

Investigation of Events at Chickasaw Agency,
December 12, 2002

FINAL REPORT

Prepared by

Jerry Gidner
Chief of Staff to the Assistant Secretary – Indian Affairs
202-208-7163

March 20, 2003



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR 20 2003

Memorandum

To: Jim Cason
Associate Deputy Secretary

From: Jerry Gidner *Jerry Gidner*
Chief of Staff to the Assistant Secretary – Indian Affairs

Subject: Investigation of Events at Chickasaw Agency, December 12, 2002

Summary

You asked that I investigate the details of a site visit by a technical Team convened by Special Master Balaran to the Bureau of Indian Affairs (BIA) Chickasaw Agency on December 12, 2002. The purpose of my investigation was to determine whether the Agency staff deliberately mislead the Team regarding how long the Agency had been disconnected from BIANet. My conclusions are summarized below and explained in more detail in the remainder of the document. Copies of my interview notes and all other documents I reviewed in conducting this investigation are attached.

Notification of Chickasaw Agency of Impending Team Visit

It is uncontested that Ms. Hanna told the Chickasaw Agency that the Team was en route and instructed Agency staff to unplug the server. I do not believe Ms. Hanna acted improperly in that regard; no one on the Team told her not to tell Chickasaw (or even talked to her at all), and she informed senior Indian Affairs management of her intentions before she issued her instructions.

Information Provided to Team by Agency Staff

I believe that the Agency staff did not tell the Team everything that they should have. For example, they did not tell the Team that they had unplugged the server a mere 70 minutes before the Team arrived. Although members of the Team felt that the Agency staff implied to them that the server had been disconnected for longer, the Team members never asked the Agency staff when they had disconnected the server. In addition, there was significant confusion about whether the Team was asking about the Internet, BIANet, or both (I interviewed five people, including three from the Team, who took part in the same series of conversations. All five had different memories and interpretations

of the substance of those conversations.) Mr. Kerr believes Ms. Phillips told him that the Agency had been off the network since December 2001. Ms. Phillips states that she was asked questions she could not answer and referred them to Ms. Kemp.

Their error, in this instance, was one of omission. They were, however, following the instructions of their Regional Director, who told them to "answer what you are asked and no more." I do not believe that their omission, in this instance, warrants any disciplinary action against Ms. Hanna, Ms. Phillips, or Ms. Kemp. But see the recommendation section, below.

The Network Protocol

It appears that the network protocol was removed, between 9:41 am and 1:30 pm, from a computer that Mr. Kerr tested. I do not have sufficient evidence to determine who removed it. All the computer staff I spoke with stated that someone would have to have removed the protocol manually. Ms. Kemp denies that she did anything to that computer that day. She cannot explain why Mr. Kerr did not find a network protocol on the computer when he tested it. The removal of the network protocol, in and of itself, is not actionable. First, it is akin to unplugging the server; an additional step that could have been taken to ensure that the computers could not connect to the server. Second, even if it was actionable, I do not know who did it.

Mr. Kerr states that Ms. Kemp told him that the Agency had removed the network protocols from all their computers. He believed that she meant in December 2001, although she did not specify a time period and he did not ask her when it had occurred. Ms. Kemp denies making that statement. Whether the statement was made is a classic "he said - she said" scenario. I have no way to balance Mr. Kerr's credibility against Ms. Kemp's and determine that one was lying and one was not. Therefore, I cannot recommend any disciplinary action for this issue.

In any event, if Ms. Kemp had made the statement, it would have been evidence that she was providing more, not less, information to the Team. It would weigh against the concept that she was trying to deceive the Team.

Recommendation

I recommend that the Department issue a memorandum instructing staff to fully cooperate with any Special Master investigation, and specifically countermanding any "answer only what is asked" approach that Department staff may take in their dealings with the Special Master.

People Interviewed

Glenn Gillett, Department of Justice
Jeanette Hanna, Director, Eastern Oklahoma Region
Robin Phillips, Supervisory Real Estate Specialist, Chickasaw Agency

Jessie Kemp, Real Estate Specialist, Chickasaw Agency
Brian Burns, BIA CIO
Eddie Streater, then Acting Superintendent, Wewoka Agency
Judy Snoich, DOI, Office of the CIO
Jon Pettyjohn, SAIC
James McDivitt, Deputy Assistant Secretary – Management
John Kerr, Security Assurance Group
Lonnie Dixon, Director, Office of Information Resources Management, BIA
Eric Eskam, Lotus Notes Administrator, BIA
Wendell Schubert, IT Specialist, BIA
Albert Rice, IT Specialist, BIA
Janine Bond, Chickasaw Agency, BIA

Summary of Events

Background

A series of servers in the Bureau of Indian Affairs (BIA) Southern Plains Region that contained individual Indian trust data were disconnected from the Internet and the BIA intranet (BIANet) in response to a court order in December 2001. The BIA submitted a proposal to reconnect those servers to BIANet. To evaluate the proposal, a Team consisting of representatives from the Department of Justice (DOJ), SAIC, and IBM visited several sites in the Southern Plains Region, and listed several servers that should be allowed to reconnect to BIANet. The Department of Justice believed that the Wewoka and Chickasaw Agencies, which are part of the BIA's Eastern Oklahoma Region, were part of the Southern Plains Region. At one time, the network circuits of those Agencies had been connected to BIANet through the Southern Plains Region router. In addition, there was apparent confusion over the number of servers in the Southern Plains Region. See February 21, 2003 Memorandum from Ed Socks, Chief Technology Officer to Jim Cason, Associate Deputy Secretary, for more details on the technical aspects of this investigation (Socks Memorandum). Since those two Agencies had not been listed in the Team's report as being allowed to reconnect, the DOJ believed that they should not be connected to the BIANet. As part of a continuing effort to test what were believed to be Southern Plains Region servers, the Team visited Wewoka and Chickasaw Agencies. At the direction of the Special Master, these were to be unannounced visits.

Wewoka Agency

On the morning of December 12, 2003, the Team visited the Bureau of Indian Affairs Wewoka Agency, Eastern Oklahoma Region, to test whether the Agency's server was connected to the BIA intranet (BIANet).

The Team that visited Wewoka Agency consisted of:

Glenn Gillett, Department of Justice
Jon Pettyjohn, SAIC, under contract to Department of the Interior

Robert Rota, SAIC, under contract to Department of the Interior
John Kerr, US Internetworking, under contract to the Special Master

The Eastern Oklahoma Regional Director, Jeanette Hanna, was having a regular 10:00 a.m. Monday conference call with her Agency Superintendents. During that call, Mr. Streater, the Acting Superintendent at Wewoka, informed Ms. Hanna that his staff had just handed him a note stating that a Team from the Special Master's office had arrived. He asked to be excused from the conference call. Ms. Hanna excused him and asked him to call her back when the Team left.

Acting Superintendent Streater then greeted the Team. The Team performed its tests. It found that the server was connected to BIANet. As discussed above, the Team believed that the Agency was not allowed to be connected to BIANet (which Mr. Gillett of DOJ now believes was an "erroneous conclusion").

Mr. Gillett asked Mr. Streater why the server was connected. Mr. Streater did not know. He consulted with another staff member who also did not know. Mr. Gillett asked Mr. Streater who knew the most about the systems. Mr. Streater gave him the name of Joanne Belgarde, the Information Management Coordinator for the Southern Plains Region (the Southern Plains Region maintained the servers for the Eastern Oklahoma Region, under a Memorandum of Understanding. See Socks Memorandum at 6).

Mr. Gillett called Ms. Belgarde¹ and asked her why the Wewoka server was connected to BIANet. Ms. Belgarde told him it had been disconnected. Mr. Gillett believes she may have been thinking about the Internet, not BIANet, but not based on anything that he told her.

Mr. Gillett unplugged the BIANet connection at Wewoka.

Mr. Gillett called Judy Snoick at the Department of Interior to inform her of what the Team found and what had occurred. He asked her to contact Brian Burns, the Indian Affairs Chief Information Officer.

Mr. Gillett does not remember if he told Ms. Belgarde that the Team was also going to visit Chickasaw Agency. I have not interviewed Ms. Belgarde.

Mr. Gillett believes that he did tell Mr. Streater that the Team was going to Chickasaw Agency and instructed Mr. Streater not to inform Chickasaw. He did not instruct Mr. Streater not to tell the Regional Director about the Team's plans.

Mr. Pettyjohn of SAIC does not recall hearing Mr. Gillett tell any one during the Wewoka visit that the Team was going to the Chickasaw Agency next. He stated that the Team is usually very careful not to let people know what other places it intends to visit. He stated that the Team would usually make a blanket statement that these inspections were unannounced visits.

¹ I am unsure of exact chronology of the numerous phone calls discussed throughout this report.

Mr. Streater does not recall anyone on the Team mentioning Chickasaw Agency by name, although they might have. He does recall being told that the Team was visiting two or three sites, including Wewoka Agency. He therefore inferred that the Team was visiting at least one other Agency. Mr. Streater does believe that he was told the other visits were supposed to be unannounced.

After the Team left Wewoka Agency

After the Team left, Mr. Streater called Ms. Hanna, as she had instructed. Ms. Hanna believes that Mr. Streater told her that the Team was going to Chickasaw Agency, but she is not sure. Mr. Streater thinks it is "very possible" that he mentioned to Ms. Hanna that the visits were supposed to be unannounced, since he told her everything he could remember about the Team's visit. Ms. Hanna does not believe that Mr. Streater told her this. He did tell her, however, that the Team had found a violation of the Court Order at Wewoka and had unplugged the server.

Ms. Hanna also received a telephone call from Dan Deerinwater, the Southern Plains Regional Director. He had apparently been informed by Ms. Belgarde about her phone call with Mr. Gillett. Ms. Hanna believes it is possible that Mr. Deerinwater mentioned to her that the Team would be visiting Chickasaw Agency, but she is not sure. I have not interviewed Mr. Deerinwater.

No one on the Team talked with Ms. Hanna directly.

After receiving these phone calls, Ms. Hanna called the Assistant Secretary – Indian Affairs office in Washington, DC. She spoke with James McDivitt, the Deputy Assistant Secretary for Management and with me, Chief of Staff to the Assistant Secretary – Indian Affairs. At that point, Ms. Hanna was aware that the Team had found a violation at Wewoka and was en route to Chickasaw. Since she did not know what the violation was, or how widespread it was, she informed Mr. McDivitt and I that she intended to instruct Chickasaw Agency to disconnect its server.

Chickasaw Agency – Prior to the Team's visit

Ms. Hanna called Traile Glory, the Chickasaw Superintendent, on his cell phone. He was on travel, however, and unable to help her.

Ms. Hanna called the Chickasaw Agency directly, at approximately 12:10 or 12:15 local time. She spoke with Jessie Kemp. Ms. Kemp is a GS-9 Realty Specialist who also performs the collateral duty of maintaining the Agency's computers. She was covering the telephones while the other employees of the Agency were at lunch. Ms. Hanna asked to speak with Ms. Robin Phillips, the Acting Superintendent. Ms. Kemp informed her that Ms. Phillips was at lunch. Ms. Hanna asked for Ms. Phillips' cell phone number. Ms. Kemp informed Ms. Hanna that Ms. Phillips did not have a cell phone.

Ms. Hanna told Ms. Kemp that a Team from the Department of Justice was at Wewoka Agency and was coming to Chickasaw Agency to look at the computer servers. Ms. Hanna then instructed Ms. Kemp to turn off the server. Ms. Kemp wanted clarification and asked Ms. Hanna if she should unplug it. Ms. Hanna replied that Ms. Kemp should "pull it off the wall."

Ms. Kemp returned to her own computer and tried to log in to Lotus Notes. She was unable to, and believes that the Regional server had already been disconnected by someone at the Miami Agency, thus cutting the Chickasaw Agency off from access to BIANet. She also believes that the Agency's Lotus Notes connection ran through the Southern Plains Region and that it had also been disconnected.

After trying, and failing, to log onto Lotus Notes on her own computer, Ms. Kemp went to the room where the network cabinet is located. She unplugged the "backup unit" from the electrical socket. She did this at approximately 12:20 local time. The "backup unit" is a backup power system – a battery – that computer equipment is plugged into. It is supposed to provide "3 – 4 hours" of power to the server in the case of a power outage.

Ms. Hanna called the other Agencies in her Region and instructed them to "go dark," by which she meant, "turn off the servers." She believes someone offered to disconnect the Regional server. She is trying to recall who it was. It could have been at Osage Agency, not Miami Agency as Ms. Kemp believed, because Osage Agency has a real computer person. She believes she told the person to do so.

When Ms. Phillips returned from lunch at 12:30, Ms. Kemp informed her of the phone call from Ms. Hanna and that she had unplugged the backup unit.

Ms. Phillips called Ms. Hanna back. Ms. Hanna told her that the Agency and/or Region were apparently in violation of some computer requirement, and that the Team was en route to Chickasaw. She told Ms. Phillips that the computers should be unplugged and that Ms. Phillips should call Ms. Hanna back after the Team left.

Ms. Hanna states that she instructed Ms. Phillips "to make sure you see IDs," and to "answer what you are asked, and no more." She denies otherwise directing the staff on how to answer the Team's questions. She does not believe she could have, since she did not know exactly what violation the Team found at Wewoka.

Chickasaw Agency – Team's Visit – Initial Conversations

The Team arrived at Chickasaw Agency at approximately 1:30 p.m. local time. They asked Ms. Phillips to "show us the server," or said "we would like to see your server." Someone on the Team asked Ms. Phillips whether the Agency had access to BIANet. Ms. Phillips said she did not know and got Ms. Kemp. She believes the Team asked Ms. Kemp whether the Agency had access to BIANet (her notes made on December 12 state that the Team "asked her a few questions about internet or bianet access."). Ms. Kemp believes the Team asked her about access to the Internet. She does not believe they asked

her about access to BIANet (her notes made on December 12 state, "They also asked about our access to the email system and I told them we had no access because we were totally disconnected from the server which was shut down earlier."). She replied "No" in response to the question about Internet access.

Mr. Gillett does not remember exactly what question the Team asked regarding connections to networks, but believes that the questions were "somewhat silly" since the power to all the computer equipment was disconnected. Mr. Pettyjohn initially thought the Team asked Ms. Phillips to "show use your connection to BIANet." However, when I asked him what exact words were used, he wasn't sure. He said they probably used the word "connectivity," but could have used BIANet or Internet. Mr. Kerr believes that he asked about "connectivity points into the building and that he would run tests with his laptop to ensure there was no connectivity to either network." Up to this point he had not distinguished between the Internet and BIANet.

Chickasaw Agency – Team's Visit – Examination of Server Room

Ms. Phillips showed the Team to the server room. When the Team examined the network cabinet, all the equipment was off. Mr. Pettyjohn knew the equipment was off because none of the lights on the machines were lit. Mr. Kerr confirms that there were no lights lit and no fans running. Mr. Gillette and Mr. Kerr state that the Team had to move bookcases out of the way to get to the server rack.

The Team did not ask Ms. Phillips or Ms. Kemp how long the server had been disconnected. Neither Ms. Phillips nor Ms. Kemp made any-representation to the Team about how long the server had been disconnected. (Ms. Kemp's written statement, quoted above, may be an exception to this: it refers to the server "being shut down earlier." But not how much earlier.)

Chickasaw Agency – Team's Visit – Examination of Mr. William's Computer

The Team asked Ms. Phillips for a business card, which she went to get. While she was gone, the Team asked Ms. Kemp to show them to a computer to test. She took them to the nearest computer, which was in Brad Williams office. Mr. Kerr states that they met Ms. Kemp in the common area between the server room and Mr. William's office and that she took them the rest of the way to Mr. William's office. He states that while they were walking around the desk to get to the computer, Ms. Kemp told him that they had gone beyond simply powering down the server and had removed the network protocols from the computers. Mr. Kerr did not ask when the Agency had removed the protocols, but his impression was that it had been done at the same time as the restraining order regarding the Internet in December 2001.

When Ms. Phillips returned, the Team was in Brad Williams's office and Mr. Kerr was using Mr. William's computer. He ran the following tests on the computer he was taken to:

Trace Route Command. This test shows every machine that that machine goes through to get to a designated network address. The trace route command died at the local machine. It gave an error message and did not execute the command. To Mr. Kerr, that meant that there was no network connectivity. If the computer had been connected to the BIANet, but not the Internet, it would have showed the steps it could make (i.e, from the computer to the server) and then would have died.

Ping Test. This test is similar to the Trace Route test, but it doesn't show all the stops the information goes through to get to the destination. It just indicates whether the packets of data made it to the final destination. He tested for connectivity to the BIANet and Internet. The tests indicated that there was no connectivity.

IP configuration test. The command "IP config /all" shows the network configuration of the networking card in the computer. For example, it shows the IP address of the machine. Each computer that connects to a network needs an IP address. The test indicated that the machine had no IP address.

Protocol test. Mr. Kerr tried to look at the network protocol on the computer. This is a TCP/IP protocol that has to be on the machine for it to connect to a network. He clicked on an icon called "network places," and right clicked on "properties." The computer indicated that it had no network protocols.

According to Mr. Pettyjohn, Mr. Kerr was looking for the network protocol, which would allow the computer to connect to a network. The computer did not understand the command to connect to a server, which implied to Mr. Pettyjohn that the network protocol had been removed.

Chickasaw Agency – Team's Visit – Team's Conclusions

Mr. Gillett states that he "was led to believe" the server had been disconnected for "some time." He stated that he came to this conclusion for the following reasons:

One: The server cabinet was behind a wall locker that had to be moved to get access to the server cage.

Two: The Team had joked about being at Wewoka and finding a connection. Someone, he believes it was Ms. Phillips, told him that "we are not like Wewoka," and that they were not connected to anything, not even the LAN.

Three: He stated that the Chickasaw staff told him that there was no BIANet or Internet connectivity. I asked him if he was sure the Team asked about both networks, since Ms. Phillips believe they had asked about BIANet and Ms. Kemp believed they asked about the internet. He said he thought they had asked about both, but it was "somewhat silly" because the server was unplugged.

Four: Mr. Kerr checked a computer for connectivity, and the test showed no ability to connect to a server. The Agency staff did not tell him that the network protocol had been removed recently.

Mr. Pettyjohn "got the feeling" that the server had been disconnected for quite a while. He stated that he came to that conclusion for the following reasons:

One: Ms. Phillips or Ms. Kemp told them, "We've been powered down," which implied to him that the server had been powered down for a longer period of time than an hour.

Two: Mr. Kerr's test showed that there was no network protocol on Mr. Williams's computer, so the computer did not understand the command to connect to a server. This protocol, a TCP/IP protocol, would be on each computer and would have to be removed from each computer individually. Turning off the power to the server would not cause the network protocol to vanish from individual computers.

Chickasaw Agency – BIA Test

After the Department of Interior began investigating the events at Chickasaw Agency, we decided to send our own team to look at the computers. We wanted to see if there were network protocols on other computers in the Agency and verify the results of Mr. Kerr's tests. Unfortunately, the instructions to the BIA staff became garbled – they checked the status of the servers at Chickasaw Agency, not the status of the individual computers.

Discussions with Computer Experts

All computer experts that I spoke with, including John Kerr, Jon Pettyjohn, Lonnie Dixon, and Eric Eskam agree that each computer needs a network protocol to connect to a network. They all also agree that the only way to remove a network protocol from a computer is for someone to manually remove it, a process that takes only a few seconds.

Mr. Eskam confirmed that Mr. Williams email log indicated that his computer sent a return receipt message to Robin Phillips at 9:41 am on December 12, 2002. Thus the computer was running Lotus Notes, so it was connected to the BIANet. Therefore, it had to have had a network protocol.

At approximately 1:30 that afternoon, Mr. Kerr's test indicated that the computer did not have a network protocol.

Ms. Kemp denies doing anything to Mr. William's computer before the Team arrived. She stated "no one touched the computer." Ms. Kemp believes that the TCP/IP protocol is the "mail server number. She stated that each computer has an IP address that is specific to that computer, but to dial out to Lotus Notes the computer would need a mail server number. I asked her what it would mean to her if she got on a computer and could not find the mail server number. She said the computer would have to be brand new. Mr. William's computer was not brand new (although nearly so – it was a month old) and

had been used to connect to Lotus Notes. Thus it had to have had a mail server number. Ms. Kemp said that evidence of this fact was in Mr. William's office when the team was there; because there were printed pages from Lotus Notes sitting on Mr. William's desk.

I asked Ms. Jeanine Bond, another employee at the Agency, whether anyone had worked on her computer that day. She said that she had been at work that day and that no one had worked on her computer.

Conclusions

Who informed the Chickasaw Agency that the Team was coming?

Jeanette Hanna, Eastern Oklahoma Regional Director, called Chickasaw Agency and informed a staff person and the Acting Superintendent that a Team was coming to investigate the computer systems.

Did Ms. Hanna know that the Team's visit to Chickasaw Agency should be unannounced?

It is possible that Ms. Hanna heard this, but not from an authoritative source. No one from the Team talked to Ms. Hanna directly. She also informed the Deputy Assistant Secretary – Management and the Chief of Staff to the Assistant Secretary – Indian Affairs that she intended to tell Chickasaw Agency to disconnect the server. They did not instruct her not to.

Mr. Streater, the Acting Superintendent at Wewoka Agency the day of the Team's visit, believes the Team told him the visits were supposed to be unannounced, and it is very possible he told Ms. Hanna that. Ms. Hanna does not recall being told that by Mr. Streater.

Mr. Streater does not remember the Team telling him that it was going to Chickasaw Agency. To cloud the issue, members of the Team have different memories of what Mr. Streater was told. Mr. Gillett says he told Mr. Streater the Team was going to Chickasaw Agency. Mr. Pettyjohn, however, who was also on the Team, says he does not remember hearing Mr. Gillett tell Mr. Streater that and says the Team is very careful not to tell people what other sites they visit.

To further cloud the issue, Ms. Hanna also heard about the Team's plans from Dan Deerinwater, the Southern Plains Regional Director. He called her after hearing about it from his Information Management Coordinator, Joanne Belgarde, to whom Mr. Gillett had spoken from Wewoka. Ms. Hanna said that Mr. Deerinwater called her, but she does not remember if he specifically mentioned Chickasaw Agency. I have not interviewed Mr. Deerinwater or Ms. Belgarde.

When Ms. Hanna received the report from Mr. Streater, she called all Agencies in her Region, not just Chickasaw, and told them to "go dark," meaning, "turn off the servers" until she could figure out what the violation at Wewoka Agency was.

When Was the Chickasaw Agency's Server Turned Off?

Approximately 12:20 p.m. local time on December 12, 2002. Jessie Kemp turned it off, following a request from Ms. Hanna to do so. She believes the Regional server had already been turned off, as she was unable to connect to Lotus Notes.

How did Ms. Kemp Turn the Server Off?

She unplugged the backup power unit from the electrical outlet.

What did the Agency staff tell the Team about the Agencies connection to the network?

Ms. Phillips stated the Team asked about the Agencies connection to the BIANet and she did not know the answer so she got Ms. Kemp. Ms. Phillips believes the Team asked Ms. Kemp whether the Agency had connectivity to the BIANet and Ms. Kemp said no.

Ms. Kemp stated that the Team asked her if the Agency was connected to the Internet and she told them no. She does not believe the Team asked her about the Agency's connection to BIANet. Her written statement, prepared at Ms. Phillips request on December 12, 2002 states that the Special Master's Team was there to "conduct an internal computer access audit to the internet" (emphasis added).

Mr. Gillett stated that he believes they asked the Agency staff about both the BIANet and the Internet, but the inquiry was "somewhat silly" because the whole system was unplugged from the wall.

Mr. Pettyjohn believes the Team used the term 'connectivity' and may not have specified either BIANet or Internet.

Mr. Kerr stated that he used the term "connectivity." He did not distinguish between connectivity to the Internet or connectivity to BIANet. He states that Ms. Phillips told him the Agency had been powered down since the temporary restraining order.

Why did the Team believe that the BIANet connection at Chickasaw had been disconnected "for some time?"

Mr. Gillett stated, "He was led to believe" that the server at Chickasaw had been disconnected "for some time," for the reasons stated above. Mr. Pettyjohn stated he "got the feeling" the server had been disconnected for a while, for the reasons stated above. Mr. Kerr also left with the same impression.

Did anyone at Chickasaw Agency tell the Team how long the server had been unplugged?"

There is contradictory evidence on this point. The Team did not ask Ms. Phillips or Ms. Kemp how long the server had been turned off. Ms. Phillips and Ms. Kemp deny making any statement regarding how long the Agency had been disconnected from BIANet. Mr. Kerr states that Ms. Phillips told him that the Agency had been powered down "since the temporary restraining order" (December 2001). This would be true only with regards to the connection to the Internet; the connection to BIANet was maintained until the day of the Team visited. As the timing of the Agency's connection to BIANet during the period from December 2001 to December 2002 is extremely easy to check, it seems unlikely to me that Ms. Phillips would make such a statement about the BIANet.

What happened to the network protocol on Mr. William's computer?

It appears that someone removed it between 9:41 am and approximately 1:30 pm on December 12, 2002. The computer had a protocol at 9:41 because it was running Lotus Notes. It did not have one at 1:30 when Mr. Kerr tested it. This conclusion is based on three assumptions: 1) the computer needed a protocol to connect to BIANet and Lotus Notes at 9:41 am; 2) the only way to remove a protocol is to do so manually; and 3) Mr. Kerr properly performed and interpreted his test to see if the computer had a network protocol.

Who removed the protocol from Mr. William's computer?

I don't know. Ms. Kemp denies altering Mr. William's computer in any way in advance of the Team's visit. She states that if a computer did not have a network protocol, it would mean to her "it was brand new." She stated that Mr. Williams' computer was not brand new, and that evidence that it had recently been connected to Lotus Notes was sitting on Mr. William's desk while the Team was there. She denies telling Mr. Kerr that she removed the network protocols from the computer. If she had told him that, however, it would be evidence against an intent to deceive the team: she would have been telling him exactly what actions she had taken to ensure the connection from the server was complete.

Other Remaining Questions

A. Backup Power

Why was the server without power only 70 minutes after Ms. Kemp unplugged the backup unit, which should have provided power to the server for 3 to 4 hours?

Ms. Kemp says she disconnected the backup power unit from the electrical outlet at approximately 12:20 p.m. She and Mr. Pettyjohn both state that the backup power unit provides power to the servers if the power goes out. Ms. Kemp says that the backup

should provide power for 3 to 4 hours." Mr. Pettyjohn says it should provide power "for several hours."

The Team arrived at approximately 1:30 pm, or 70 minutes after Ms. Kemp unplugged the backup unit. Mr. Pettyjohn said that when the Team looked at the equipment, there were no lights lit up on any of the equipment, so the Team knew it was all powered down.

B. Regional BIANet Shutdown

Did someone disconnect the Regional server before Ms. Kemp unplugged the Agency server? If so, did this have any effect on the test that Mr. Kerr conducted on Mr. William's computer?

Ms. Kemp states that before she unplugged the server, she knew the Agency had already been disconnected from BiaNet, and from Lotus Notes. After Ms. Hanna instructed her to unplug the server, she went to her own computer, tried to log into Lotus Notes and could not. She believes that someone in Miami Agency, whose name she could not remember, turned off the Regional server.

Ms. Hanna states that when she was calling all the Agencies on December 12 and instructing them to turn off the servers, someone volunteered to turn off the Regional server. She believes it was at Osage, not Miami Agency, and that she instructed them to go ahead and do so. She is trying to remember whether she talked to the Acting Superintendent at Osage or the computer person, Steve Tully.

Telephone conversation with Glenn Gillett, February 14, 2003

Systems housing individual Indian trust data were shut down in December 2001. Others were allowed to stay up as long as they were not connected to the Internet. In Anadarko (Southern Plains Region), a series of servers used a software program for certain individual Indian trust data. After they were shut down, these servers had no connection to the Internet or BIANet. There were also servers at Wewoka Agency and Chickasaw Agency in the Eastern Oklahoma Region. Because those systems had no individual Indian trust data, they were not required to disconnect from the BIANet.

BIA submitted a proposal to reconnect 7 – 9 Anadarko servers. In evaluating the proposal, a Team from DOJ, IBM and SAIC visited several sites in Southern Plains Region. The Report from this Team listed several servers that should be allowed to reconnect. DOJ thought that Wewoka and Chickasaw Agencies were Anadarko systems. Since they were not listed in the Team's report as being allowed to come up, Mr. Gillett believed that they should still be disconnected. In hindsight, Mr. Gillett believes that that was an erroneous conclusion.

They scheduled visits to Wewoka and Chickasaw to determine if they sites could connect to BIANet (this was apparently a different Team than visited the Anadarko sites, see February 21, 2003 memorandum from Brian Burns to James Cason, page 14, Technical Finding 44). These visits were unannounced visits, at the direction of the Special Master. The Team included Mr. Gillett on behalf of DOJ, Mr. Jon Pettyjohn and Rob Rota from SAIC on contract to DOI, and John Kerr from USInternetworking on contract to the Special Master.

At Wewoka Agency, the Superintendent was not there. The Acting Superintendent, Eddie Streater, showed the Team to the server room and they tested the server. The tests showed it was connected to the BIANet. The Team thought it should not be. Mr. Streater did not know much about it. He consulted with another staff member, who also seemed puzzled. Mr. Gillett asked who knew the most about the systems. Mr. Streater gave him the name of a person in Anadarko (Joanne Belgarde, see Glenn Gillett email to Sandra Spooner, January 16, 2003. Gidner note: According to Jeanette Hanna, Ms. Belgarde is the head of IT services at the Southern Plains Region and maintains the Wewoka Agency computer systems for the Eastern Regional Office). Ms. Belgarde knew about the court order regarding connections to the Internet. Mr. Gillett asked her why the Wewoka server was connected to BIANet. Ms. Belgarde told him that it had been disconnected, although, according to Mr. Gillett, she may have been thinking about the Internet, not BIANet. Ms. Belgarde was also familiar with the reconnect order for the Anadarko systems.

Mr. Gillett unplugged the BIANet connection at Wewoka. He now believes he "probably should not have," but his action was based on the information he has at the time.

Mr. Gillett does not remember if he told Ms. Belgarde that the Team was going to Chickasaw, but he did tell Mr. Streater. He believes he told Mr. Streater not to inform

Chickasaw Agency. He also called Judy Snoitch, informed her of what the Team had found and asked her to inform Mr. Burns, the Indian Affairs CIO.

The Team then drove to Chickasaw Agency. They talked to the Office supervisor (Mr. Gillett did not remember her name during our phone conversation). She told him "Nothing is connected. Everything is disconnected." She showed the Team to the IT cabinet, which was behind other furniture.

Mr. Gillett says he was led to believe that the Agency had been disconnected from BIANet and had not been connected for some time. The Agency was disconnected to the extent that they had no LAN to let them run printers.

Mr. Kerr then examined one PC to check for Internet connectivity. He left a voice mail to the Special Master telling him that Wewoka was connected to BIANet and that that connection was improper.

The next day, Mr. Gillett had a conversation with the Special Master and told the Special Master that he had been told (Gidner note: by whom?) that Wewoka had been disconnected from BIANet and that someone had come from the Region to certify that. They did not know how it got reconnected. Mr. Gillett believes that they could have thought he meant the Internet, rather than BIANet).

This week (week of Gidner telephone conversation with Gillett) is the first time that Mr. Gillett had heard that there had been a phone call from the Region to Chickasaw Agency informing the Agency of the Team's impending visit. He learned this from Judy Snoitch, in a draft of a letter she prepared to the Special Master.

Telephone conversation with Jeanette Hanna, February 21, 2003

On December 12, 2002, Ms. Hanna was having her usual 10:00 Monday morning staff call with her Agency Superintendents. Mr. Eddie Streater was the Acting Superintendent at Wewoka Agency that day. Mr. Streater told her that his staff had just handed him a note stating that a team from the Special Master's Office had just arrived. He asked to be excused from the staff phone call. Ms. Hanna excused him and asked him to call her when the team left.

Mr. Streater called Ms. Hanna back when the team left. He told her that the DOJ attorney (Glenn Gillett) "turned off the server." Jeanette Hanna believed this to mean that they disconnected the computers from the BIA network. Mr. Streater told Ms. Hanna that the team was headed for Chickasaw Agency next.

Ms. Hanna never talked to Mr. Gillett or anyone else from the Inspection Team herself. Mr. Gillett did speak with someone from the IT support office at Southern Plains Office, because the IT support for Wewoka was contracted to Southern Plains from Eastern Oklahoma. This was probably Joanne Bellguard (sp?). Someone in the IT office at Southern Plains informed Mr. Deerinwater of the inspections. Mr. Deerinwater called Ms. Hanna and told her that the conversation between the Team and his IT staff was taking place and that the Team was going to visit Chickasaw Agency.

After hearing from both Mr. Streater and Mr. Deerinwater that the Team was headed to Chickasaw Agency, and from Mr. Streater that the Team believed Wewoka to be in violation of the Court's orders regarding computers, Ms. Hanna called Chickasaw Agency.

She first spoke to the secretary there. However, Ms. Robin Phillips, the Acting Superintendent that day, soon called her back. Ms. Hanna told her that the Agency (and/or Region) was apparently in violation of some computer requirement, that an inspection team was en route, and that Ms. Phillips should unplug all the computers and call Ms. Hanna back after the Team left.

Ms. Phillips called Ms. Hanna after the Team left. She said they had asked where the server was. When she showed them, they looked at it, and let after a few minutes. Ms. Hanna believes that the only network that Chickasaw agency was connected to prior to unplugging on December 16, 2002, was the BIA network.

Telephone conversation with Robin Phillips, February 23, 2003

Ms. Phillips is a Supervisory Real Estate Specialist at the Chickasaw Agency. On December 12, 2002, she was the Acting Superintendent.

Approximately 12:30 pm local time on December 12th, Jessie Kemp another employee at the Agency who handles IT functions as a collateral duty, informed Ms. Phillips that Jeanette Hanna, the Regional Director, had called and told her (Ms. Kemp) that a team from the Department of Justice was at Wewoka Agency and was coming to Chickasaw to look at the computer servers. Ms. Kemp told Ms. Phillips that Ms. Hanna had instructed her to shut down the server.

Ms. Hanna had spoken with Ms. Kemp because Ms. Phillips was at lunch when Ms. Hanna called. Ms. Hanna had already told Ms. Kemp to shut down the server.

Ms. Kemp had "turned a switch" and shut off the server.

The Team arrived at approximately 1:30 pm local time. The Team included Glenn Gillett from DOJ, Jon Pettyjohn and Robert Rota from SAIC, and John Kerr.

The Team asked her to "show us the server," or said, "we would like to see your server." Ms. Phillips does not remember the exact words the Team used. She believed, however, that when the Team mentioned the server, they were referring to the "big thing in our offices, in a cage."

Ms. Phillips took the Team to the room where the server was located. At this point Mr. Pettyjohn and Mr. Rota indicated that they were working for BIA (Gidner note: actually working for SAIC under contract to DOJ). Someone on the Team asked Ms. Phillips about whether the Agency had access to the BIA network. Ms. Phillips did not know the answer, so she got Ms. Kemp. The Team then asked Ms. Kemp if the Agency had access to the BIA network. She said "no." Mr. Pettyjohn told her, "Good answer."

The Team asked Ms. Phillips for a business card. She went to get some. When she returned, the Team was in a different office and John Kerr was on a computer.

When Mr. Kerr finished, the Team left.

Ms. Phillips then called Ms. Hanna to report what had happened while the Team was there. She made notes about the visit, because "we take this seriously." She will fax me her notes on Monday morning, February 24th.

Telephone conversation with Jessie Kemp, February 23, 2003

On December 12, 2002, at approximately 12:10 or 12:15, Jeanette Hanna, the Regional Director, called. Ms. Kemp answered the phone because everyone else was at lunch. Ms. Hanna wanted to speak with the Acting Superintendent, Robin Phillips. Ms. Kemp told her that Ms. Phillips was at lunch. Ms. Hanna asked if Ms. Phillips had a cell phone number. Ms. Kemp told her no – Ms. Phillips did not carry a cell phone and she had no way to reach her.

Ms. Hanna then told Ms. Kemp to “turn off the server.” By “server,” Ms. Kemp believed that Ms. Hanna was referring to a “unit that everything is backed up into.” Ms. Kemp wanted clarification and asked Ms. Hanna if she should unplug it. Ms. Hanna replied, “pull it off the wall.” So Ms. Kemp unplugged the electrical plug of the backup unit from the wall socket. All other computers at the Agency are connected to the backup unit so when she unplugged it, she cut the connection that any computer there had to any network.

Ms. Kemp is a realty specialist. She has a collateral duty of assisting with IT functions. They had another person there who did IT work, but when he left for another federal Department, the Agency needed someone to fulfill that function and Ms. Kemp was chosen to do so.

When the Team arrived, Ms. Phillips met them. Ms. Kemp was passing through the area and the Team asked her if the Agency was connected to the Internet. She told them, “no”. She does not think that they asked her about a connection to the BIA network. She does not think that they asked her how long the Agency had been disconnected from either the Internet or the BIA network.

She opened the cage to give the Team access to the server and she gave the Team an office with a computer to run tests they wanted to run.

The Team did not ask her many questions and were only there about 30 minutes.

Second Telephone conversation with Glenn Gillett, February 24, 2003

Person he spoke with at Wewoka Agency was Eddie Streater. He told Mr. Streater not to tell the Chickasaw Agency about the Team's visit, but did not tell him not to tell the Regional Director.

Card he was given for Chickasaw was for Superintendent, Traile G. Glory

I asked Mr. Gillett what "led him to believe" that the network connectivity had been off for a long period of time. He said there were several things:

One, the server cabinet was behind a wall locker which had to be moved to get access to the server cage.

Two, he said the Team had joked about being at Wewoka and finding a connection. Someone, he believes it was Ms. Phillips told him that "we are not like Wewoka," and that they were not connected to anything, not even the LAN.

Three, he said that the Chickasaw staff told the Team there was no BIANet or Internet connectivity. I asked him if he was sure the Team asked about both networks, since Ms. Phillips believed they asked about the BIANet and Ms. Kemp believed they asked about the Internet. He said he thought they had asked about both, but that the inquiry was somewhat silly, since the server was totally unplugged from the wall.

Four, Mr. Kerr checked a PC for connectivity, and the test should have shown if they had recent connections to BIANet. He is not sure if that is what Mr. Kerr checked for, but is meeting Mr. Kerr at 10:00 today and will ask him.

He referred me to Jon Pettyjohn of SAIC, who had the same impression he did. 703-375-2270.

Second telephone conversation with Jeanette Hanna, February 24, 2003

I asked for clarification on how she knew the Team would visit Chickasaw. She believes Dan Deerinwater told her that the Team was visiting two Agencies and that she believed the second one would be Chickasaw, because it had been on same list as Wewoka.

She thinks Eddie Streater also mentioned Chickasaw, but she can't recall specifically if he did.

After getting the call from Mr. Streater saying that a violation had been found, Ms. Hanna ordered all of her Agencies, not just Chickasaw, to turn off their systems until they could find out what the violation was and if it was occurring at other Agencies as well. She did this out of an abundance of caution, to ensure that violations were not occurring elsewhere.

I asked if Mr. Streater told her that the visits were supposed to be unannounced. She said no.

When she spoke with Ms. Kemp when she first called the Agency, she told her to unplug the system. When Ms. Phillips called Ms. Hanna back, Ms. Hanna had the impression that the Agency had not yet turned the system off, and she repeated her instructions to unplug it. Ms. Phillips told her that Jessie Kemp had asked about it, and Ms. Phillips said she told Ms. Kemp, "If the Regional Director tells you to unplug it, you unplug it."

Ms. Hanna remembers telling Ms. Phillips, "we don't know what the violation is, so everything goes down" until they figured that out.

I asked if she gave the Agency any other instructions regarding what to tell the Team. She said she told them "to make sure you see IDs," but that she did not know what the Team was looking for, so had no way to "pre-answer" the Team's questions, and she did not direct the Agency staff as to what to say.

She also spoke with the Superintendent, Mr. Traile Glory, that day on his cell phone. She called his cell phone, forgetting that he was on travel. But he was out west, perhaps in Denver, so she called the Agency directly.

Telephone conversation with Eddie Streater, February 24, 2003

I asked Mr. Streater what the Team said about Chickasaw. He said he was not sure they ever mentioned Chickasaw by name, just that they were visiting two or three sites total, including Wewoka, so there was at least one other Agency that the Team was going to visit.

I asked why people thought the Team was going to Chickasaw next. He said he assumed it was because the Agencies were routed the same way, through Anadarko.

I asked him what he told Jeanette Hanna after the Team left. He said that he told her the Team was going to continue its visits.

I told him that Glenn Gillett claims to have told Mr. Streater specifically that the Team was going to Chickasaw. Mr. Streater says Mr. Gillett could have, but he doesn't specifically recall it.

Mr. Streater believes that he was told the other visits were supposed to be unannounced. He thinks it is very possible he told Ms. Hanna that, since he was telling her everything he could remember about the Team's visit.

Mr. Streater did not call Chickasaw Agency, either because they told him not to, or because he didn't know that is where the Team was going next.

Personal conversation with Judy Snoich, February 24, 2003

She found out that Chickasaw Agency had received a phone call from the Region while having a meeting with Brian Burns, Jeanette Hanna and Richard Zeitler (sp?) in Mr. Burns's office. She will have to check her notes for the exact date of that meeting.

She mentioned it in a draft report to the Special Master, which she provided to Mr. Gillett of DOJ.

Personal conversation with Jon Pettyjohn, February 24, 2003

The DOJ attorney, in this case, Glenn Gillett, is usually the spokesperson at site visits, making the introductions, explaining the purpose of the visit, etc.

At Wewoka Agency, Mr. Pettyjohn does not recall hearing anyone tell Mr. Streater that they were going to Chickasaw Agency specifically, or even that they were going to any other Agency. They are usually very careful not to inform the sites that other visits are pending.

It is their practice, however, to make a blanket statement during the introductions that the site visits are unscheduled. This is often in response to statements by the hosts along the lines of "if we had known you were coming, we could have provided more information."

For the most part, the Team stayed together during the visit to Wewoka and Chickasaw, although at Wewoka, Mr. Gillett stepped out a time or two to make phone calls.

He doesn't remember hearing Mr. Gillett tell Mr. Streater that the Team was going to Chickasaw Agency or that that visit should be unannounced.

At Chickasaw Agency, Glenn Gillett was the spokesperson. He presented the letter authorizing the visit, and told the woman who greeted the Team (Gidner note: Mr. Pettyjohn believes this is Robin Phillips, but he did not have her card with him when we spoke) that they "needed to check the network systems." He said Ms. Phillips called another woman for assistance (Gidner note: This should be Jessie Kemp).

Ms. Phillips asked the Team, "What do you need to look at?" and John Kerr told her that the Team "needed to verify that there was no connectivity."

The Team asked Ms. Phillips to "show us your connection to BIANet." When I asked Mr. Pettyjohn specifically how the question was phrased, he wasn't sure. They probably used the word 'connectivity,' but could have used BIANet or Internet.

Ms. Phillips showed the Team to the network cabinet, which was right inside the office door. There was a locked network cabinet containing the equipment. He said you can turn it off from the front, but you have to walk around to the back of it to do the tests or to unplug it. You would have to move it to unplug it.

All the lights on the machinery were off, so Mr. Pettyjohn knew the power was off. I told him that Ms. Kemp explained she had unplugged the "backup unit" from the wall. Mr. Pettyjohn hypothesized that it was a backup power unit, essentially a big battery, which would provide emergency power for the equipment for several hours if the power went out.

Like Mr. Gillett, Mr. Pettyjohn "got the feeling" that the Agency had had the servers off for quite awhile. For example, Ms. Phillips or Ms. Kemp told them, "We've been

powered down," which implied to him a longer period of time. Neither Ms. Phillips nor Ms. Kemp told the Team how long the Agency had been powered down, and no one on the Team asked them.

Because the power was out, Mr. Kerr did not test the connectivity of the equipment in the network cabinet. Instead, he tested a PC to confirm a statement (made by whom?) that the Agency was doing stand-alone printing. That statement implied to Mr. Pettyjohn that the computers in the Agency couldn't even talk to each other. The test showed that there was no IP stack, i.e., no network protocol on the PC. The computer did not understand the command to connect to a server. This protocol, a TCP/IP protocol, would be on each computer and would have to be removed from each computer individually. Unplugging the power to the server would not cause individual computers to lose this protocol. The test would not show when the last connection to the network had been made.

Jessie Kemp showed them to the machine that they tested.

Second telephone conversation with Jessie Kemp, February 24, 2003

The "backup unit" that Ms. Kemp unplugged was indeed a backup power unit that all other equipment plugged into. She said that it should keep the equipment running for 3 or 4 hours after it is unplugged. She unplugged it before approximately 12:20 (in any event before 12:30 when Ms. Phillips returned from lunch). After consulting with Ms. Phillips she believed that the Team showed up at approximately 1:30. She does not know why, if the battery should provide power for 3 - 4 hours, the machinery was all dead at 1:30 when the Team arrived.

Before she unplugged it the backup unit, the IT people at Miami Agency had cut off the connection to BIAnet by turning off the Muskogee Regional server. Also before she unplugged the backup unit, the Southern Plains Regional Office had cut off the connection to Lotus Notes. She knows this because after Ms. Hanna called, she went to her computer and tried to log on to Lotus notes. She was unable to do so. She understands that the Agency is connected to the BIAnet through the Muskogee Regional server but is connected to Lotus Notes through the Southern Plains Regional Office.

After Ms. Hanna called, Ms. Kemp did not wait for Ms. Phillips to arrive back from lunch. Instead, she tested Lotus Notes on her computer, then unplugged the backup unit.

Ms. Kemp has been had the IT function as a collateral duty for 3 to 4 years. She minored in computer science in college, but has had not BIA computer training during the 3 - 4 years she has had this duty. She is a GS-9 employee.

When the Team asked her to show them to a PC, she showed them to the nearest computer, one belonging to Bradley Williams. It was a stand-alone computer, by which she means that it was the computer in his office. She did not do anything to the computer in preparation for the Team's visit.

I asked if she knows what the TCPIP protocol is. She said it's a mail server number. That there is an IP address on each computer that is specific to that computer, but to dial out to Lotus Notes the computer would need a mail server number.

I asked her what it would mean to her if she got on a computer and could not find the mail server number. She said it would mean that the computer was brand new.

I asked her if Mr. Williams computer was brand new and she said no, he had had it at least a month and had been using it for Lotus Notes etc., and that there were all sorts of printouts showing that sitting on his desk when the Team was there.

Third telephone conversation with Jeanette Hanna, February 24, 2003

Ms. Hanna had previously told me that she had told all her Agencies to "go dark" until they figured out what the problem was. I asked her if she had called all her Agencies on December 12th, 2002 to tell them to shut down. She said yes.

I told her that Jessie Kemp had said that someone from Miami had shut down the main server remotely. Ms. Hanna said it was unlikely to have happened from Miami because they do not have a computer person there. She remembers that someone volunteered to do that, and she told him to do it. It could have been Osage Agency where they have a real computer person. His name is Steve Tully and she is trying to remember if she spoke with him or with the Acting Superintendent at Osage that day.

She doesn't know if the Chickasaw Agency is connected to the Southern Plains Regional Office for Lotus Notes. She thinks it was connected for telecommunications at one point, but that after the Internet shutdown, it was switched over.

She told the Chickasaw staff to "Answer hat you are asked and no more."

Personal conversation with James McDivitt, February 24, 2003

Mr. McDivitt sat in with me on the initial phone call from Ms. Hanna about the inspection Team at Wewoka. Ms. Hanna may have gotten the Acting Superintendent on the phone as well.

Ms. Hanna stated that the Team had found some unspecified violation of the Court Order at Wewoka and that they were en route to Chickasaw Agency.

She said that because she did not know what the violation was, or how wide spread it was, she was going to tell Chickasaw Agency to disconnect the server.

Second personal conversation with James McDivitt, February 26, 2003

He does not remember if, when Ms. Hanna called us December 12, 2002, she had already instructed Chickasaw Agency to unplug the server, or was going to.

He didn't think she needed to unplug the Chickasaw server, but since he had no idea what the Team was looking for or why they were there, he saw no need to overturn the decision of a line official doing her job.

When the Special Master's started sending out the Team over a year ago, Mr. McDivitt knew the Teams were supposed to be unannounced. He did not know the visits were still occurring and did not know that the Team at Wewoka was one of those teams. Ms. Hanna originally reported to us that there were 6 or 7 people who arrived to do the inspection, rather than the 4 people who were actually on the site visit.

Third telephone conversation with Jessie Kemp, February 26, 2003

No one at Agency touched Mr. William's computer that day except when Ms. Kemp turned it on when the Team asked to test a computer.

She did not remove the network protocol from any computer at the Agency.

Third telephone conversation with Glenn Gillett, February 26, 2003

He read my draft report and believes I am being charitable to the Agency staff.

Although he can see how I drew the conclusion I came to, he disagrees. There is "no doubt in his mind," that it was the intent of the Agency staff to convince the Team that they had been disconnected for a long time.

Fourth telephone conversation with Glenn Gillett, February 27, 2003

He is on a site visit with John Kerr and discussed the events of December 12, 2002 at Chickasaw Agency with Mr. Kerr. Mr. Kerr told him that the computer he tested at Chickasaw Agency did not have a network protocol. According to Mr. Gillett, Mr. Kerr says that during the site visit, Jessie Kemp told Mr. Kerr that the Agency stripped the network protocols from all the computers there.

Mr. Gillett also stated that Mr. Kerr said that during the site visit, Jessie Kemp told Mr. Kerr that the Agency had been disconnected since the Temporary Restraining Order.

John Kerr comments at meeting in Mr. Cason's office, March 18, 2003

Attendees: Jim Cason, Judy Snoich, Kenaih _____, Glenn Gillett, Jon Pettyjohn, John Kerr, Lonnie Dixon, Eric Eskam, Jerry Gidner

Mr. Kerr stated that at Chickasaw Agency, they had looked at the server rack in a computer room, and that everything was powered off. He believes he was told that it had been powered off since the Temporary Restraining Order (TRO).

He was also told that the Agency had stripped the network protocols from individual workstations. When he checked a workstation, the command prompts didn't work. There was no IP address, and when he checked the interface card properties, they were blank.

He spoke with two women. The first woman showed him the server room and told him the servers were powered off since the restraining order.

The other woman told him, at the time of the TRO, they had stripped the protocols from the machines.

Mr. Cason asked him if the person was talking about BIANet or Internet connectivity. Mr. Kerr answered that his impression was that she was talking about all connectivity since the TRO.

Personal conversation with John Kerr, March 18, 2003

Mr. Kerr works for Security Assurance Group under contract to the Special Master. At the time of the Chickasaw Agency site visit he worked for US Internetworking.

At the site visits, Glenn Gillett is the point man and gives the explanation of why the Team is there, for example, "we are here to make sure that the servers are not connected to the Internet or BIANet."

After Mr. Gillett gave his introduction, Mr. Kerr asked to look at the connectivity points into the building, and stated that he would have to run tests with his laptop to ensure no connectivity to either network. At this point he had not yet distinguished between the 2 networks (BIANet and Internet).

The woman they were speaking with (Robin Phillips), said the "connectivity is in this room. We've been powered off since the restraining order." Mr. Kerr took Ms. Phillips statement to mean that the Agency was powered off all possible networks. He did not ask follow up questions to clarify which network or networks Ms. Phillips was discussing.

To get to the server rack, they had to move some bookshelves. He made a visual verification that the servers were powered down. There were no lights on and no fans running.

Mr. Kerr inquired about desk tops. Ms. Phillips turned him over to Ms. Kemp and said that "she'll show you the desktops."

While walking to the office where the desktop was located, Mr. Kerr was telling Mr. Pettyjohn about the tests he would run on the network protocols. Ms. Kemp volunteered to him the following (not necessarily in these exact words): They had gone above powering the servers down, but had gone to the machines themselves and stripped all the networking protocols

Mr. Kerr did not ask when the Agency had removed the protocols, but his impression was that it had been done at the same time as the restraining order.

He ran the following tests on the computer he was taken to:

Trace Route Command. This test shows every machine that that machine goes through to get to a designated network address. The trace route command died at the local machine. It gave an error message and did not execute the command. To Mr. Kerr, that meant that there was no network connectivity. If the computer had been connected to the BIANet, but not the Internet, it would have showed the steps it could make (i.e, from the computer to the server) and then would have died.

Ping Test. This test is similar to the Trace Route test, but it doesn't show all the stops the information goes through to get to the destination. It just indicates whether the packets of data made it to the final destination. He tested for connectivity to the BIANet and Internet. The tests indicated that there was no connectivity.

IP configuration test. The command "IP config /all" shows the network configuration of the networking card in the computer. For example, it shows the IP address of the machine. Each computer that connects to a network needs an IP address. The test indicated that the machine had no IP address.

Protocol test. Mr. Kerr tried to look at the network protocol on the computer. This is a TCP/IP protocol that has to be on the machine for it to connect to a network. He clicked on an icon called "network places," and right clicked on "properties." The computer indicated that it had no network protocols.

Mr. Kerr explained the following: The network protocol is the configuration on how the computer communicates with another machine. The IP address is a unique number assigned to each computer. Even if the computer was being run from a server, it would still need a protocol to connect to that server. Examples of protocols include TCP/IP and IPX (which is a Novell protocol). Not all protocols require an IP address. IPX, for example, might not. But TCP/IP is required to connect to BIANet and the Internet and it requires an IP address. Deleting the network protocol would delete the IP address as well. To remove a protocol, you would have to highlight it and click on delete. It would take 15 – 30 seconds to delete a protocol from one computer.

The only reason Mr. Kerr is aware of that a protocol would not be on a computer that had previously had connectivity to a network, is that someone manually removed it from that computer.

Telephone conversation with Lonnie Dixon and Eric Eskam, March 19, 2003

Based on Mr. Kerr's tests, the only logical reason for the protocol to be missing from Mr. William's computer is that someone removed it. There is no way they know to test when the protocol was removed.

Mssrs. Dixon and Eskam then called Jessie Kemp, at home, at my request. They called back and reported the following:

Ms. Kemp told them that Mr. William's computer was working that morning prior to the Team's visit, and was working that afternoon, after the Team left.

She repeated the statement she had made to me, that no one had touched the machine that day to alter it.

They asked Ms. Kemp if she had told Mr. Kerr, while she was walking him to Mr. William's office, that the Agency had stripped the network protocols from the computers. She replied that it was Ms. Phillips, not herself, who escorted Mr. Kerr to Mr. William's office. [Confirm with Kerr, Pettyjohn and Gillett who showed them to Mr. Williams Office]

At my request, Mr. Eskam checked the email log for Mr. Williams. It shows that his computer sent a return receipt to Ms. Phillips at 9:41 am on December 12, 2002.

Mr. Eskam and Mr. Dixon agree that if Mr. Williams had access to Lotus notes to read email, that his computer had a network protocol at that time. Therefore, it had a network protocol at 9:41 am on December 12, 2002. They further agree that the only way the computer could not have had a network protocol at approximately 1:30 pm that day, was that someone physically removed the protocol from the machine.

Telephone conversation with Lonnie Dixon, Eric Eskam, and Wendall Schubert, March 19, 2003

Mr. Schubert is one of two BIA IT staff who tested the servers at the Chickasaw Agency (our request had been to check the individual workstations, but there was a miscommunication with the BIA IT staff who performed the inspection). They did not look at the individual workstations.

He said that Ms. Phillips is a blond woman and smaller than Ms. Kemp. Ms. Kemp has dark hair and is larger than Ms. Phillips.

Telephone conversation with Lonnie Dixon, Eric Eskam, and Albert Rice, March 19, 2003

Mr. Rice is one of two BIA IT staff who tested the servers at the Chickasaw Agency (our request had been to check the individual workstations, but there was a miscommunication with the BIA IT staff who performed the inspection). They did not look at the individual workstations.

Ms. Phillips is blond. She confirmed their IDs and called her Regional Director. The Regional Director knew about the inspection by Mr. and Mr. Schubert [Gidner note: because I had called Ms. Hanna shortly before the BIA team had arrived at Chickasaw Agency, so that she would know what was happening if the Agency called her].

The computer person is a dark haired lady. She was quiet, but it seemed like she relaxed once she found out the team was just rechecking what the Special Master Team had done.

If the computer is running Windows 98, it would keep a system log, which might show when the protocol was removed, depending on how it was done. However, this log does not exist forever, because it is overwritten as entries are added to the log, such as when the computer is turned off and on. It is possible that the system log contains information about the protocol removal, but it has been a long time and he is not sure if the system log would still have that information.

Fifth telephone conversation with Glenn Gillett, March 20, 2003

The team was taken into the server room by the blond lady (Robin Phillips). He's not sure exactly who took the team to Mr. Williams office, but thinks when Mr. Kerr asked to see a computer, that Ms. Phillips got the dark haired lady (Ms. Kemp). He also said, however that the distance from the server room to Mr. William's office is perhaps 10 feet.

Telephone conversation with John Kerr, March 20, 2003

It was the dark-haired lady (Jessie Kemp) who told him that they had stripped the network protocols.

She did not really lead him from the server room to the office, but met him in the common area between the two. When they entered Mr. William's office, they had to walk around the desk to get to the computer. It was while they were doing that that the conversation about the protocols occurred.

Fourth telephone conversation with Jeanette Hanna, March 20, 2003

She knows Robin Phillips personally. Ms. Phillips has blond hair.

She said there are about 17 people who work at Chickasaw Agency. She gave me the list of several people I could call:

Buena Hunter
Denise Buck
Josephine Wilson
Jeanine Bond
Matthew Lobough

Telephone conversation with Janine Bond, March 20, 2003

Ms. Bond was at work on December 12, 2002. As far as she knows, no one did anything to her computer that day. Ms. Kemp did not do anything to her computer that day. Neither did the Special Master's team.

I also attempted to speak with Josephine Wilson, Denise Buck, and Matthew Lobaugh. None of them were in the office today.

Interviews conducted by:

Jerry Gidner, Chief of Staff to the Assistant Secretary-Indian Affairs
202-208-7163