meant no disrespect to any of the 22 police officers that are in this room. It's the</p>	1357	<p>1 misrepresentation -- no disrespect intended -- 2 but I believe the footnote itself explains that 3 the post office was formerly amending its 4 proposal, which had never been amended, and that 5 was not amended till December 27th. 6 MS. GONSALVES: In terms of laydown 7 proposals, you are correct. That footnote 8 appears in every single prehearing brief that 9 we've done. But post the laydown proposals, the 10 Postal Service did make the pattern. 11 MR. STEPHENS: That's not correct. 12 MS. GONSALVES: I'm not going to keep 13 going on with this. 14 MR. STEPHENS: Because it's not 15 correct. 16 ARBITRATOR OLDHAM: Well, as far as the 17 panel's concerned, we're not really concerned 18 who's correct on this. 19 ARBITRATOR DUFEK: Exactly. 20 ARBITRATOR OLDHAM: All right, folks. 21 We're going to conclude this long week. Thank 22 you all very much. We will reconvene at 9:30 on</p>
1356	<p>1 same proposal we made to every single union, 2 including the ones covering hundreds of thousands 3 of employees. Subsequent to that, we did make 4 the pattern proposal. 5 ARBITRATOR DUFEK: I would just like to 6 make a comment, Arlus. I think I can, hopefully, 7 put this to bed. You know, it may be that the 8 panel will ask for even other alternatives, so 9 the idea that -- that the costing is locked in 10 stone is not certainly something that I would 11 think of, based on my experience. And Jim, I 12 don't think he would, either. 13 So there's no -- no need to get into -- 14 I would keep Dr. Belman's telephone number on 15 your Rolodex. 16 MR. STEPHENS: Sure. 17 ARBITRATOR DUFEK: I guess we don't do 18 that anymore -- in your cell phone, and I would 19 urge the Postal Service to do the same. 20 ARBITRATOR OLDHAM: Good. 21 MR. STEPHENS: I would -- just to 22 correct what I believe is an important</p>	1358	<p>1 February 6th. 2 (Whereupon, the proceedings were 3 adjourned at 3:46 p.m.) 4 5 * * * * * 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>

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1 CERTIFICATE OF NOTARY PUBLIC
2 I, ERICK M. THACKER, the officer before whom
3 the foregoing arbitration was taken, do hereby
4 certify that the testimony appearing in the
5 foregoing arbitration was taken by me in
6 stenotype and thereafter reduced to typewriting
7 by me; that said transcription is a true record
8 of the proceedings; that I am neither counsel
9 for, related to, nor employed by any of the
10 parties to the action in which this was taken;
11 and, further, that I am not a relative or
12 employee of any counsel or attorney employed by
13 the parties hereto, nor financially or otherwise
14 interested in the outcome of this action.

15

16 _____
17 ERICK M. THACKER
18 Notary Public in and for the
19 District of Columbia

20 My commission expires:
21 June 14, 2014

22

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