

ETHICAL CHALLENGES FOR THE GOVERNMENT LAWYER
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

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Pinnacle is a town in North Carolina. It has a City Manager form of government and an elected City Council. It has a police force of 500 officers. You are the Police Attorney. Your direct supervisor is the Chief of Police. You are considered an essential part of the Chief's Executive Team. You routinely participate in discussions about assignments, promotions, testing, policy and managerial decisions.

1. Recently fifty officers filed a civil suit against the Department claiming race and gender bias in the administration of promotions, transfers and pay raises. You are working with a law firm hired by the City to defend the actions. The attorney called you today and asked you to remind all the witnesses for the City that they should not talk to the Plaintiffs' counsel without notifying you. In fact, she said she hoped you could convince the witnesses not to talk to Plaintiffs' counsel at all. Both of you are a bit worried. You realize many of the supervisors in the Department are sympathetic to the claims Plaintiffs have made. You have reason to believe many of the City's witnesses have even contacted the Plaintiffs' counsel to offer assistance.
WHAT WILL YOU DO? HOW WILL YOU PREPARE THE CITY'S WITNESSES?

The Plaintiffs' counsel has phoned your office and left a message that he would like to interview you about the case. You called the counsel and politely declined to speak with him. He said, "Hey, wait a minute. You are a government employee. I am a citizen of this City and you have to talk to me." WHAT IS YOUR RESPONSE? ARE THERE ANY PRIVILEGES YOU CAN CLAIM?

2. Your Chief has announced a new policy. In order to make sure no one loses a search warrant on a motion to suppress, he will have you review every warrant obtained by officers in the Department. While you are very annoyed to have this new duty, you accept it and proceed. A detective from Property Crimes and his Sgt. bring you an affidavit which doesn't square with some facts you know independently. You tell the detective you believe he has grossly misstated the facts on which the probable cause is based. He replies "But, you admit my statement amounts to probable cause."

"Yes," you respond. "But it is lies."

"Your job isn't to verify my information, it is to assess whether a statement is sufficient to pass muster. You don't fully appreciate the pressure we are under to make an arrest in this case." Says the Sgt. They leave the office. You later learn they went ahead and swore to the facts and received a warrant. You contact the District Attorney and tell him you believe the warrant is based on lies. The District Attorney tells you he will handle it. You also report to the Chief of Police you believe the officer has lied in the affidavit. The Chief initiates an administrative investigation which moves at glacial speed.

You are having your morning coffee a few weeks later when you notice that the person whose premises were searched under the warrant has pled guilty. His lawyer is quoted "When they showed me the stuff they found in this guy's house, we really had no choice but to plead." You believe no one ever told the defendant's counsel about the lies.

WHAT DO YOU DO? IS BRADY AN ISSUE?

3. You receive a Workers Compensation claim from an officer in the Detective Division. He alleges he has inhaled fumes created by his urine splashing in the chemicals used to clean the commodes and that the inhalation of those fumes is affecting his ability to function. "Wow, what a nut case". You handle the Workers Comp claim, which is denied. After seeing him in the hearings and reading his claim you believe he has seriously impaired judgement and limited reasoning skills. You discuss with the City Attorney your concerns. You tell him you want to request the Chief evaluate him for fitness for duty. The City Attorney tells you not to do anything, it will look like retribution.

Several months later you are in a staff meeting and you hear the Assistant Chief in Detective Division talking to another Assistant Chief about the progress of a very serious criminal investigation. During the course of the discussion you realize the same guy who filed the Workers Comp claim is the detective on the case. You tell the Assistant Chief, "He's a nut. I don't see how you can trust his judgment on anything." The Assistant Chief responds "You handle the lawyering, Little Lady. I'll take care of police work."

WHAT WOULD YOU DO?

Assume the case went to trial and the defendant was convicted. The conviction is now under attack from Project Innocence at the law school. The detective has given several interviews which further cement your opinion that he is a nut case and totally unreliable.

WHAT WOULD YOU DO?

4. You are a retired police attorney enjoying a quiet life of gardening and golf. You pick up the paper one day and see there is a long investigative report about a crime which happened a number of years ago. The paper raises questions about the investigation of the case by the agency with which you formerly worked. You had limited involvement with the case, but did hear a lot about it in Department chatter. In fact, it may even have been discussed at staff meetings. The investigator was demoted and eventually sued the City and the Chief. You handled the litigation. Not only that, one of the main witnesses in the trial sued the City, the Chief and three officers for excessive force. You handled the litigation. The Mayor forms a committee to review the case. The committee chairman contacts you and requests that you appear before them to answer questions. You tell the chairman you are concerned about attorney-client privilege. The City Manager writes you a letter telling you are free to testify to anything you may know as he releases you from the client privilege.

WHAT WILL YOU DO?

**WINSTON-SALEM POLICE DEPARTMENT
TRANSCRIPTION OF TAPE**

Subject: Telephone Call with Claire McNaught (retired Public Safety Attorney)
October 26, 2006 at about 1630 hours

Date Transcribed: October 30, 2006 **Time Transcribed:** 1600 Hours

Transcribed By: Cynthia C. Skaggs

Telephone conversation between Sgt. C. Byrom and Claire McNaught.

Note: Words that are *italicized* are to show emphasis by the speaker.

Byrom: I just wanted to call you and, uh, to, ask you whether, uh, about the presentation
 that you did in Boston...

McNaught: ...Uh, huh....

Byrom: ...I have, uh, a copy of the presentation and there were a couple of questions that,
 uh, came up with respect to what was addressed in the scenarios as opposed to
 the, uh, written responses that you gave us to the questions that we posed to you.

McNaught: So you think there was a conflict?

Byrom: No, not a conflict.

McNaught: (Laughs.) I'm sorry....

Byrom: (Laughs.)

McNaught: ...I'm, I'm thinking you guys gotta get some...(inaudible)...surely know that I
 used hypotheticals.

Byrom: Yeah, if, if I said conflict, though, I, I didn't mean conflict. It was, um, it was art
 imitating life or was life imitating art.

McNaught: Well, I guess my concern was that, um, attorneys who represent governmental agencies need to think in advance....

Byrom: ...True....

McNaught: ...'Cause their job doesn't end the day they walk out the door....

Byrom: ...True....

McNaught: ...And I guess that they need to think too who their client is in every context.

Byrom: Correct.

McNaught: And, uh, as you know, before I spoke to you all, I said I had some reservations about material protected by the attorney-client privilege.

Byrom: Yeah, I remember that.

McNaught: And I think that the letter which I got the day that I asked the questions and was due to come in for the interview was from the City Manager?

Byrom: Correct.

McNaught: And, that's pretty limiting considering that I represented individual officers. I don't think that letter had anything to do with what I might or might not have with individual officers. And, you know, I don't, I don't think it's my job to educate the City Attorney or whichever attorney might have gone and gotten that letter.

Byrom: Right, right. Alright, you mean the one that, the Boston letter?

McNaught: I mean the letter that was given to me from Bill Stuart.

Byrom: Oh, oh, oh, no, yeah, uh, okay, well, that one....

McNaught: ...So, you know, sure, I, I learned a couple of things through that process.
Number one: I left written records, which a lot of attorneys don't....

Byrom: ...Yes, you did....

McNaught: ...Number two: I walked out the door and left every record, *every record* I wrote, down there. And, number three: the attorney-client privilege shifts depending on what your context is, and I used the situation in which I was involved was hypothetical. Uh, Julie Risher was in the audience; she heard it.

Byrom: Yeah, and, and one of the things that was brought to our attention after me and Joe looked at it was the written response that you gave to us addressed all of the questions that we, uh, posed to you in writing, um, but we looked at, in particular, the answer to question number nine, which had to do with the search warrant, uh, of Mattie Mitchell's apartment, and in particular, uh, a portion of that addressed the, uh, I believe it was question, hold on a second...question G and H. Uh, G was "With whom did you discuss the warrant before, during or after its presentation," and H was "What discussion, if any, did you have with the departmental personnel after Tisdale told the officers prior to the warrant's execution that the warrant was insufficient and that the evidence procured pursuant to that warrant be inadmissible. Well, it, it seems after looking at the, uh, hypothetical, uh, scenarios from that presentation that that clearly answers those two questions. Um, and that's what we wanted to....

McNaught: ...I'm, I'm sorry; I don't understand what you mean that clearly answers those two questions?

Byrom: Well, if you were looking, well, we looked at the, uh, the questions that we had posed to you when we asked you, and we looked at, uh, those two questions in particular and referred back to the presentation, uh, and it states, um, what your job isn't to verify the information or this response, uh,....

McNaught: ...*Oh, God*, you guys are looking at a hypothetical that had absolutely nothing to do with Sykes. I thought you were looking at the hypothetical on, uh, the, the case where they come back and they, they want to know, you know, the gardening thing. The gardening thing is the only one in there that has anything to do with Sykes.

Byrom: The gardening thing?

McNaught: Yeah, it's where the, you're retired police attorney and you're, you're spending your days gardening and that sort of thing....

Byrom: ...*Oh*, that was number four....

McNaught: (Laughs)....

Byrom: ...*Okay*, that was number four....

McNaught: ...It was the last one on the....

Byrom: ...*Right*....

McNaught: ...The handout that I had. It was not, none of the others had anything to do with Sykes at all...(Laughs).

Byrom: Well, we were looking at that from a different perspective obviously.

McNaught: Well, I would say you guys, uh, let fiction get, uh, a-hold of you there and I think you need to talk to Ms. Risher, 'cause I, my guess is that she's the one who's led you to believe that. Um, if you tell me which hypothetical you think had something to do with this. Is it, is it the one about where they come in and tell you a tissue of lies....

Byrom: ...*Yeah*....

McNaught: ...And then, and you say, "Hey, you can't do that, that's illegal; you can't do that." That is *totally* from a different experience, *totally*.

Byrom: The, the thing that we....

McNaught: ...(Laughs)...No, no, no, I, I gotta get this *real clear* to you. Uh, you know, I could slap Julie Risher the length of the building right now, because I'm, I'm sorry, I am *thoroughly pissed*.

Byrom: Let me ask you this....

McNaught: ...Wait, no, no, you just hold on one *slow down second*. I answered every question you all asked me, and I answered it *truthfully*. I did not hold back. I did not abridge my answers, and I have cooperated which sets me apart from the *vast majority* of people, and a lot of people....

Byrom: ...You have, you have....

McNaught: ... Watched my experience, and they thought two things. One: There was a wild-ass fishing expedition because I was asked questions and there was no basis of fact to ask me. There was no record indicating that I would've known it and there are no records that have come forth that indicate that I would've ever known or thought that. That's number one. Number two is when I wrote Lee Garrity and asked for a copy of my statement as presented to the board, I was declined and was told I couldn't have my own statement, and I want you all to understand that there are a lot of people who are watching what happened to me before they decided whether or not they were going to cooperate. And, now, that she has gone up there and she's taken a *totally fictional set* of hypotheticals, a fourth of

which was drawn on the experience that I had where after retirement you are asked about something that happened while you were there.

Byrom: Right.

McNaught: And there were two issues in that one. One is: how do you maintain your records; do you keep records? And, of course, the third, uh, issue, which I didn't even address in that hypothetical is: do you cooperate? But, the second one is attorney-client privilege, who gets it? Who's protected? How does it work?

Byrom: Right.

McNaught: So, that's, that one was loosely drawn on my experience in answering questions to the commission you all are investigating for. The question about the search warrant and the tissue of lies and the confrontation was *not*, and I am *livid*, that she has taken that, run back there, "You've gotta see this," tattle, tattle, tattle. She has taken a fictional experience and suddenly said, "You need to ask her some more questions." Well, it was fictional; it was not based on Sykes; it was not related to Sykes, and I am *really, really, really* mad now.

Byrom: Well, Claire, we, we went back and we did, uh, go to, uh, DataChambers, and we did locate some documents that you did tell us that you did leave a lot of documents here other than newspaper clippings. And, after looking at that, uh, presentation scenarios, we pulled several boxes that we were unaware of that did have, uh, some of your documentation and correspondence during that particular period of time. And, we did, in fact, locate some documents that we are seeing for the very first time, so that, you know, basically, corroborates everything that you were saying about you leaving stuff here, and....

McNaught: I did, Chuck. I walked out of there empty-handed with nothing but my evaluations.

Byrom: And, and, we, again, are reviewing some of those correspondences, and, and we have since talked to some of those folks, and, and Dr. Frasier is, is one of those individuals that we've tracked down, and he was cooperative in talking to us; as a matter of fact, I had a telephone interview with him earlier today. But, again, um, we have not thoroughly looked at everything. But, like I said, those documents that we haven't seen before, we're, we're going over. And, there's basically a timeline dealing with a lot of, of things that went on during, uh, 1993, uh, period of time, and that seems to be where most of the documents that we haven't seen, uh, seem to come from, but, if, if I offended you in telling you anything that, about the scenarios that you were not forthcoming with us, that was not my intent.

McNaught: Well, I would *really, really, really* like to know that everybody down there knows that I have been very candid, very honest, very open and I have not held back and *frankly, I told* you all where to go look.

Byrom: Yes, you did. Yes, you did.

McNaught: And I tried to be as forthright as possible. Now, it's really annoying to me that she came up there, took that outta context, comes running back and leaps to the conclusion that I thought that what they came to me with was lies. I didn't. I never said that and I don't think you've found anything in writing that says that I said that. I didn't. I don't think they made up anything; they knew what they knew. It wasn't enough. It....

Byrom: ...And, and that's pretty much....

McNaught: ...It just wasn't enough....

Byrom: ... Well....

McNaught: ...And that's what I told them, and that's what's in every document that I ever wrote about it is it wasn't enough; it didn't amount to probable cause.

Byrom: Yeah, and you told us that the first time, and, uh, like I said, I was asked to ask you about that and again...

McNaught: ...By whom?

Byrom: Um, Mr. Garrity.

McNaught: Really? How did he hear about it?

Byrom: Um, the same way that you said that you suspect that it got back.

McNaught: Oh, no, no, no. You answer my question. Please, do not tell me the same way. Who, who told ya?

Byrom: Uh, we learned that through Miss Risher.

McNaught: And she went running down to Mr. Garrity to tell him too. Is that right?

Byrom: I don't know if she went literally running down there but she informed him.

McNaught: Well, good for her. I, I just really, really, *really* am impressed that she goes to a conference in Boston, reads hypothetical situations, explained as such, leaps to the conclusion that she has *startling* new evidence which isn't supported by anything I've ever told you before, and none of you...Chuck, you have known me for the length of your career....

Byrom: ... Yes, ma'am....

McNaught: ... You cannot have the *slightest* doubt about my integrity as a person and as a lawyer, and I am *literally shocked* that you all are gonna take that context and leap to the conclusion that I lied to you.

Byrom: Well, I, I never, if I ever indicated that, then I apologize for that.

McNaught: *Chuck*, that's what the question begs. That's the obvious point of the question is *whoa*, wait a minute, she didn't tell us this.

Byrom: Well, when you, when you look at what the scenario entails as opposed to what we had discussed earlier about what Jerry and then J.I. came to your office about. I, mean, it, it parallels somewhat, uh, the sequence of events.

McNaught: It parallels the sequence of no events related to this case other than it was in the scenario that I presented in my hypothetical, the explanation for the push was that the officers were under pressure to make the arrest. That's the only scenario at all. But what really bothers me is that I've already answered these questions and I've been truthful, and I want Lee Garrity, I want Julie Risher and Pat Norris to all understand this: *I have not* quibbled, waffled or bagged a question. I answered what you asked me, and I did it truthfully, and I *deeply, deeply* resent what I perceive to be Julie Risher's attack on my integrity because she goes to this conference and sees some hypothetical questions and leaps to the conclusion, and it is *obvious* that you are asking these questions because you think I *lied*.

Byrom: Well, I...

McNaught: ...Chuck, that's the only conclusion you can *draw*.

Byrom: Claire, I'm, I'm looking at these documents, that, that we've got boxes in here now, and like I said, there, there's stuff that we haven't reviewed, made copies of

the documents that you said were there, they are here; this is something that we want to talk to you about, but I, I, I don't know what to tell you other than as far as the responses to the scenario, um, I, I'm more interested now in the questions that I have as it relates to the documents that we located, and that's what I would like to ask you, uh, questions about if you're, if you're willing to answer, and if you would like for us to, to send them to you in writing or...?

McNaught: ...Oh, absolutely. I'm getting ready to leave the country on a long-planned trip. I'm not running from the law.

Byrom: (Laughs)...I know that, Claire....

McNaught: ...No, I'm afraid Julie Risher's gonna think that....

Byrom: ...I know that, Claire....

McNaught: ...Chuck, you *gotta* know I am *mad*.

Byrom: I, I, I, I can tell.

McNaught: If you've got any documents, *any* documents....

Byrom: ...Um, hum, yes, ma'am....

McNaught: ...That you want me to look at, you can copy 'em and you can mail them to me. If you've got any questions you wanna ask me, you can write them down and you can mail them to me.

Byrom: Okay.

McNaught: I want everybody there to understand that those fact patterns were designed hypothetically.

Byrom: Okay....

McNaught: ...The....

Byrom: ...And I'll make sure that that's know.

McNaught: And there was, that explanation was made, I said, you know, I don't have to go out and just invent things. I had enough experiences in 20-some years that I can rely on my experiences.

Byrom: True.

McNaught: I didn't ever tell them what the *exact* experiences were. I wrote hypothetical because I've learned from my years of practice things that other government lawyers need to keep in their heads while practicing now.

Byrom: Right.

McNaught: And I think that maybe that I did was a good thing because it does make them think, it makes them appreciate. The one thing that's very hard to measure is at what point do you say what I could've said to all of you, which was, "hey, go fly a kite; I'm retired; my life's moved on."

Byrom: I understand that.

McNaught: But instead, I cooperate.

Byrom: Yes, you did.

McNaught: And you all have *bit me in the backside* for doing it by humiliating me with this phone call, and I am *stunned* that people, Kevin Leonard, Pat Norris, Julie Risher, who's...makes a growl noise...I don't even want, I don't know the word for her....

Byrom: ...Okay....

McNaught: ...But none of you have *ever, ever, ever* had the *slightest* hint that I'm anything other than honest and forthright. I am so *stunned* that you're making this...eeeeooo...she didn't tell us.

Byrom: Okay.

McNaught: So, you send me any papers you want me to look at. Send me any questions, and I may or may not chose to answer them.

Byrom: Okay.

McNaught: Because I'll tell you. I did not like it when I asked Lee Garrity for a copy of the, the summary of my remarks or my remarks as presented to the board, and I get back an answer that I'm not entitled to see copies of what's attributed to me. I didn't like that, and I wrote him two or three times, and that's the answer I got over and over. And, I got some sympathy kind of note from Angela Carmon trying to educate me about the Personnel Privacy Act, which frankly, I am familiar with. So, that's where we are right now. I'm *so* mad right now I could go through the ceiling of my house.

Byrom: Um, um, what I'll, what I'll do is I'll, I'll get those questions formulated and, uh, what documents we can send you, and, uh, I'll, I'll ask the committee...inaudible...and let them review the questions that we posed to you and get those sent to you. Uh, is there any time that's better for you than another?

McNaught: Yeah, I'm leaving the country. I, so, you're gonna mail it to me.

Byrom: Okay.

McNaught: I'm leaving the country on Tuesday and I'm going to be gone and I do not have any specific plans for when I come back. I'm an active, busy person.

Byrom: Yeah, it sounds like it, it sounds like it.

McNaught: I am.

Byrom: You told me that before too, yeah.

McNaught: And I, I, I'm not really happy with the way I've been treated so far, and I, I just...(laughs)...right now, I'm gonna have to tell you, Chuck, I, I, I know you gotta know I'm mad.

Byrom: I know.

McNaught: And I think, and I'm just gonna take a wild guess right now, but you know and you understand why I am mad, and on some levels you agree with me that when my integrity is challenged, it's only natural that I would respond the way I have.

Byrom: I agree....

McNaught: ...Now, if you found....

Byrom: ...with you about that....

McNaught: ...A single document, a single document that suggests that I think or thought at the time that they were lying about their information, be sure you put that in the package, because I don't recall having ever thought that they lied about the information.

Byrom: Well, as I told you, we're, right now, still reviewing stuff that we haven't seen, and there, uh, may be other stuff that we need to pull out of storage if it's there.

McNaught: Well, I guess that's a, certainly, a thing I would say is to get you all your ducks in a row....

Byrom: ...Exactly, exactly....

McNaught: ...Before you ask me a question....

Byrom:Oh, yeah, oh, yeah....

McNaught: ...Because the first time, they weren't.

Byrom: Right.

McNaught: I got some absolutely *ridiculous* questions that were just *fishing* expeditions.

Byrom: We'll try to make them as on-point as we possibly can....

McNaught: ...Yeah....

Byrom: ...I, I....

McNaught: ...And if you've got any documents that support it, I wanna see it.

Byrom: Alright....

McNaught: ...And I'll be glad to look at it, uh, and again, Chuck, I'm not at all sure that I'm going to respond to it again.

Byrom: I understand, and I'll, I'll make another contact, uh, and, and try to find out, uh, how you feel about that then before we send them.

McNaught: Well, you, you can send 'em.

Byrom: Oh, no, I....

McNaught: ...Like I say....

Byrom: ...Okay....

McNaught: ...I'm gonna be gone. I'm gonna be gone.

Byrom: Okay, alright. Uh, do you have any idea when you're gonna be back or?

McNaught: Uh, yeah, I know...(laughs).

Byrom: Okay. I understand. What I'm saying, what I'm trying, what I'm trying to coordinate here is....

McNaught: ...Geez, no, I'm hitching across country, Chuck....

Byrom: ...I don't want to, I want to try to coordinate sending them to you at a time when you can get them or...?

McNaught: ...If you send them anytime after the 5th of November, they won't arrive before I could conceivably have an opportunity to look at them, but I would tell you that it sounds to me like you've got some work to do and it, the 5th of November, isn't gonna be a, a reasonable deadline for you guys.

Byrom: The 5th of November, I doubt it.

McNaught: Right.

Byrom: Uh, but we'll try to do what we can.

McNaught: Well, if I understand you correctly, you've just found these documents today and you haven't gone through them.

Byrom: No, you're right.

McNaught: So, my sense is that you need to, to be thorough, and it may be that after you've read 'em....

Byrom: ...Um, hum....

McNaught: ...You'll say to yourselves, "You know what? We don't have any questions for Claire McNaught, 'cause she wrote down every damn thing she did...."

Byrom: ...Oh, we, we, oh....

McNaught: ..."And she left it here...."

Byrom: ...Oh, you, you, you did, you did quite a bit of, uh, memos to file, and, uh, uh, yeah, that sounds about right.

McNaught: Well, and, I, I think, you know, it's funny when I teach this class a lot of people say, "Oh, you know what, I never write anything down," and I say, "Well, you're trusting your memory more than I'm willing to."

Byrom: Right.

McNaught: I left, I *left* a very good record, and I don't know that I can add much to it.

Byrom: Well, I guess, I guess that's pretty much it, Claire.

McNaught: Well...(sighs)...I'm not in the mood to shoot the messenger, but I hope you will convey how *thoroughly, thoroughly* annoyed that I am that anyone went to a class on hypotheticals designed to alert people to issues that they should address in their own agencies and prance back with the assumption that I had there somehow managed to pick that forum, knowing *full well*, that she was going to be in the audience and somehow said, "Woo, I need to give you a secret message here. I've been lying all along, and you better run back and tell everybody."

Byrom: I will try to best to convey it in the nature that you would expect to, uh, let them know how you feel.

McNaught: I leave it to you to do whatever you choose to, uh, she's gonna have to deal with me professionally in other settings for the rest of her pro...professional career, and, uh, I don't owe her an apology, but at all.

Byrom: Claire, I mean this as heartfelt, um, if I said anything to offend you, I apologize for that, and I don't think that there's probably anything else to say other than, uh, try to have a pleasant remainder of the evening, and, um, I hope, I really hope you can do that.

McNaught: Of course I can. Of course I can 'cause, quite frankly, Chuck, my conscience is completely clear. I'm not harboring any great big secrets.

Byrom: Right.

McNaught: So, I'm okay with myself.

Byrom: Alright, Claire, you take care.

McNaught: Okie-doke, I'll talk to you later. Bye.

Byrom: Bye-bye.

RECEIVED

OCT 31 2006

LEGAL ADVISOR'S
OFFICE

Lee Garrity
City Manager
P.O. Box 2511
Winston-Salem, N.C. 27101

Dear Sir:

On April 12, 2006 I responded to the questions you presented to me in a letter dated March 27, 2006. My responses were an accurate representation of my current recollection of the events of the time.

October 14, 2006, I made a presentation at a national conference of police attorneys, related to several issues of interest to government lawyers. I used hypothetical situations drawn from my professional experiences to stimulate discussion. Hypothetical number two focused on the implications of false statements.

On October 26, 2006, I received a phone call from Sgt. Byrom. He told me Ms Risher, who had attended my presentation on October 14, had furnished hypothetical number two to you and other members of the staff. Sgt. Byrom told me he had been directed by you to find out to what extent that hypothetical might "relate" to my response on point nine of your March letter. There is no relationship. The hypothetical was drawn from other experiences and in no way related to the issues raised in your March letter nor is it in any way related to the case to which your letter refers. Nothing I said during the presentation suggested otherwise and I am unaware of any basis for confusion on this matter.

Mary Claire McNaught

Cc:Chief Norris
~~Ms Risher~~

October 29, 2006