

1 STATE OF NEW YORK
2 COMMISSION ON PUBLIC INTEGRITY

2 =====

3 In the matter of

4 An Investigation into the Alleged
5 Misuse of Resources of the Division
6 of State Police

5 =====

6 Alfred E. Smith State Office Building
7 80 South Swan Street
8 Eleventh Floor, Suite 1147
9 Albany, New York 12210-8004

8 Tuesday, October 16, 2007
9 2:00 p.m.

9 STENOGRAPHIC RECORD of an Investigative
10 interview conducted pursuant to notice.

11 INTERVIEWEE: PAUL W. LARRABEE

12 APPEARANCES: HERBERT TEITELBAUM, ESQ.
13 Executive Director

14 MEAVE M. TOOHER, ESQ.
15 Investigative Counsel, New York State
16 Commission on Public Integrity

17 JOAN SULLIVAN, ESQ.
18 Investigative Counsel

19 PRESENT: ROBERT SHEA, Investigator

20 WILLIAM J. CONBOY, II, ESQ.
21 (Attorney for the Interviewee)
22 112 State Street, Room #1000
23 Albany, New York 12207

24 REPORTED BY: BETH S. GOLDMAN, RPR
25 Certified Shorthand Reporter

1 P A U L L A R R A B E E,
2 called to testify before the Commission, and being
3 duly sworn/affirmed by the notary public, was
4 examined and testified as follows:

5 EXAMINATION BY MS. TOOHER:

6 Q. Could you state your full name for the
7 record, please.

8 A. Paul W. Larrabee. The last name is spelled
9 L-a-r-r-a-b-e-e.

10 Q. You are appearing here today voluntarily; is
11 that correct?

12 A. Yes, Ma'am.

13 Q. You are here with your attorney?

14 A. Yes, I am.

15 MS. TOOHER: Mr. Conboy, would you
16 please note your appearance.

17 MR. CONBOY: I am appearing on behalf of
18 Mr. Larrabee. My name is William Conboy, II. My
19 office address is 112 State Street, Suite 1000,
20 Albany, New York 12207.

21 Q. And, Mr. Larrabee, where are you employed?

22 A. I am employed in the executive chamber in
23 the press office.

24 Q. And, what is your position?

1 A. I am a Deputy Press Secretary to the
2 Governor.

3 Q. How long have you held that position?

4 A. Since January 1st.

5 Q. What are your duties in that position.

6 A. I interact with the media on a day to day
7 basis to advance the issues and items of interest
8 to the public.

9 Q. When you say you interact with the media,
10 could you expand upon that a little?

11 A. I have relationships with all the reporters
12 in the Capitol, capital-based correspondents, the
13 broadcast media across the state. And when they
14 have questions or inquiries on questions related
15 to the agenda of the Governor or issues taking
16 place at the capitol I try and fulfill those
17 requests.

18 Q. Where were you employed prior to the
19 executive chamber?

20 A. I worked for the Attorney General of the
21 State of New York.

22 Q. What was your position there?

23 A. I was a Deputy Press Secretary.

24 Q. And, do you handle particular areas for the

1 Governor?

2 A. Yes. We each have an area of a portfolio
3 that each of us covers.

4 Q. What is your portfolio?

5 A. It is somewhat broad. Do you want an entire
6 list or just start to list some of them or --

7 Q. Do you handle the law enforcement areas for
8 the Governor?

9 A. That is some of the areas of my
10 responsibilities.

11 Q. What areas do you cover related to law
12 enforcement?

13 A. In terms of agencies: The State Police,
14 Probation, Parole, Division of Criminal Justice
15 Services, Division of Military and Naval Affairs,
16 State Emergency Management Office. And, there are
17 a number of smaller agencies: The office of
18 Domestic Violence Prevention, and several other
19 spinoffs of the Division of Criminal Justice
20 Services.

21 Q. Now, when you say you handle these agencies,
22 what does that mean?

23 A. I interact with the press office. At those
24 agencies I would have a counterpart, usually the

1 public Information Officer in each of those
2 agencies. And it wouldn't be unusual for me to
3 speak to them on a fairly regular basis. As a
4 matter of fact, it's not unusual for them to
5 initiate calls to me when there is a question or
6 issue that might come before them.

7 Q. And, do you handle other areas in law
8 enforcement besides the agencies themselves if
9 particular topics come up?

10 A. I'm not -- I don't fully understand how -- I
11 don't understand your question.

12 Q. Are your responsibilities limited purely to
13 contact with the agencies or do you handle law
14 enforcement issues out in the public that may
15 impact upon the Governor?

16 A. I am not -- could you help me with some sort
17 of -- I'm not fully understanding.

18 MR. CONBOY: She is trying to find out
19 your role in dealing with the public. But maybe
20 reask that question.

21 Q. That is certainly one aspect of it. Do you
22 deal with members of the public concerning law
23 enforcement issues?

24 A. On occasion I may interact with them, but

1 our primary responsibility is to interact with the
2 media, and the media being an extension of the
3 public through their work.

4 Q. And, if the media comes to you with an
5 inquiry, say something that happened in the
6 criminal justice field or high profile incident
7 that occurs, do you also address those if they are
8 in the law enforcement area?

9 A. If they are pertaining to a question from
10 the media or if someone makes an inquiry looking
11 for initial guidance I may be able to point them
12 to one of the other areas of state government that
13 might be helpful. I have a 19-year history in
14 state government, so I know a number of people who
15 are throughout the government who might be
16 helpful, whether it be in the legislature or some
17 branch of local government as well that might be
18 able to be helpful.

19 Q. Would it be fair to say that at times you
20 act as a resource for inquiries coming in?

21 A. Sure.

22 Q. Do you have any experience with FOIL?

23 A. Yes.

24 Q. What is your experience?

1 A. I have, both in the Attorney General's
2 Office and in the Governor's Office, we retain and
3 receive FOIL requests -- Freedom of Information
4 Law. At the Attorney General's Office we have a
5 designated FOIL officer that was retained for
6 requests that come to us with respect to cases of
7 charitable institutions seeking 990 forms, for
8 example. While we were there we would try and
9 expedite those cases so they didn't have to wait
10 for the five days, or try to get those to me on a
11 timely basis. The cases you might be aware of are
12 the case of the Saratoga Performing Arts Center.
13 Those were all the result of FOIL requests where
14 we tried to fulfill those and work with the
15 reporters to trace through those pieces and try
16 and answer questions they have about that.

17 In the Governor's Office, similar things
18 would happen with FOIL requests. We had a
19 designated FOIL officer but we didn't always
20 require a FOIL to be submitted in order to answer
21 a question that somebody might have. Quite often,
22 a reporter would like to indicate that they made a
23 FOIL request so that can be part of their story.

24 Q. And is there a policy or protocol concerning

1 FOIL in the executive chamber?

2 A. There is a FOIL officer, Mariah Triesman,
3 who receives FOILs when there are formal FOIL
4 requests. Quite often, it's not necessary to go
5 through a FOIL process when the information was
6 readily available and we were trying to fulfill
7 the request on a timely basis.

8 Q. How would a request come in if were not
9 going through Ms. Triesman?

10 A. It wouldn't necessarily start there. A
11 reporter might make a request of us, one of the
12 press officers assigned to an agency, or it could
13 happen as casually as when you getting soup in the
14 cafeteria. Someone might say: Do you have any
15 information about the number of arrests that took
16 place in the last year in criminal justice
17 service? Can I get that under FOIL? And I would
18 say it's probably not necessary under FOIL; I
19 would just take care of that for you.

20 Q. How would you make a determination as to
21 whether or not a formal FOIL request were
22 necessary or you could provide the documents?

23 A. If we had had them in the past and had
24 fulfilled a very similar request we might not

1 require a FOIL.

2 Q. Do you keep track of oral requests like
3 that?

4 A. In a log or something of that nature?

5 Q. In any fashion.

6 A. I don't recall that. I don't recall keeping
7 a log of FOIL requests. I might have an
8 individual file on my desk that might relate to
9 FOIL.

10 Q. Would you keep notes of what you had
11 provided or the documents that you had turned over
12 pursuant to an oral request?

13 A. Again, it would depend on the topic and how
14 frequent a request it would be.

15 Q. Well, if you received a request in the
16 cafeteria or in your office how would you keep
17 track of that request? Would there be any
18 tracking system?

19 A. If I received a formal FOIL it would --

20 Q. No, an oral request in this instance.

21 A. Probably not. It might go in on an index
22 card.

23 Q. Do you keep index cards about those
24 requests?

1 A. Until it was fulfilled, and I would probably
2 throw it away.

3 Q. So, if you received an oral request you
4 would make some notation as to what the request
5 was --

6 A. Sure.

7 Q. -- and then gather the information and then
8 respond?

9 A. Yeah.

10 Q. You indicated you do not keep those index
11 cards?

12 A. Not in any formal way.

13 Q. Do you keep notes or files --

14 A. Yes.

15 Q. -- concerning the requests that you receive,
16 the oral requests?

17 A. It would depend on the topic and how
18 frequent or complex the request was.

19 Q. And do you inventory the documents that you
20 provide? Do you ever keep a list, say, if it is a
21 fairly complex question involving a number of
22 documents, do you keep a list of the documents
23 that you provide or any kind of inventory?

24 A. I'm not sure if we are in a semantic

1 discussion of what I keep and what I don't keep.

2 Q. What do you keep?

3 A. I might have a file with a request from
4 someone for a specific set of -- or requests that
5 they may have made of me for annual reports for
6 the last five years. I might slip those reports
7 into a file and that might be it, so that in the
8 event that that question were to be asked again I
9 might be able to easily retrieve it and provide
10 it.

11 Q. So, if it's a request that you receive or
12 that you know you are going to receive again, you
13 might keep track of that and keep a file?

14 A. I might just keep a file in my desk that
15 would be easily retrievable and available for
16 distribution.

17 Q. In the area of executive travel have you
18 received requests in the past orally for documents
19 concerning executive travel?

20 A. Sure.

21 Q. And how often do you receive those types of
22 requests since you have been with the executive
23 chamber?

24 A. One or two times, maybe.

1 Q. Since January of 2007?

2 A. Yes.

3 Q. And can you describe those requests?

4 A. I received a verbal request from the New
5 York Post asking me to assist them in expediting a
6 request they had with the State Police over
7 executive travel from the 1st of the year
8 involving several statewide officials and their
9 use of the aviation fleet. And I may have
10 received one or two other requests of similar note
11 once that issue became known publicly and
12 published publicly.

13 Q. Do you mean in July?

14 A. Yes.

15 Q. The request you received from the New York
16 Post what reporter was that from?

17 A. Fred Dicker from the New York Post.

18 Q. And can you tell me how that came about?

19 A. Sure. In the middle of March I received a
20 call from my counterpart at the State Police.
21 There were two folks there, Glen Miner as
22 Lieutenant and Sergeant Swoboda. And they had
23 received an inquiry from Mr. Dicker asking for the
24 flight manifests from the start of the year 2007

1 until the present. They said that they had
2 received a FOIL from Fred and that Fred was
3 somewhat animated about his desire to get these
4 documents and that they are going to make him FOIL
5 them.

6 Q. When you said they had received a FOIL from
7 Fred --

8 A. It might have been a verbal FOIL. I don't
9 recall.

10 Q. And at this point was it that they received
11 an oral request and they wanted a written request?

12 A. I don't remember if they had a FOIL request
13 in hand or if it was a verbal request. I think it
14 was a verbal request, but I do not remember
15 exactly right now whether it was a verbal or
16 written request. I think it was verbal because
17 the more I think about it, Fred had made an issue
18 of the fact that it should no longer be necessary.
19 The Governor had instituted a policy that we would
20 be as transparent, open and accountable as
21 possible for retrieval of documents, and if
22 documents were readily available we should fulfill
23 those requests. In this particular case we are
24 talking about in March, Fred contacted the office

1 and asked was there something we could do to help
2 out. I talked to either Glen or Kern -- I'm
3 almost positive it was Glen. And I said: Is
4 there some way we can expedite these records? Do
5 you have them immediately available? And he said
6 the protocol was to require a FOIL, and I shared
7 with him the Governor's vision of the way FOILs
8 should be conducted and how it should be something
9 that if it is readily available to the public, it
10 should be made available to the public. They
11 shared with me the documents that were able to
12 generate with respect to aviation. They sent them
13 down to me at the office and I hand-delivered them
14 to Mr. Dicker.

15 Q. When you say the Governor had a vision as
16 far as transparency in government what was your
17 understanding of that vision?

18 A. That the public should have access to
19 records that are available and that it shouldn't
20 be an ordeal in order to receive them.

21 Q. How had you gotten that understanding?
22 Where did you receive that information from?

23 A. I have been with the Governor since 1999 and
24 I was well aware of his position on it.

1 Q. When you came into the chamber was this a
2 change in the FOIL policy in the chamber?

3 A. It might have been a change in the way the
4 chamber did business. It was not a change in the
5 way we did business.

6 Q. So, was there ever a memo or something
7 committed to writing laying this out for you and
8 the others in the press office?

9 A. I don't know that there was ever a memo.
10 There are two things I am thinking of. One is
11 that we had issued an open letter to the
12 legislative correspondents indicating that the
13 press office was open and accessible during
14 business hours to the press to come down anytime
15 they wished, walk right into our offices. They
16 would no longer be separated from the press office
17 by the security desk in the Capitol.

18 Q. Did that letter refer to FOIL at all?

19 A. I don't remember.

20 Q. Do you have a copy of that document?

21 A. No.

22 Q. Do you have it in your files at the office?

23 A. I don't think so.

24 Q. Do you recall anything else that the letter

1 contained?

2 A. I believe it just indicated that we would be
3 as helpful and cooperative as possible and that we
4 hoped that our relationship would continue in a
5 positive manner.

6 Q. How long a letter was this?

7 A. A couple of paragraphs.

8 Q. Whose signature was on the letter; do you
9 know?

10 A. I don't remember. I think it was a memo
11 from both Darren and Christine.

12 Q. And Darren is --

13 A. Darren Dopp.

14 Q. And, what is your relationship with Darren
15 Dopp?

16 A. I have known him for nearly 17 years. He
17 hired me to work for him in the Attorney General's
18 Office shortly after the Attorney General took
19 office in 1999. And it has been my pleasure to
20 work with him until last week.

21 Q. What occurred last week?

22 A. Darren resigned from the executive chamber
23 and secured new employment it's my understanding.

24 Q. When was the last time you spoke with Mr.

1 Dopp?

2 A. The Friday before the Attorney General's
3 report was issued.

4 Q. Have you had any contact with him since that
5 time?

6 A. No, I have not.

7 Q. Now, you indicated there was an open letter
8 to the legislative correspondents and that there
9 was a second document concerning the transparency
10 and the governor's viewpoint on availability.

11 A. I think I said there may have been two
12 instances that I was thinking of. I don't know if
13 I said there were two documents.

14 Q. I apologize. What is the second instance?

15 A. I believe I was probably standing next to
16 the Governor when he said that, when he made that
17 kind of statement.

18 Q. Had he made a direct statement about FOIL?

19 A. I don't remember the exact words, but the
20 spirit was always very clear.

21 Q. What was the spirit?

22 A. That we will make -- that the government
23 will operate with as much transparency as possible
24 and that the press will be given every courtesy

1 that we are able to extend.

2 Q. And did the Governor ever give you any
3 information concerning the provision of documents
4 specifically?

5 A. Again, can you help me understand?

6 Q. In terms of explaining the transparency that
7 he wanted in government, did the Governor ever
8 discuss in your presence the actual turning over
9 of documents?

10 A. Not that I recall.

11 Q. And did he ever specifically speak to FOIL?

12 A. I mean I have spent nine years with Mr.
13 Spitzer, attended dozens of speeches, literally
14 probably hundreds of speeches. I have heard him
15 say things that are reflective of that point of
16 view.

17 Q. But since January of 2007 since he has
18 actually been in the executive chamber serving as
19 Governor has he spoken to you in your capacity
20 with the press office on FOIL and provision of
21 documents under FOIL?

22 A. I don't recall a specific conversation like
23 that.

24 Q. And you were speaking about the request from

1 Fred Dicker to the State Police.

2 A. Um-hmm.

3 Q. And you indicated that you provided Mr.

4 Dicker with some aviation records that you have

5 received from the State Police?

6 A. Yes, absolutely.

7 Q. Did you keep any kind of listing as to what

8 those records are?

9 A. I didn't keep a listing of the records, but

10 the flight manifests come in kind of an -- they

11 have like a helicopter and airplane indicia on the

12 top of them and list by date and point of origin

13 and both origination and conclusion of the trip on

14 the flight manifest. And they also list perhaps a

15 tail number associated with the aircraft or what

16 type of aircraft, who was on the aircraft. And

17 they are difficult to read. So, what I did was I

18 went through this set of documents and synthesized

19 them and put a little cover note on top so he

20 could see who flew on the plane, where they flew,

21 and where they went.

22 Q. So, you actually provided some kind of

23 synopses with the manifest to Fred Dicker?

24 A. Um-hmm.

1 Q. Do you have a copy of that, by any chance?

2 A. I believe you have it.

3 Q. I don't believe we do.

4 A. I would be happy to provide it if you would
5 like it. Upon request of the executive chamber
6 prior to her securing Mr. Conboy I turned over
7 numerous documents. And I believe they were
8 included in that.

9 MS. TOOHER: If you could just make sure
10 we get a copy of the list.

11 MR. CONBOY: Assuming we can obtain a
12 copy from the executive chamber, absolutely.

13 Q. Thank you. And, you indicated you thought
14 it was Sergeant Miner --

15 A. Lieutenant Miner.

16 Q. -- at the State Police?

17 A. Yes.

18 Q. Did he express some concern about giving the
19 documents pursuant to an oral request?

20 A. He said the State Police had a very specific
21 protocol and he wanted to continue to follow that
22 protocol. I shared with him the intention and
23 nature of the provisions in the policy of the
24 administration and indicated to him that I would

1 be -- if we had them readily available and these
2 were, in fact, documents they had routinely
3 released before, because it was my understanding
4 they had -- I was quite aware of the fact that
5 aviation had been commonly requested, that I would
6 be happy to fulfill the request so that he didn't
7 have to violate the protocol.

8 Q. When you say you knew they were routinely
9 provided, how did you know this?

10 A. As I pointed out earlier, for the last
11 nineteen years I been involved in state
12 government. And aviation requests are made, if
13 not on a multiple times of the year basis, at
14 least two or three times a year. There are a
15 number of significant stories by the media.

16 Q. And what was your understanding as to what
17 documents were provided in response to these
18 requests? What was the type of document that
19 would be provided?

20 A. For aviation?

21 Q. For aviation requests.

22 A. I believe just the manifest.

23 Q. I'm going to show you what has been
24 previously marked as Commission Exhibit 6 and ask

1 you if you recognize this document.

2 A. Yes.

3 Q. Can you identify this?

4 A. Yes. This is a memorandum -- or I should
5 say it's an e-mail from Lieutenant Glen Miner to
6 me, cc Kern Swoboda who is the Sergeant I
7 mentioned to you, regarding this incident that we
8 have just discussed.

9 Q. This basically details what you discussed
10 earlier; that he was concerned about state police
11 protocol --

12 A. Yes.

13 Q. -- and that you agreed to provide the
14 records to Fred Dicker?

15 A. I asked did he have them available and was
16 it something that could be fulfilled. And he
17 indicated that it could be.

18 Q. And do you see the handwritten notes on the
19 bottom of this document?

20 A. Yes.

21 Q. Do you recognize that handwriting?

22 A. Yes.

23 Q. Can you tell me whose it is?

24 A. It's mine.

1 Q. Can you explain to me what these notes are?

2 A. Certainly. On the left is the request
3 probably -- I'm assuming these are notes taken
4 while I was -- I followed up either a conversation
5 with Glen or with Kern and said that they had
6 records from January 1, 2007 involving the
7 Governor, the Lieutenant Governor, and the
8 Minority Leader for helicopters and planes for
9 executive travel and that it was approximately
10 eight pages.

11 MS. CONBOY: Great handwriting, by the
12 way, Paul.

13 INTERVIEWEE: It's working for me right
14 now.

15 Q. When you read it, did it make it fairly
16 clear it was a conversation you had while speaking
17 with either Lieutenant Miner or Swoboda?

18 A. Yes.

19 Q. And did they indicate if there were any
20 records available for Senator Bruno at the time?

21 A. I don't remember. I think they did.

22 Q. Is there a reason you didn't write Senator
23 Bruno's name down?

24 A. I don't remember. I just don't remember why

1 I would have made those three notations.

2 Q. Had Fred Dicker indicated with any
3 particularity whose records he was looking for as
4 far as the manifests?

5 A. Anyone who had flown on executive aircraft.

6 Q. Had you spoken with Mr. Dicker at this
7 point?

8 A. Sure. It probably would have been -- well,
9 let me look at this. (Indicating Exhibit 68) I
10 know I spoke with him. I don't remember if it was
11 before or after I received this.

12 Q. Did you speak with anyone else about Fred
13 Dicker's request?

14 A. Sure.

15 Q. Who did you speak with?

16 A. Darren Dopp.

17 Q. What did you say to Mr. Dopp?

18 A. I outlined the circumstance, and he asked me
19 were the documents readily available. And I said
20 they were, and he said, "Let's try and fulfill
21 Fred's request."

22 Q. And did he ask you about any other documents
23 at that time?

24 A. No.

1 Q. And did Mr. Dicker in his March 14th request
2 ask you for any ground itineraries for any of the
3 individuals who flew?

4 A. I don't remember that, no.

5 Q. Did you have any conversations with William
6 Howard about these records?

7 A. I don't recall them.

8 Q. Had you dealt with Mr. Howard in the past?

9 A. Yes.

10 Q. On what types of issues?

11 A. He was the liaison -- he was Assistant
12 Secretary for Public Safety in the executive
13 chamber. And he and I worked frequently on State
14 Police matters, Division of Military and Naval
15 Affairs, any of the agencies that pertain to
16 public safety and emergency management. We worked
17 with each other almost every day.

18 Q. And did you ever have any discussions with
19 Mr. Howard about executive travel?

20 A. No.

21 Q. Did you ever have any discussions with Mr.
22 Howard about Senator Bruno's use of the aircraft?

23 A. Not that I recall.

24 Q. Did you ever any conversations with Mr.

1 Howard about the provision of ground
2 transportation for Senator Bruno?

3 A. No.

4 BY MR. TEITELBAUM:

5 Q. Mr. Larrabee, when you turned over the
6 documents to Fred Dicker in March did you turn
7 them over with any redactions?

8 A. No, sir.

9 Q. Did you review them to see if anything
10 should be redacted?

11 A. I definitely reviewed the documents to know
12 what was in them before I turned them over.

13 Q. Did you present documents to the executive
14 chamber FOIL officer for internal review?

15 A. I don't recall that.

16 Q. In the normal course would you have done
17 that?

18 A. No.

19 Q. Why?

20 A. Because these were documents that had been
21 routinely released in the past, and that wasn't
22 something than was commonplace at that time.

23 Q. How do you know they were routinely released
24 in the past? As I understand your testimony this

1 is the first request that was made for them since
2 January 1st.

3 A. Aviation requests had been routinely
4 requested in the past by the press office.

5 Q. Which press office?

6 A. Since there has been executive air travel it
7 was my understanding that aviation requests had
8 been a topic of interest by the media.

9 Q. And, do you have any knowledge as to whether
10 in the past the records that we are talking about,
11 types of records we are talking about would be
12 presented to a FOIL officer before release to the
13 press?

14 A. (No response)

15 Q. Is my question clear?

16 A. No, it's not. If you could help me out --

17 Q. Let me rephrase it.

18 A. Thank you.

19 Q. Sure. You are testifying that, to your
20 knowledge, these flight manifests were routinely
21 requested, I guess, before January 1, 2007.

22 A. Um-hmm.

23 Q. That would be during the Pataki
24 administration. Is that the period you are

1 talking about?

2 A. I believe they were routinely requested
3 during the Pataki administration, the Cuomo
4 administration, the Carey administration.

5 Q. My question to you is: When those requests
6 were made during those administrations do you have
7 any knowledge as to before those records would be
8 turned over to the press whether they would be
9 reviewed by the FOIL officer to see if there was
10 anything in those records that should be redacted?

11 A. I'm not familiar with what the procedure was
12 prior to January 1st, sir.

13 Q. So, I take it that, to your knowledge, you
14 had no knowledge as to whether there was anything
15 in those documents that should be redacted by a
16 FOIL officer?

17 A. Well, sir, I didn't have a conversation with
18 the FOIL officer about what was contained in those
19 documents.

20 Q. I take it, you don't know whether in prior
21 instances during all of the administrations that
22 you have named whether there was a practice of
23 having the documents reviewed by a FOIL officer
24 before they could be available to the press; is

1 that accurate?

2 A. I am unaware of what the procedure was in
3 the prior administrations, sir.

4 Q. So, I ask you again now: Why is it that you
5 didn't present these documents to the FOIL officer
6 in the Spitzer administration?

7 A. Because I didn't have a FOIL request, sir.

8 Q. What were you responding to?

9 A. Fred Dicker called and asked if I would
10 assist him in securing these records.

11 Q. Did you present the records to anybody for
12 review to see if there was any security-related
13 information there that should be redacted or that
14 would have been redacted had this been in the
15 context of a formal FOIL request?

16 A. I didn't present them to anyone. I believe
17 I shared them with Darren to let him know that
18 these are the records and that the State Police
19 sent them over to me without redactions.

20 Q. Were you assuming that if there were
21 sensitive material in there that shouldn't be
22 released that it would be redacted by the State
23 Police?

24 A. Yes, sir.

1 Q. Did you have a conversation with anybody at
2 the State Police concerning that issue in the
3 instance that we are now discussing, the March
4 Dicker incident?

5 A. The only person -- the two people I had a
6 conversation with in the State Police were Kern
7 Swoboda and Glen Miner.

8 Q. And, during those conversations did you make
9 mention of whether the documents had been reviewed
10 for security information?

11 A. I don't recall if I said that or not, sir.
12 Again, I worked with Kern and Glen for an extended
13 period of time and there was mutual respect
14 between each of us. And I was quite confident
15 that he would have indicated to me if there was a
16 security concern about this document.

17 Q. Had you ever gotten documents from the State
18 Police before that would go to the press?

19 A. I believe so.

20 Q. When was that?

21 A. Probably during the era in the Attorney
22 General's Office.

23 Q. Do you mean while you were working in the
24 Attorney General's administration you had made

1 requests of the State Police for documents?

2 A. I believe so.

3 Q. What was the protocol that applied there?

4 A. I believe they routinely related cases in
5 which the State police worked with the Attorney
6 General's Office.

7 Q. So, these were matters under investigation?

8 A. No. They would be subsequent to an
9 investigation.

10 Q. And what were the circumstances under which
11 you would be requesting documents from the State
12 Police?

13 A. There may have been a case that the
14 Organized Crime Task Force worked on or the
15 Special Investigations Unit, and there may have
16 been a news conference scheduled and there may
17 have been documents that were helpful to me in
18 developing a news release or talking points for
19 disclosure. Those are instances I am thinking of
20 in terms of when the State Police would have sent
21 me documents. We routinely sent draft news
22 releases back and forth to each other.

23 Q. The documents you received from the State
24 Police while you were in the Attorney General's

1 Office, would those be documents that you were
2 requesting in order to give to the media or for
3 internal use in the A.G.'s Office?

4 A. There may have been -- I don't recall
5 clearly a draft news release that was being sent
6 back and forth that was intended to release to the
7 public. And if there were sensitive documents
8 that were a part of the disclosure material filed
9 with the court and something that had an origin in
10 the State Police I may have secured them from the
11 State Police.

12 Q. What about documents that were not filed
13 with the court?

14 A. No, sir.

15 Q. You didn't have a situation where you had
16 gotten those kinds of documents to release to the
17 media?

18 A. No, sir.

19 Q. Forgive me if I asked this -- I may have.
20 When you spoke to the two officers at the State
21 Police did the subject of whether there was any
22 security matters contained in the documents, did
23 that come up?

24 A. I don't remember if it did or not.

1 Q. Did the documents that you turned over to
2 Fred Dicker, did they have the tail number of any
3 aircraft?

4 A. They may have. I know it has a model; I'm
5 almost positive it has the model of the aircraft.
6 Sky Chief 300, or something like that.

7 Q. Did you have any information as to whether a
8 document containing the tail number of an aircraft
9 -- the information of the tail number is security
10 sensitive and should not be released?

11 A. I do not know, sir.

12 Q. You have never heard that before?

13 A. No, sir.

14 Q. When you say "readily available" the
15 documents that are readily available should be
16 made available to the media without going through
17 the formality of a FOIL request, can you expand
18 upon that and tell us what you mean by "readily
19 available"?

20 A. If the documents were something that had
21 been disclosed on prior occasions there was no
22 reason that it wouldn't be disclosed again unless
23 there were an issue associated with it that would
24 prohibit us from doing so.

1 Q. Do you mean those very documents?

2 A. Aviation records have been the subject of
3 numerous articles for as long as I have been in
4 state government, sir. And I didn't view their
5 disclosure as anything sensitive.

6 Q. So, I just want to nail down what you mean
7 by "readily available." So, if a type of document
8 had been previously released to the press, from
9 your perspective that type of document is one that
10 you would characterize as readily available and
11 one for which the media shouldn't be required to
12 go through the formalities of FOIL? Is that an
13 accurate statement?

14 A. I don't know. What I think -- I can only
15 speak to what I know. And what I do know is that
16 aviation records have routinely been requested and
17 disclosed to the media. So, when this particular
18 request came in I didn't treat it any differently
19 from any other routine request that had come in.

20 Q. And if a document had not been given out to
21 the press previously, I take it, then, you would
22 deem that to be not readily available; is that
23 accurate?

24 A. Not necessarily so, sir. I would have to

1 make a different judgment.

2 Q. So, let's take documents that, from your
3 knowledge, you know had never been -- the type of
4 documents had never been released to the press
5 before. What considerations from your perspective
6 would apply in determining whether the document
7 ought to be released?

8 A. I may not be qualified to make that
9 judgment, sir.

10 Q. What would you do?

11 A. I probably would seek guidance.

12 Q. From whom?

13 A. Counsel's office.

14 Q. Did you ever do that?

15 A. Yes, sir.

16 Q. In what kinds of instances?

17 A. Quite often, we receive request for
18 information, whether it be related to a legal
19 proceeding or a negotiation that was underway, and
20 I would walk down the hall and speak to David
21 Nocente or to the counsel assigned to the matter.

22 Q. And in an instance in which, to your
23 knowledge, a document -- type of document had not
24 been released to the media before, would you make

1 the judgment all by yourself as to whether it
2 ought to be released?

3 A. No, sir.

4 Q. What would you do?

5 A. I would seek guidance.

6 Q. From counsel's office?

7 A. Perhaps.

8 Q. Anybody else?

9 A. I might speak to someone else who has
10 familiarity with the topic and has more experience
11 in it than I do.

12 Q. Would that be within the executive chamber?

13 A. Yes, sir.

14 Q. Have you ever done that?

15 A. I'm sure I have. I would have to think for
16 moment, thing of a for-instance for you, but I'm
17 sure I have.

18 Q. Take a moment and think about it and tell us
19 who you would consult with other than counsel in
20 making the determination as to whether to release
21 to the media a document that had not been released
22 before, the type of document.

23 (Pause taken)

24 A. I can't recall a specific instance at this

1 moment, sir. But I can assure you that it's not
2 unusual to seek guidance and support on topics
3 that I'm not familiar with.

4 Q. What kinds of persons would you look to for
5 guidance other than counsel in these kinds of
6 situations? Would it be, for example, the
7 Secretary to the Governor? Would it be Chief of
8 Staff? I mean just give me the kinds of people
9 that you would look to for guidance other than
10 counsel in a situation in which, to your
11 knowledge, you would be releasing a type of
12 document to the media that had not been released
13 previously.

14 A. That is an extraordinarily specific case,
15 sir. I really can't believe I would go anyplace
16 other than counsel's office.

17 BY MS. TOOHER:

18 Q. Were you acquainted with Darren Dopp in mid
19 May when he was exploring the issue of Senator
20 Bruno's travel?

21 A. Was I acquainted with him? I worked with
22 him.

23 Q. On that issue?

24 A. No, I wasn't.

1 Q. Did you have any discussion with him in mid
2 May concerning Senator Bruno's travel issues?

3 A. Not that I recall.

4 Q. I am going to show you what has previously
5 been marked as Commission's Exhibit 77 and ask you
6 if you have seen this document before.

7 A. I don't recall if I have seen this document
8 before. I think I have seen something like it
9 before.

10 Q. What were the circumstances under which you
11 saw it?

12 A. I believe it was contained in D.A. Soares'
13 report.

14 Q. Do you think you saw it in D.A. Soares'
15 report?

16 A. I believe I saw something very much like it.

17 Q. Did you have any conversations with anyone
18 in the executive chamber concerning this
19 statement?

20 A. No.

21 Q. And, did you ever have any discussions with
22 Darren Dopp concerning Senator Bruno's travel?

23 A. Pertaining to this document?

24 Q. Yes.

1 A. I want to be clear that I understand what
2 your question is. Did I have any conversations
3 with Darren Dopp about this document specifically?

4 Q. Yes.

5 A. No.

6 Q. Did you have any conversations with Darren
7 Dopp about Senator Bruno's travel?

8 A. Yes.

9 Q. What was the subject matter of those
10 conversations?

11 A. I was aware that he was working with Jim
12 Odatto of the Times Union on a story related to use
13 of executive aircraft.

14 Q. When did you first become aware of that?

15 A. In June.

16 Q. Do you recall when in June?

17 A. Within the latter part of June.

18 Q. How did you become aware of that?

19 A. I believe I observed Jim in Darren's office
20 on numerous occasions. And I probably asked him,
21 "What's up with Jim?" or something like that.

22 Q. So, you saw Jim Odatto in his office, in
23 Darren Dopp's office?

24 A. Yes.

1 Q. Where was Darren Dopp's office located in
2 relation to your own?

3 A. About ten feet away from mine.

4 Q. When you asked him what was up with Jim what
5 did he relate to you?

6 A. He indicated that they were working on a
7 story about the use of executive aircraft.

8 Q. What did he say to you?

9 A. He had been working with Jim on a story
10 about executive aircraft.

11 Q. Did he say anything about what Jim Odatto was
12 working on specifically?

13 A. I don't remember if he said anything
14 specifically about it.

15 Q. Did you ask him what Mr. Odatto was talking
16 to him about?

17 A. I don't remember if I asked. I know he had
18 indicated to me that he is working on a story with
19 Jim about executive travel and the senator's use
20 of state aircraft.

21 Q. Did he indicate anything else concerning
22 this story?

23 A. He believed that the story Jim was working
24 on would be perceived in a negative light for the

1 senator.

2 Q. Did he indicate why he felt that way?

3 A. I believe he indicated that there were both
4 legislative and political travel as part of the
5 frame of the story.

6 Q. Did Mr. Dopp tell you where he had gotten
7 that information?

8 A. No.

9 Q. Did he tell you what the nature of the
10 information was that led him to that conclusion?

11 A. Nothing other than the conversations that he
12 had with Jim.

13 Q. What did he say about those conversations?

14 A. I don't really recall specifics.

15 Q. Did he say anything about providing
16 documentation to Mr. Odatto?

17 A. He must have, but I don't recall
18 specifically.

19 Q. Do you recall in general?

20 A. He indicated that there was both -- he
21 believed there was both legislative use and had
22 non legislative use of state aircraft.

23 Q. But he didn't indicate where he had gotten
24 that information from?

1 A. No.

2 Q. Did he indicate any discussions with anyone
3 else?

4 A. Not that I recall.

5 Q. Did he show you any documents at any time
6 concerning Senator Bruno's travel?

7 A. In June?

8 Q. At any time.

9 A. Yes.

10 Q. When did he first show you documents?

11 A. Early July.

12 Q. Did he show you any documents in June?

13 A. I don't remember seeing any documents in
14 June.

15 Q. I will show you what has been marked as
16 Commission's Exhibit 67 and ask you if you have
17 ever seen this document.

18 (Pause taken)

19 A. Sorry?

20 Q. Have you ever seen this document before?

21 A. I may have seen something like this
22 document. I'm not sure if it's this document or
23 not.

24 Q. What were the circumstances under which you

1 saw a document similar to this?

2 A. In late June I think Darren may have
3 provided this document to me to read it.

4 Q. In what context did he give it to you and
5 why did he ask you to read it?

6 A. When we were working on a -- working with a
7 reporter and we were trying to frame the story or
8 trying to make it more clear to someone, he might
9 have provided it to me because I have not been
10 aware of it and it brings a fresh set of eyes to
11 the table and gives you the opportunity to read it
12 in a way that you might not read over something
13 that you had been working on so closely.

14 Q. When you say he might have provided it to
15 you, did he ask you to take a look at this and
16 just --

17 A. I don't remember if this is, in fact -- I
18 may have seen this document once. So, I don't
19 have a huge recall of this document, and that's
20 why I'm being so hesitant in my response. I
21 remember a document very much like this and I
22 remember talking to him about this document.

23 Q. What was the conversation that you had with
24 him?

1 A. It didn't seem to me that there was that
2 much here.

3 Q. When you say "that much here" --

4 A. I didn't believe that there was much news
5 here.

6 Q. And why is that?

7 A. Because it had been widely documented that
8 he was frequently mixing government and political
9 travel.

10 Q. Was it your understanding that Mr. Dopp had
11 written this document?

12 A. I didn't know who had written it.

13 Q. Was it your understanding that it was going
14 to be provided to Jim Odatto?

15 A. I didn't know what the intention of this
16 document was, who it was going to be provided to.

17 Q. What did you think the intention of this
18 document was?

19 A. You would use it to help order your thinking
20 prior to making a presentation to someone.

21 Q. Do you do that? Do you do a document as
22 some sort of background before making a
23 presentation to someone?

24 A. I might take notes, and that's what I would

1 have considered.

2 Q. In your experience with Darren did he do
3 that, create a background document in order to
4 give a presentation on a particular topic?

5 A. Everybody operates in a slightly different
6 way. But virtually everyone in the press office
7 keeps a pad on their desk and keeps notes about
8 how they are going to present material to the
9 press.

10 Q. But this is a little more than notes. It's
11 fairly clearly written out, and it has attachment
12 files as well. Was that Darren's practice in
13 preparing to give a presentation to reporters in
14 your familiarity with him?

15 A. I wouldn't be surprised if he had done this
16 in prior cases where there was complexity to them.

17 Q. Would you consider this a complex case, the
18 issue of the itineraries and providing documents?

19 A. I think for someone who was not familiar
20 with documents any kind of guidance is helpful.

21 BY MR. TEITELBAUM:

22 Q. Focusing on Exhibit 67, I just want to make
23 sure the record is clear. From your perspective
24 as you read Exhibit 67 is it your sense that this

1 is a document that would be used with respect to
2 the media?

3 A. I don't know what the use of this was, sir.

4 Q. When you read it, or a document similar to
5 this, were you told what the purpose of the
6 document was?

7 A. No.

8 Q. You were just handed the document and he
9 said: Read this, without any context provided to
10 you? When I say "context," that it's an internal
11 memorandum that you use as a talking point for the
12 press and be given to the press. I mean there was
13 no context whatsoever?

14 A. I believe Darren shared this documents with
15 me and asked me, "What do you think?"

16 Q. Without telling you what it was going to be
17 used for?

18 A. Yes, sir.

19 Q. He never told you that he showed it to the
20 Governor, for example? He never told you the
21 purpose of the document, the intended purpose?

22 A. I don't recall him telling me what the
23 intended purpose is.

24 Q. That would be a significant piece of

1 information if you were going to give an opinion
2 on the document; wouldn't it?

3 A. No. I think he asked me about content.

4 Q. What did he ask you about concerning the
5 content?

6 A. I was aware of the fact that he was working
7 with Mr. Odatto, so there may not need to be a lot
8 of explanation about what this document was.

9 Q. Can you tell us more about that?

10 A. (No response)

11 Q. What do you mean "he was working with
12 Odatto"? Had you read this document with the view
13 that this was a document that would be used in
14 connection with what Mr. Dopp was doing with Mr.
15 Odatto?

16 A. I wasn't sure whether this was -- we
17 generate a lot of papers, sir, in the press
18 office. Sometimes we take notes and prepare
19 drafts and then they go right into the
20 wastebasket. Other times you use them with great
21 regularity and repetition. I don't know what the
22 intention of the use of this document was. He
23 asked me what did I think, and I assumed that
24 meant: Would you please read through this

1 document and tell me if you think there are any
2 holes in it or lack of clarity. He didn't explain
3 to me what the use of this document was.

4 Q. Let me ask it this way. Is this the first
5 time that Mr. Dopp asked you to look at a document
6 and give your perspective on it, your opinion?

7 A. Absolutely not.

8 Q. Did that happen pretty routinely?

9 A. Yes, sir.

10 Q. And the documents he showed you to solicit
11 your opinion were generally documents having to do
12 with his work vis-a-vis the media?

13 A. Yes, sir.

14 Q. Would he also do that with internal
15 memoranda that he might be sending, for example,
16 to David Nocente? If he was intending to send a
17 memorandum to David Nocente would you look at it?

18 A. He might.

19 Q. Did that ever happen before?

20 A. There are scores of people that we would
21 share documents with. He might send a note, too.

22 Q. In instances where he would be creating a
23 document, a memorandum, internal memorandum to
24 David Nocente that wasn't to go to the public --

1 A. Yes, sir.

2 Q. -- would he have you review that document?

3 A. He might.

4 Q. Did that happen in the past?

5 A. I know that over the course of the last nine
6 years for more than ten hours a day I worked
7 alongside Darren Dopp. It was not unusual at all
8 for him to share what he was working on with me
9 and for me to share what I was working on with
10 him. I didn't always ask for a context for what
11 it was. It was often clarity and point of view,
12 and it was not necessarily something that was
13 common that he would say: I'm sending this to
14 David Nocente to read this. Or, he might say I'm
15 trying to explain this particular rationale for
16 this particular topic.

17 Q. As you look at 67, can we agree that 67
18 appears to be a document that is related to Mr.
19 Dopp's work with the media?

20 A. I'm not sure that it is. I assume that's
21 what it's for.

22 Q. Does it look like it's a document that would

23 --

24 A. It would not be be unusual to provide some

1 sort of guidance to someone on a complex case at
2 all.

3 Q. To someone in the media?

4 A. Yes, sir.

5 Q. My understanding is that "for background
6 only" is a term of art in your business. What
7 does that mean?

8 A. The way I use "background" means it can be
9 attributed to the office but it cannot be used for
10 attribution for direct attribution on a direct
11 quotation.

12 Q. To a particular person?

13 A. Yes, sir.

14 Q. So, if you are going to do that with a
15 document that you are going to hand out to the
16 media, in other words, that it's going to be
17 attributed to the office but not to a particular
18 individual you would print on the top "for
19 background only"?

20 A. I wouldn't necessarily put that on there at
21 all.

22 Q. Well, how would you indicate that it was to
23 be attributed to the office but not to the
24 individual?

1 A. I wouldn't generally write a memorandum like
2 this.

3 Q. You would not?

4 A. No.

5 Q. You would have handwritten notes?

6 A. Yes, sir.

7 Q. Are there instances in which you hand out
8 something to the press for background purposes
9 only and not for attribution to an individual?

10 A. It's a very, very complex thing. If you
11 have a minute I would be happy to explain it.

12 Q. Please.

13 A. People routinely interchange "background,"
14 "for the record," "off the record," and they mean
15 a whole host of different things. And, so, it's
16 quite necessary to be very specific with the
17 person you are speaking with as to what those
18 rules are. If I said to you: This is off the
19 record somebody might say, oh, that means I can't
20 use your name. Not when I play this game. When I
21 say "off the record" what I mean is you cannot
22 attribute this in any way, shape, or form to a
23 newspaper. Those are my rules when I say "off the
24 record." But when I talk to another reporter who

1 has not necessarily worked with me in the past or
2 might be a little aggressive in pursuing a story,
3 they might not hear "off the record." They might
4 hear "for background." Often, people who don't
5 work routinely with the media will interchange
6 "background" and "off the record" and there is a
7 tremendous blurring of lines. And, that's why I
8 like when I speak to someone to let them know very
9 specifically what the conditions of my
10 conversations are. Like we are on the record
11 right now, sir.

12 Q. So, the word "background" has meaning
13 although the meaning might vary in what you saying
14 from one person to another person, but it has
15 meaning for people in your business?

16 A. Yes, sir.

17 Q. And when you saw Mr. Odatto in Mr. Dopp's
18 office and Mr. Dopp said that they were working on
19 a story about executive travel, would that involve
20 both the person from your office -- in this
21 instance, Mr. Dopp -- and Mr. Odatto actually
22 working on a story together?

23 A. Part of what we do in the press office is we
24 essentially are reporters or try and assume the

1 role of a reporter. You try and anticipate what
2 questions they are going to ask and you try and
3 provide to them the clarity that their readers can
4 understand. So, when I saw they are working on a
5 story I didn't mean that someone is sitting at a
6 Times Union keyboard. But what they may be doing
7 is reviewing circumstances and facts, or Jim Odatto
8 may have a series of ten or fifteen questions that
9 he was seeking guidance from Darren on.

10 Q. Would Mr. Odatto also be providing some kind
11 of text for review before it went to the press for
12 accuracy to make sure that his facts were right?

13 A. That would be highly unusual.

14 Q. Would it?

15 A. Not unprecedented. It's not unusual that
16 when I am working with a reporter one would call
17 me and say: If I said -- if I read you a series
18 of statements and I said, you know, it's the
19 thinking of the administration that the budget may
20 be in surplus, is that an accurate representation,
21 that wouldn't be unusual at all. It would be
22 extremely -- it's rare, but not unprecedented that
23 somebody might send you their copy in advance for
24 review.

1 Q. So, when Odatto is with Dopp in Dopp's office
2 and you see them together several times when he is
3 working on this article on executive travel, what
4 you are saying is that the probability is that
5 Odatto is there with questions that he is asking
6 Mr. Dopp to answer?

7 A. Yes, sir, or seeking some clarification.
8 Jim is a dogged reporter, one who asks questions
9 several layers deeper than many of his colleagues.

10 Q. You used the term: When I am making a
11 presentation to a line of questioning that my
12 colleague asked you, when you use the term "making
13 a presentation." Is that a presentation you make
14 to the press, I take it?

15 A. Yes, sir. What I mean is if you had a -- if
16 we were working on a particular story -- and,
17 again, I don't know if anyone here has ever worked
18 on a newspaper with any regularity, but you might
19 work on ten or fifteen stories in the course of a
20 day with someone. What you are doing is
21 responding to a line of inquiry. You are not
22 physically writing a story for them.

23 Q. I understand that. Maybe my question was
24 unclear. I take it, that what you meant -- and

1 correct me if I'm using the term "making a
2 presentation" -- it's not necessarily actually
3 physically presenting the document to the press
4 but using the documents -- perhaps not giving the
5 document but using the document to make a
6 presentation to the press. Is that accurate?

7 A. When I use the term "making a presentation"
8 I mean a conversation. I don't mean something
9 formal. I don't mean standing in front of a room
10 full of folks. It might be on the telephone. It
11 might be in your office. It might be in that same
12 cafeteria getting the soup which we talked about
13 earlier.

14 Q. But the recipient is a press person, a
15 reporter. That's what I am trying to get at.

16 A. Yes.

17 Q. So, it is a presentation in one fashion or
18 another to a news reporter?

19 A. Yes, sir.

20 BY MS. TOOHER:

21 Q. Commission's 67 details a lot of information
22 that eventually ended up in a story by Mr. Odató.
23 Are you familiar with that story?

24 A. I believe so.

1 Q. And you indicated that Darren Dopp was
2 working with Mr. Odatto for some time during the
3 end of June. Were you familiar that he was
4 working on that story?

5 A. I know he was working on a story at the end
6 of June.

7 Q. Do you know what that story was?

8 A. I believe it was the story that appeared on
9 July 1st.

10 Q. So, he was working with Mr. Odatto on the
11 story that appeared concerning Senator Bruno on
12 July 1st?

13 A. I believe so, but it could have been a host
14 of other things. It's not unusual, again, to have
15 multiple lines of inquiry on multiple topics with
16 the same reporter.

17 Q. Were you aware of other stories that Mr.
18 Odatto was working on during that time frame at the
19 end of June with Mr. Dopp?

20 A. I'm sure they were budget-related stories.

21 Q. But were you aware of any stories that he
22 was working on at the end of June?

23 A. I may very well have been. I don't recall
24 them at this moment.

1 Q. And, did Darren ever discuss with you his
2 work with Mr. Odatto on the Senator Bruno story?

3 A. I believe so. I mean that's where this
4 would have come from.

5 MR. TEITELBAUM: "This," meaning 67?

6 INTERVIEWEE: I assume that's what the
7 nature of that conversation was.

8 Q. That it was concerning the Bruno story?

9 A. Yes.

10 Q. And, what did he relate to you?

11 A. That it was a story that would be perceived
12 as -- that it wasn't a positive story to the
13 senator. It was a story that might be perceived
14 as negatively.

15 Q. And, did he indicate to you any actions he
16 was taking in terms of responding to Mr. Odatto on
17 the story?

18 A. No. I just know it was a detail laden
19 story.

20 Q. I'm sorry, a detail --

21 A. A detail laden story, a story with a lot of
22 details.

23 Q. And, did you discuss the details with Mr.
24 Dopp?

1 A. No.

2 Q. What discussions did you have concerning the
3 story substantively?

4 A. Next to none.

5 Q. So, he was working on this alone, to your
6 knowledge?

7 A. He was not working on it with me.

8 Q. Did you know that he was working on it with
9 other people?

10 A. I don't know who else he was working on it
11 with.

12 Q. But was it your understanding that he was
13 working with other people on the story?

14 A. Not at the time.

15 Q. And, when the story came out on July 1st
16 what was the reaction in the press office?

17 A. It was a Sunday.

18 Q. So, did you have any conversations or
19 e-mails with Mr. Dopp about the story?

20 A. Yes.

21 Q. And, what was the reaction as engendered in
22 those e-mails?

23 A. That this would generate a number of other
24 stories.

1 Q. And, were you en given any indications as to
2 how you should respond?

3 A. I believe so.

4 Q. And, what were those indications?

5 A. When a story of this nature appears it's not
6 unusual for there to be immediate follow-up.
7 Being a Sunday I don't remember who was on call
8 that weekend. But we break on-call duties up over
9 the course of a weekend. It also was not unusual
10 for those reporters with whom you have long term
11 relationships to call you at home. My wife and I
12 have been in the same business for almost 20
13 years. So, again, it's not unusual for reporters
14 to call our home. I believe Darren sent me a note
15 that said something to the effect of: You might
16 get calls today, or Glen might get calls today.
17 Can you reach out to Glen.

18 Q. And did you do that?

19 A. Yes.

20 Q. And, how did you reach out to Glen? What
21 did you do?

22 A. I believe I called him at home.

23 Q. What did you say to him?

24 A. I said, "You might get more calls day and

1 you should try and keep the story tight."

2 Q. What did you mean when you said "keep the
3 story tight"?

4 A. That the story remains focused on whatever
5 you had previously worked on rather than going off
6 on different tangents.

7 Q. What was your understanding of the focus of
8 the story from your perspective, from the
9 chamber's perspective?

10 A. That it was specific to travel records.

11 Q. And was it specific to any particular areas
12 of travel records?

13 A. Like I've read the story clearly at that
14 point and was familiar with what that was. I did
15 not know specifically what Glen may have spoken to
16 Jim about because, again, it wouldn't have been
17 unusual for Jim to reach out to the State Police
18 for a variety of specific issues relating to
19 aviation.

20 Q. Did you ask Glen about his conversation with
21 Odatto?

22 A. No.

23 Q. Did you ask him if he had spoken with Odatto?

24 A. I might have asked with Odatto or had he

1 spoken with any other reporters. I don't
2 remember, but that wouldn't be unusual at all.

3 Q. Had Darren asked you to check with him if he
4 had spoken with anyone?

5 A. I think he asked me to reach out to Glen.

6 Q. Did he ask you to discuss whether or not he
7 was speaking with Odató?

8 A. I don't remember that. I remember he asked
9 me to make sure that Glen is aware that he might
10 get incoming calls today.

11 Q. Did he relay anything else to you?

12 A. I don't remember -- I do. I think he
13 indicated he already received follow-up calls from
14 some of the other reporters.

15 Q. Did he indicate if he had spoken with anyone
16 in the chamber about this story?

17 A. No, not that I remember.

18 Q. Did he indicate that he had spoken to anyone
19 else in the press office about the story?

20 A. The press office is the chamber.

21 Q. So, to your recollection, he didn't mention
22 anyone else when he spoke with you?

23 A. I don't remember. It wouldn't be unusual
24 for him to have spoken with Christine Anderson or

1 myself if we were both on call or one of us was
2 scheduled to pick up one part of a duty assignment
3 for the day or not. That would not be unusual at
4 all.

5 Q. Did you get instructions from Darren about
6 what you should do if you received any calls?

7 A. I think they were going back to him. I
8 don't believe it was something that -- I didn't
9 know enough about the story to speak on it, so I'm
10 sure I would have referred the calls back to him
11 if I got any.

12 Q. Did you receive e-mails from him concerning
13 your response to the story?

14 A. I don't remember. I know there was some
15 exchange of e-mail about -- I remember something
16 about reaching out to Glen.

17 Q. Showing you what has previously been marked
18 as Commission's 87, and I will ask if you can
19 identify this document.

20 A. I don't recall this document.

21 Q. It's an e-mail from Darren Dopp to Christine
22 Anderson and, apparently, yourself Paul Larrabee.
23 Is that your e-mail address?

24 A. Yes.

1 Q. It's dated July 1, 2007?

2 A. Um-hmm.

3 Q. Regarding ATU, the Albany times Union story.

4 MR. CONBOY: Excuse me. Paul, would you
5 clarify is that your e-mail address at the office
6 or at home, please?

7 INTERVIEWEE: It's at the office.

8 Q. And, do you access your e-mail at home?

9 A. Sometimes, yes.

10 Q. And, you have no recollection of ever
11 receiving this document?

12 A. 8:47 a.m. is twenty minutes into the time I
13 am in church with my family every Sunday.

14 Q. But that is when it was sent?

15 A. Yes, Ma'am.

16 Q. It doesn't mean you couldn't have received
17 the document at another time.

18 A. That's correct.

19 Q. Do you remember receiving the document at
20 another time?

21 A. Like I said when you handed it to me, I
22 don't remember this document. I receive hundreds
23 of e-mails every day.

24 Q. And I'm sure that this e-mail was probably

1 one of many you received on that day?

2 A. I don't recall.

3 Q. If Darren Dopp was saying to you: Here's
4 what can be said on the record and off -- you
5 spoke in those terms just a moment ago -- what
6 would that mean to you?

7 A. If someone called me seeking clarification I
8 would reflect something very close to the first
9 paragraph. And "off the record" would mean
10 guidance.

11 Q. When you say "guidance" what does that mean?

12 A. It means it's not for attribution. It can't
13 be used in the paper in any way. It is part of
14 the relationship you develop with a reporter that
15 you may be more willing to extend yourself to them
16 depending on the nature of your relationship and
17 the comfort you have with them. It's all about
18 the trust you have with each other. There are
19 some reporters I routinely go off the record with
20 and others that I would not.

21 Q. And, did you receive calls from reporters on
22 July 1st concerning this story?

23 A. I don't remember. I may have.

24 Q. Was this a story that gained a fair amount

1 of attention --

2 A. Of course.

3 Q. -- with the reporters that you are familiar
4 with?

5 A. Sure.

6 Q. Did you discuss it with other reporters on
7 the following days?

8 A. This was the only thing anyone was talking
9 about.

10 Q. And, did you discuss with Darren what the
11 position of the press office was at that point
12 concerning the comments that could be made?

13 A. If he sent me this document I would have
14 read it, but I don't remember.

15 Q. You don't specifically recall the document?

16 A. No.

17 Q. If he had sent a document like this to you
18 at your e-mail address, you would have read it --

19 A. Yes.

20 Q. -- and looked for guidance in response to
21 questions?

22 A. Sure.

23 Q. And concerning the first paragraph, "off the
24 record" perhaps --

1 A. "On the record" or "off the record"?

2 Q. "On the record," I'm sorry. "Perhaps as
3 early as tomorrow to have appropriate authorities:
4 I.G., A.G., D.A. investigate." Did you discuss
5 potential investigations arising out of the
6 article with Mr. Dopp?

7 A. I don't remember discussing it on that
8 Sunday.

9 Q. Did you discuss it with him after that?

10 A. Yes.

11 Q. What were your discussions?

12 A. He asked -- he had some documents that he
13 wanted me to share with the D.A.'s office.

14 Q. What documents were those?

15 A. Some documents he had compiled pertaining to
16 use of state aircraft.

17 Q. And, what documents were they?

18 A. I believe they were flight manifests. There
19 is a packet of documents he asked me to deliver to
20 the D.A.'s office that I don't remember what each
21 one was. I remember what some of them were.
22 There was a form that when you make a request to
23 use executive travel that verifies the use of that
24 aircraft for government business. I remember that

1 was one of the ones he asked me to share with him.
2 And I believe he also shared with me flight
3 manifests that indicated who was on the aircraft
4 at a particular time and what the point of origin
5 and conclusion of the trip were.

6 Q. Were there any other documents in that
7 packet?

8 A. I believe there were, but I don't remember
9 all of them.

10 Q. Did you keep a copy of those documents?

11 A. I did not.

12 Q. And, when you say he asked you to deliver
13 those to the D.A., what district attorney are we
14 speaking of?

15 A. Albany County D.A.

16 Q. Did you deliver them to the Albany County
17 D.A.?

18 A. To the personnel in his office.

19 Q. Do you remember who you delivered it to?

20 A. I believe his name was Steven Stein.

21 Q. When did you deliver these documents?

22 A. I believe it was on Tuesday, the 3rd of
23 July.

24 Q. Did Mr. Dopp discuss with you at all the

1 nature of these documents, and why he was
2 providing them to the District Attorney?

3 A. I believe that he gave me an overview of
4 what each of the documents was and asked me to
5 deliver them to the D.A.'s office.

6 Q. So, he specifically went through the
7 documents with you and told you what they were?

8 A. Yes.

9 Q. And you indicated they were the forms for
10 executive travel and the flight manifests.

11 A. Yes.

12 Q. These were documents that you were familiar
13 with at that time?

14 A. Yes. I had never seen the form for
15 executive travel before, but when he explained to
16 me what it was, it was fairly clear. I had no
17 reason to doubt it.

18 Q. What was the nature of the other documents?

19 A. I really don't remember.

20 Q. Were they travel documents?

21 A. I do not remember.

22 Q. Did you provide documents to anyone else at
23 Mr. Dopp's instruction?

24 A. No.

1 Q. Did you provide documents to anyone else at
2 anyone else's instruction?

3 A. No.

4 Q. After you brought the documents down to the
5 D.A., did you meet with Stein?

6 A. Yes.

7 Q. What did you discuss with Mr. Stein?

8 A. I brought the documents in a folder like Mr.
9 Conboy's. There were four or five files each with
10 a different document in it or different series of
11 documents that were similar. And, based on what
12 Darren had indicated to me they were, I indicated
13 the same to him. And that was the extent of the
14 conversation.

15 Q. And, what did you believe was the purpose of
16 providing these documents to the D.A.?

17 A. I believe we had indicated that we would be
18 sharing these documents with the D.A.'s office.
19 And I contacted the D.A. I said, "I understand
20 that someone from your office is prepared to
21 receive these." And that was it. I went down and
22 brought them to him.

23 Q. Why did you think you were sharing them with
24 the D.A.'s office?

1 A. I believe we had indicated that we were
2 going to share this material with the district
3 attorney. I believe there was a whole public
4 exchange about what was going to take place.

5 Q. What was your understanding as to what was
6 taking place?

7 A. Exactly that, that they were documents that
8 were being delivered to the D.A.

9 Q. Who did those documents concern?

10 A. I believe they were flight manifests
11 associated with Senator Bruno and I believe they
12 were his requests for use of the executive
13 aircraft.

14 Q. Was there anything else from Senator Bruno
15 in the files?

16 A. I don't recall.

17 Q. Did you discuss with counsel's office before
18 you brought those documents down for Senator
19 Bruno?

20 A. No, I did not.

21 Q. Did you have any conversations with anyone
22 before you brought the documents down to the
23 D.A.'s office?

24 A. Yes.

1 Q. Who did you discuss them with?

2 A. I didn't discuss the documents. I discussed
3 it with the D.A.'s office.

4 Q. Who did you discuss that with?

5 A. I know one of the assistant district
6 attorneys. I was having trouble reaching Mr.
7 Stein and I asked him to get me a better number.

8 Q. Did you discuss with anyone in the executive
9 chamber that you were bringing these documents
10 down to the D.A.'s office?

11 A. No.

12 Q. Mr. Dopp just advised you to take the
13 documents down and showed you what the documents
14 were and you went down?

15 A. Yes.

16 BY MR. TEITELBAUM:

17 Q. What was your understanding of the purpose
18 for your going down with the documents to the
19 D.A.'s office?

20 A. Simple transmittal.

21 Q. You are not a message boy; are you?

22 A. No, I am not, sir.

23 Q. So, you must have had a conversation with
24 Dopp when he reviewed the documents with you;

1 correct?

2 A. Um-hmm.

3 Q. So, it was more than just delivery. You
4 weren't going to go down there and kind of explain
5 what was this is file; correct?

6 A. I'm sorry, sir?

7 Q. You weren't going to go to the D.A.'s office
8 and explain what was in the files; that wasn't
9 your charge, was it?

10 A. I was asked to deliver the documents and
11 outline what was in each of the files and they
12 would draw their own conclusion.

13 Q. So, did you speak to Stein?

14 A. Believe so.

15 Q. And, when you spoke to Stein you explained
16 to him what was in the file?

17 A. Yes, sir, to the best of my knowledge having
18 learned of them within the previous 15 minutes.

19 Q. From Mr. Dopp?

20 A. Yes, sir.

21 Q. And did Mr. Dopp tell you that you are
22 delivering these documents to the D.A. for the
23 following reason -- Did you know what the reason
24 was?

1 A. I believe that there had been a public
2 disclosure earlier in the week, either Monday or
3 Tuesday, that there had been communications
4 between the Albany County District Attorney and
5 the executive chamber.

6 Q. Did Mr. Dopp tell you that you were making a
7 delivery and explaining the documents in
8 connection with the exchange that had been
9 reported in the press between the D.A.'s office
10 and the executive chamber?

11 A. Can you help me once again, sir?

12 Q. Was there a linkage between the story in the
13 press that you just told us about and your
14 delivering documents from the executive in your
15 mind?

16 A. Yes, sir.

17 Q. What was the story in the press that you are
18 referring to?

19 A. I believe there had been -- I believe Darren
20 had indicated or somebody in the chamber --
21 again, I don't remember the exact sequence -- but
22 I believe on Monday or Tuesday that the senator
23 had a very aggressive rebuttal to the story and I
24 believe the executive chamber indicated, based on

1 the senator's rebuttal, we would be sharing the
2 documents with the D.A. in either Albany or in New
3 York.

4 Q. What newspaper did this appear in?

5 A. I don't recall, sir. I go to news
6 conferences almost every single day. So, what I
7 hear in a news conference may sometimes be much
8 more in depth than what I read.

9 Q. I take it, your understanding based on
10 either a news or press conference is that you were
11 delivering documents down to the D.A. and so the
12 District Attorney could commence an investigation.
13 Is that fair to say?

14 A. That's my understanding. I know when I was
15 in the Attorney General's Office an investigation
16 has a very, very different context than a review.
17 A review is a much more casual process, and an
18 investigation had a much more formal sense to it.

19 Q. But, it was one of those two things, a
20 review or investigation?

21 A. I thought it was a review, but --

22 Q. Did someone tell you that?

23 A. No. I believe that's how all matters start.

24 Q. At the D.A.'s office?

1 A. I believe so, sir, before they make any
2 judgment.

3 Q. And, to your knowledge, were the documents
4 that you delivered to the D.A. document that the
5 District Attorney requested? Did the District
6 Attorney request those documents?

7 A. I don't know if it was requested. I assume
8 it was requested because in my head I want to say
9 it was a request of the D.A.

10 Q. Did Mr. Dopp tell you that these documents
11 were going to the D.A. because there was a belief
12 on the part of some at the executive chamber that
13 a crime may have been committed by the senator?

14 A. I don't remember what this was, sir.

15 Q. You don't remember that ever being said in
16 words or substance?

17 A. I don't remember.

18 Q. And, other than Mr. Dopp reviewing with you
19 the content of the files that you were delivering
20 to the D.A.'s office on July 3rd, did he say
21 anything else to you then?

22 A. About the delivery, sir?

23 Q. In the context of the conversation where he
24 described to you the content of the documents.

1 A. No. It was a very quick conversation. Half
2 of Albany County was empty on the morning of July
3 3rd, and I didn't think that -- I thought if
4 whatever these documents are, if they have to get
5 to the D.A. office today it has to happen rather
6 quickly.

7 Q. And your conversation with Stein, in
8 addition to going through with him the documents
9 that you were delivering to him, what else did you
10 talk to him about?

11 A. Nothing.

12 Q. How long was your meeting with Stein?

13 A. Less than ten minutes.

14 Q. Where did you meet with him?

15 A. The D.A.'s office.

16 Q. Where? In the conference room? Stein's
17 office?

18 A. The conference room at 6 Lodge Street, I
19 believe.

20 Q. Was he the only one there?

21 A. Yes, sir.

22 Q. Did he say anything to you when he received
23 those documents?

24 A. "We'll take a look," I think is what he

1 said.

2 Q. And did he say anything about getting back
3 to you?

4 A. No, sir.

5 Q. And what did you do after you delivered the
6 documents?

7 A. I asked to speak to Heather Ornick.

8 (Phonetic)

9 Q. Who is that?

10 A. Heather is my counterpart at the D.A.'s
11 office. I never had the opportunity to meet her
12 in person. And I had a very positive and cordial
13 working relationship with Rachael MeEneny who was
14 her predecessor and I wanted to continue that
15 relationship.

16 Q. What did you talk to her about?

17 A. Nothing other than: Good morning. It's
18 pleasure to meet.

19 Q. That was the sum and substance of the
20 conversation?

21 A. I believe so.

22 Q. After you had the conversation with her what
23 did you do?

24 A. I went back to the office.

1 Q. Did you speak to Mr. Dopp?

2 A. I'm sure I told him I delivered the
3 documents.

4 Q. Is that all you had to say to him about the
5 documents at this point?

6 A. Yes.

7 Q. You just delivered them?

8 A. Yes, sir.

9 Q. Did you ever have a conversation with Mr.
10 Dopp after that concerning the D.A.?

11 A. I don't remember, sir.

12 Q. You could have, but you don't remember?

13 A. I don't remember having one.

14 Q. I see. So, your testimony is that after you
15 returned from the D.A.'s office and reported to
16 Mr. Dopp that the delivery had been made, words
17 never passed between you and Dopp again concerning
18 the D.A.'s office?

19 A. Yes, sir.

20 BY MS. SULLIVAN:

21 Q. Was there a cover letter attached to the
22 documents that you brought to the D.A.'s Office?

23 A. No.

24 Q. So, it was just in an envelope with just the

1 files and no cover letter?

2 A. No cover letter; not that I recall.

3 BY MR. TEITELBAUM:

4 Q. Let me just ask one other question, not
5 about this subject. You testified that before the
6 article by Odatto came out on July 1st and you knew
7 that the story that was being worked on was a
8 detail laden story -- I think those were your
9 words when you were talking to him?

10 A. Yes.

11 Q. Exhibit 67 --

12 A. Yes.

13 Q. -- how did you know it was going to be a
14 detailed laden story?

15 A. Based on my reading of that and knowledge of
16 Mr. Odatto.

17 Q. So, the idea was that Odatto writes detail-
18 laden stories?

19 A. Absolutely.

20 Q. And the fact that it was going to be a
21 detail laden story was confirmed by what you had
22 read in Exhibit 67?

23 A. Again, when there is a complexity to a story
24 it's always helpful to have your notes in front of

1 you so your thoughts are organized and you present
2 them in a fashion that is coherent.

3 Q. I am just asking if 67 confirms for you that
4 the Odatto story was going to be a detail laden
5 story.

6 A. I don't think I have ever read a story that
7 Jim has written that he as put more than ten
8 minutes into that is not detail laden. He is an
9 excellent reporter and one who pursues way beyond
10 the superficial in his work.

11 Q. What I am asking you, Mr. Larrabee, is
12 whether 67 indicated to you that it was going to
13 be a detail laden story.

14 A. I did not remember seeing 67 when it was
15 initially presented to me this afternoon.

16 Q. Or a document similar to 67 when you looked
17 at it? My question is: Is 67 or a document
18 similar to 67, which you said you had looked at,
19 indicate to you that the Odatto story that he was
20 working on with Mr. Dopp was going to be a
21 "detailed laden" story.

22 A. Yes, sir. I would make no other assumption.

23 Q. And, the documents that were delivered to
24 the D.A., did Mr. Dopp tell you that ground

1 itineraries were in those documents?

2 A. I remember him indicating to me that the
3 senator made some specific requests for the type
4 of travel he requested. I remember him making
5 mention of specific investigators and specific
6 types of vehicles.

7 Q. Driving him around?

8 A. I assume that it was driving him around.

9 Q. Did Dopp tell you that as part of the
10 package you were delivering there were itineraries
11 of where the senator went when he was on the
12 ground in New York after he took a flight on
13 government aircraft?

14 A. You are helping me recollect that right now
15 sir. I never saw those documents after July 2nd,
16 but I do remember that they were itineraries.

17 Q. Did you see them?

18 A. I looked at them.

19 Q. That was on July 3rd?

20 A. Yes, sir.

21 Q. And that was in the package that you brought
22 eventually to the D.A.?

23 A. Yes, sir.

24 BY MS. TOOHER:

1 Q. I am going to show you a set of documents
2 that have been marked Commission's 1 through 5. I
3 will ask if you ever seen these documents before.

4 A. I believe these are the documents that were
5 contained in the files, but I don't remember them.

6 Q. But, do you remember documents like this
7 contained in the files that you provided to the
8 D.A.?

9 A. I believe so. I can't say with any
10 certainty that I remember these are the documents.
11 I mean there have been some very suggestive
12 questioning in here this afternoon that would lead
13 me to make that assumption. But I don't remember
14 those documents at all.

15 BY MR. TEITELBAUM:

16 Q. I want to be clear on the record. To the
17 extent that you think we are suggesting anything
18 by our questions, you are in error. We are not
19 suggesting a thing (a theme?) in our questions.
20 We just want to find out the answers to our
21 questions. So, please do not read into our
22 questions any conclusions that we have drawn with
23 respect to the facts in this case.

24 A. I understand that, sir, with my apologies.

1 The nature of the questioning this afternoon is
2 causing me to focus on items that I have not
3 thought about in terms of specificity. And when
4 you present documents to me that I do not recall,
5 I am making certain assumptions.

6 Q. What assumptions are you making regarding
7 those documents?

8 A. You are asking me: Are those the documents
9 that I turned over. I indicated to you that I
10 don't remember.

11 MR. TEITELBAUM: Okay. If you don't
12 remember, that's all you need to say.

13 INTERVIEWEE: Thank you.

14 BY MS. TOOHER:

15 Q. Do you remember having any other
16 communications with Darren Dopp immediately
17 following the July 1st article?

18 A. Immediately following?

19 Q. Yes. I showed you one e-mail earlier. You
20 said you didn't remember that. Did you receive
21 other e-mails from Mr. Dopp on that day?

22 A. I remember something about "stay tight." I
23 remember that.

24 (Commission's Exhibit 93 was marked for

1 identification.)

2 Q. I am going to show you a document that has
3 been marked as Commission's 93 and ask you if you
4 can identify this document. Can you identify this
5 document?

6 A. Apparently an e-mail from Darren to
7 Christine and myself.

8 Q. Did you receive this document on or about
9 July 1st?

10 A. I may have. I don't remember it.

11 Q. And the information contained in this
12 e-mail, do you recall getting those instructions
13 from Darren Dopp?

14 A. I don't.

15 Q. Did you have any conversations with Darren
16 Dopp concerning the facts and circumstances of
17 Senator Bruno's use of the aircraft?

18 A. I remember having conversations with him,
19 yes.

20 Q. Did he speak with you about the use of the
21 aircraft by Senator Bruno and whether or not it
22 was a mixed use of legislative and political
23 purpose?

24 A. I believe he may have, yes.

1 Q. What did he relate to you in that regard?

2 A. Exactly that. He believed there was a mixed
3 use.

4 Q. Did he tell you what his understanding was
5 of the policy on the use of the aircraft?

6 A. I don't believe it was exclusive use, but I
7 do believe there was some sort of affirmation that
8 was signed that you were conducting legislative
9 business.

10 Q. When you say you don't think it was
11 exclusive use, what do you mean?

12 A. You asked me -- Can you repeat the question?

13 (The requested portion was read.)

14 A. I believe there was a period of time where
15 mixed use -- there wasn't an affirmation signed.
16 I believe that during the first portion of the
17 year that there wasn't an affirmation; it was a
18 simple request for use of the aircraft. And I
19 believe there was a change in policy at some point
20 in the middle of the year that may have resulted
21 in a declaration in the use of the aircraft.

22 Q. Where did you get that understanding from?

23 A. I believe when we went through the documents
24 that I took to the D.A.'s Office because there was

1 this document that you did have to sign the
2 affirmation. And I believe that I probably asked
3 a question about was there some policy before
4 that.

5 Q. And, what was your question?

6 A. I didn't know what that form was. I had
7 never seen it before, so I wasn't even aware that
8 there was a change in policy. I was trying to
9 learn something about the documents that I was
10 about to present.

11 Q. And, what did Mr. Dopp say to you?

12 A. It is my recollection that he had indicated
13 that there was an affirmation that had to be
14 signed that indicated the use of the aircraft was
15 for government purposes.

16 Q. But you used the word "exclusive" a moment
17 ago. What does that mean when you say: I don't
18 believe it was exclusive?

19 A. Your initial question to me asked something
20 about what did Darren say about the use of
21 aircraft.

22 Q. Um-hmm.

23 A. And I said that I did not believe it was
24 exclusive use; that there was some mix of

1 legislative and government business.

2 Q. And did Darren ever explain to you that
3 distinction?

4 A. I'm familiar with what the distinction is.

5 Q. What is your understanding of the
6 distinction?

7 A. Exclusive use would be that there was no
8 secondary uses beyond government.

9 Q. So, it was your understanding that
10 "exclusive use" -- I think we are almost reversing
11 it -- that if the plane was used almost
12 exclusively for political purposes that presented
13 a problem?

14 A. You had to sign an affirmation indicating
15 that your use the aircraft was strictly for
16 legislative use, that might be a violation of that
17 policy.

18 Q. Is that your understanding of what the
19 affirmation required?

20 A. That was my understanding.

21 Q. Did anyone ever explain to you that there
22 was a different policy in place?

23 A. Either -- over the course of the last three
24 or four months I have either absorbed that piece

1 of information or I was told before, but I
2 couldn't tell you specifically when I knew and
3 when I didn't. I know I was aware of the fact
4 that there was some sort of document that you had
5 to submit and affirm that you were using it
6 exclusively for government purpose.

7 Q. Is that your understanding of what the
8 certification required; that it was an exclusive
9 use for government purposes?

10 A. That is what I had come to understand that
11 to mean.

12 Q. How did you come to that understanding?

13 A. I believe I absorbed that over the course of
14 the last three months based on the documents and
15 stories that I have read.

16 Q. If I told you the actual policy was that as
17 long as there was some governmental use, that it
18 was ly permissible use of the aircraft, would that
19 be at odds with what your understanding is?

20 A. It is at odds with my understanding that
21 there was a change in policy over the course of
22 the first six months of this year; that there may
23 have been permissible use and then it may not have
24 been permissible. But I don't remember when that

1 particular item came to -- that I came to
2 synthesize that information.

3 Q. I was going to ask how did you gain that
4 understanding.

5 A. I believe it is based on the fact of the
6 volumes of material that I have read in the last
7 three months.

8 Q. When you say the "volumes of materials" what
9 type of material?

10 A. There has been a newspaper story every day
11 about this topic. It's part of my job to read as
12 many newspapers as I can. And I don't often
13 differentiate between one story and the next. But
14 I believe that's where that notion came to my
15 head.

16 Q. I am going to show you what has been marked
17 as Commission's 28G, and this is a flight request
18 form. And I will show you the certification which
19 is contained at the bottom and ask you to take a
20 look at it.

21 MR. CONBOY: Sure.

22 A. Just the one page?

23 Q. Yes. That is the certification. Is that
24 what was shown to you as a flight request form?

1 A. It may have been. I can't say with
2 certainty.

3 Q. And, this certification that's contained on
4 the bottom of that --

5 A. Yes.

6 Q. -- were you familiar with the certification
7 on the bottom of the flight request form?

8 A. I know there had to be approval by the chief
9 of staff, but that's the affirmation that -- I's
10 the notion -- again, I don't remember this
11 document other than what you have presented to me
12 and what I have read in the past.

13 Q. If I represented to you that this is a
14 flight request form as required by the Governor's
15 chamber and that is the certification that is
16 required by the governor's chamber, is there
17 anyplace in there that requires an exclusive use
18 of the aircraft for governmental purpose?

19 A. (Pause) I don't see anything that says
20 "exclusive."

21 Q. That's why I am asking is there anyplace
22 else that you can tell me you drew the conclusion
23 that there was an exclusivity requirement. Did
24 Mr. Dopp relay that to you?

1 A. I don't recall if he did.

2 Q. Were there any other documents that you saw
3 that had an exclusivity requirement as far as
4 certification?

5 A. Not that I am aware of.

6 Q. Did you look at any other documents
7 concerning certification on the use of the plane
8 that you remember?

9 A. I don't remember anything beyond flight
10 manifests.

11 Q. Did you ever have any discussions with
12 anyone in the chamber about the exclusivity in the
13 use of the airplane?

14 A. Never.

15 BY MR. TEITELBAUM:

16 Q. Mr. Larrabee --

17 A. Yes, sir.

18 Q. Your testimony is that you don't remember
19 seeing Exhibit 93; is that correct?

20 A. I don't remember seeing this. No, sir.

21 Q. On July 1st, after the Odatto article
22 appeared you had conversations with Dopp; correct?

23 A. I don't remember if I had a conversation
24 with him on the 1st, sir, or if I simply exchanged

1 e-mails.

2 Q. Was it your understanding that Dopp viewed
3 the senator's use of aircraft to be in violation
4 of something, some law or policy?

5 A. I don't know.

6 Q. Was it your understanding that Dopp viewed
7 the senator's representation on the flight
8 requests that he was doing legislative business as
9 a misrepresentation?

10 A. I think that may have been the tone of some
11 of the articles that I read, sir, but I don't
12 remember if that was his representation.

13 Q. Did Dopp express to you at around July 1st
14 what his perspective was on the senator's use of
15 state aircraft?

16 A. I don't remember him expressing a view on
17 his use of state aircraft. I remember a number of
18 written communications that followed the story,
19 but I don't remember him offering a personal
20 opinion.

21 Q. From the time he asked you to take documents
22 down to the D.A. on July 3rd -- this is a couple
23 of days after the article appeared --

24 A. Yes, sir.

1 Q. -- did Dopp express to you a view as to the
2 propriety of the senator's use of state aircraft?

3 A. No, sir. He asked me to deliver the
4 documents.

5 Q. But in addition to that, did he express a
6 view as to the propriety of the senator's use of
7 the state aircraft?

8 A. I believe the senator -- I don't remember if
9 he did or not, sir.

10 Q. At any time; is that your testimony?

11 A. I don't remember him offering a personal
12 opinion about it. I remember him indicating to me
13 that he believed the story worked on by Odató was
14 going to be perceived in an unfavorable light to
15 the senator.

16 Q. Did Mr. Dopp express to you a perspective on
17 the senator's use of state aircraft that was held
18 by the executive chamber?

19 A. I don't remember that, no.

20 Q. So, you have no recollection, it is your
21 testimony, of any perspective being expressed to
22 you either by Mr. Dopp on his own behalf or on
23 behalf of the executive chamber as to the
24 propriety of the senator's use of state aircraft.

1 Is that what you are telling us?

2 A. I don't recall anyone in the chamber
3 offering me any opinion about the propriety prior
4 to the story. There were many people talking
5 about the story and following it. And I know
6 there were many different opinions. But whether
7 or not they were anything other than a personal
8 opinion of those individuals rather than the
9 chamber proper, I don't remember him saying -- I
10 don't remember him making a significant statement
11 beyond the fact that there was mixed use of the
12 aircraft.

13 Q. Did he say that mixed use from his
14 perspective was inappropriate?

15 A. I don't remember if he characterized it as
16 appropriate or inappropriate.

17 Q. Do you have an understanding as to why Mr.
18 Dopp was in communication equation with the D.A.'s
19 Office?

20 A. I don't.

21 Q. Is that a normal job function of somebody
22 who was -- what was his title --

23 A. Director of Communications, sir.

24 Q. -- the Director of Communication to be in

1 communication with a law enforcement official?

2 A. I wouldn't say it was unprecedented.

3 Q. Was it unusual?

4 A. It may not be common.

5 Q. In your six months, approximately, working
6 with Mr. Dopp in the executive chamber had he been
7 in communication with any other law enforcement
8 official in this or in any other context --

9 A. I'm sure he had been.

10 Q. -- to your knowledge?

11 A. I'm sure he had been. I don't -- I couldn't
12 put a precise -- well, I do believe during the
13 spring there were a number of tragedies at the
14 State Police. And I remember on numerous
15 occasions myself, Mr. Howard, and Darren were
16 having some sort of communication with Preston
17 Felton about the circumstances involving those
18 shootings involving the incident in Margaretville
19 and a series of tragic circumstances at the State
20 Police.

21 Q. Fair enough. I need to improve my question.
22 So, my question is: Other than the situation in
23 which Mr. Dopp had prepared documents and given
24 them to you for delivery to the D.A. Soares'

1 office, are you aware of any other situation in
2 which Dopp took on the responsibility to deliver
3 documents to a law enforcement agency in
4 connection with that law enforcement agency's
5 commencing an inquiry or an investigation?

6 A. I am not aware of it, sir, but I couldn't
7 speak with certainty that that was the case.

8 Q. To your knowledge was that part of his job
9 responsibilities as you viewed them?

10 A. We routinely speak to D.A.s around the
11 state, not necessarily of an investigative nature.

12 Q. That's not my question. Commencing an
13 inquiry or an investigation, from your perspective
14 was that part of his experience in the executive
15 chamber?

16 A. Darren is a direct report to Spitzer and
17 Baum. I don't know what assignments he may or may
18 not have been given.

19 Q. Had you ever seen him do that before?

20 A. I don't recall him doing that before, sir.
21 At the same time, sir, it wouldn't be for me to
22 speak to the Inspector General on matters related
23 to the award of the thoroughbred racing franchise.

24 Q. That would your media responsibilities;

1 isn't that right?

2 A. It was part of my portfolio to work with the
3 I.G.'s office.

4 Q. Did the thought ever cross your mind as to
5 why it wasn't the counsel's office in the
6 executive chamber that was delivering documents to
7 the D.A. in connection with the commencement of an
8 inquiry or an investigation?

9 A. Yes, it did.

10 Q. And, did you ask?

11 A. No, I did not.

12 Q. What led you to have that thought?

13 A. That it was --

14 Q. That it was Dopp as opposed to somebody in
15 the legal group.

16 A. I think largely because it was the 3rd of
17 July and there were very, very few people on the
18 floor.

19 Q. No. You are saying it crossed your mind as
20 to why the communication with the D.A.'s Office
21 and the delivery of documents to the D.A.'s Office
22 wasn't done by the lawyers; did that cross your
23 mind?

24 A. Yes, sir.

1 Q. Why did it cross your mind?

2 A. Because I thought it would have been handled
3 by the lawyers.

4 Q. Did you ever get an explanation as to why it
5 wasn't being handled by the lawyers?

6 A. No, sir.

7 Q. Did Mr. Dopp ever express to you that it was
8 his view that an investigation needed to commence
9 with regard to Senator Bruno's use of state
10 aircraft?

11 A. I don't recall that, sir.

12 Q. You reported to Mr. Dopp?

13 A. I reported to Ms. Anderson and to Mr. Dopp.

14 Q. To your knowledge, was Ms. Anderson aware of
15 the communication with the District Attorney's
16 office?

17 A. I don't think so.

18 Q. You never mentioned it to her?

19 A. No.

20 Q. In the scheme of things of what you do
21 during the day, Mr. Larrabee, wouldn't delivery of
22 documents to the D.A.'s office as part of a
23 commencement of an inquiry or investigation of the
24 Majority Leader of the Senate be a significant

1 event?

2 A. It had been disclosed by the chamber, sir,
3 that there was going to be an exchange of
4 documents. How they got there was really
5 inconsequential to me. I have a 17-year
6 relationship with Mr. Dopp. There were very few
7 people working on the floor that day. I had the
8 opportunity to deliver them. I think he may have
9 asked me was I doing anything that morning that
10 had a time constraint to it.

11 Q. But you never communicated to Ms. Anderson
12 before or afterward what you had done?

13 A. I don't recall communicating to Ms.
14 Anderson.

15 Q. Did she ever talk to you about the subject?

16 A. No, sir.

17 Q. And what is your best recollection of where
18 this piece of information appeared concerning the
19 exchange between the executive chamber and the
20 D.A's Office? What is your best recollection?
21 Was it in writing or at a news conference or some
22 other --

23 A. I started to go down a different path.

24 Would you say it once more for me?

1 Q. I want to know your best recollection of the
2 source of your information that it was being made
3 public that there was this exchange between the
4 D.A.'s office -- Mr. Soares, and the executive
5 chamber, concerning the commencement of an inquiry
6 or investigation relating to Senator Bruno's use
7 of state aircraft? What is your best
8 recollection? For example, was it a newspaper
9 article or at a press conference, two of the
10 things you mentioned, or was there another source?
11 Give us your best recollection or have you --

12 A. I don't remember precisely when that was.
13 Every day starting at six o'clock in the morning
14 I'm absorbing news whether it be in printed form
15 or radio or television, blog entries, through
16 countless numbers of e-mails during the course of
17 the day. I cannot precisely tell you when that
18 was, but I know it was in my head that something
19 was going to happen relatively soon after the 1st,
20 which would have been that first Monday. But I
21 don't recall precisely what it was.

22 Q. Is your understanding that the Soares report
23 that has come out -- I assume you are aware of it
24 --

1 A. Yes, sir.

2 Q. -- was issued in connection with the
3 inquiry that you delivered the documents to
4 Soares' people to assist them with?

5 A. I don't know if that was the conclusion.

6 Q. Was it in connection with this?

7 A. I always assumed it must have been. And, I
8 remember seeing Stein standing behind Soares
9 during the news conference. But at that moment I
10 went to the District Attorney's office it was my
11 understanding that they wanted to look at the
12 documents.

13 Q. So, it's your understanding that the Soares
14 people commenced the investigation for the
15 Attorney General's people?

16 A. No, sir.

17 Q. When did they commence their investigation
18 or inquiry in relationship to the Attorney
19 General's?

20 A. I don't know, sir.

21 BY MS. TOOHER:

22 Q. You mentioned that you had reached out to
23 Glen Miner at the State Police --

24 A. Yes.

1 Q. -- concerning his comments to the press?

2 A. Yes.

3 Q. How did you do that?

4 A. Shortly -- by telephone.

5 Q. What were your instructions to him?

6 A. Let him know that he should probably
7 anticipate calls coming in today and that he
8 should stay focused on those issues that he had
9 already been authorized to speak about.

10 Q. Do you remember sending him e-mails in that
11 regard?

12 A. The thing that stays in my head is something
13 about staying tight. It's a phrase I use all the
14 time. That's why it's in my head. It may not be
15 a garden variety phrase that people use, but I use
16 it all the time.

17 (Commission's Exhibit 94 was marked for
18 identification.)

19 Q. You have been handed what has been marked as
20 Commission's Exhibit 94. Can you identify this
21 document?

22 A. Right. It's an e-mail from me to Glen Miner
23 regarding a comment I probably -- regarding a call
24 I probably received from Liz Benjamin at home.

1 She's a reporter with the Daily News.

2 Q. This was sent to your chamber e-mail
3 address?

4 A. Yes.

5 Q. So, you accessed your chamber e-mail at home
6 on that day?

7 A. It may have been on my BlackBerry. It may
8 have been by my chamber e-mail.

9 Q. And the comment, as you read it, "all same
10 standards apply. No comment on security
11 issues" --

12 A. Right.

13 Q. What are the "standards" you are referring
14 to here?

15 A. I don't remember what they were at the time.
16 "No comment on security issues" means we don't
17 discuss matters of security, whether it be related
18 to the Governor or anyone else on a State Police
19 detail.

20 Q. When you say "we don't discuss it" --

21 A. We in the realm of public information
22 officer. It's just not -- It's a habit.

23 Q. Is that an established policy?

24 A. It's one that I have always tried to adhere

1 to.

2 Q. Had you advised Mr. Miner of that?

3 A. Glen is even more conservative about that
4 than I would be.

5 Q. So, when you were relaying to him that there
6 should be no comments on security issues --

7 A. Right.

8 Q. -- you were reiterating something that he
9 would follow anyway?

10 A. I believe I was underscoring something for
11 him.

12 Q. And, why did you wish to speak to him?

13 A. Because I am never confident that an e-mail
14 from a BlackBerry is received.

15 Q. So, you were looking to speak to him on the
16 security issue?

17 A. Just to confirm he knew Liz was looking for
18 him.

19 Q. And that you want him to make no comment on
20 the security issues?

21 A. That's correct.

22 (Commission's Exhibit 95 was marked for
23 identification.)

24 BY MR. TEITELBAUM:

1 Q. What do you mean by "security issues"?

2 A. We don't comment on issues relating to
3 security, I believe. Prior to a story being
4 published it would not be unusual for the subjects
5 of the story, whether it be Senator Bruno in this
6 particular case or any other party that may be
7 related to the story to be granted an opportunity
8 to comment as well. I believe the story started
9 to break on Friday at least in terms of who was
10 notified about it or who was hearing about it.
11 And I believe that on the Friday prior there were
12 some conversations with Glen.

13 Q. By the media?

14 A. Yes.

15 Q. By Odatto?

16 A. Yes.

17 Q. What was your understanding of what was the
18 discussion between Lieutenant Miner and Mr. Odatto?

19 A. My recollection is that the senator
20 indicated that there had been threats on him.

21 Q. So, that is your understanding of what Odatto
22 spoke to Lieutenant Miner about?

23 A. I believe so, sir. I don't have terrific
24 recall about this particular item, but that's how

1 the thinking was on that.

2 Q. So, when you say in your e-mail, Exhibit 94,
3 "no comment on security issues," are you referring
4 to what you understood to be Senator Bruno's
5 office's remark that there were security issues
6 with respect to his use of state vehicles and
7 aircraft?

8 A. I don't remember precisely. But I believe
9 the nature of that comment was with respect to the
10 fact that the senator may have indicated in the
11 lead-up to the publication of the story -- and,
12 again, Mr. Odatto is extraordinarily detail
13 oriented. He may have started to, again, dig
14 layers into this story. And there may have been
15 an issue about the need for State Police detail or
16 State Police protection. If that came to arise on
17 Friday, which would be fairly common, I would
18 suspect that Glen would have received a call from
19 Jim as well.

20 Q. So, you were essentially emphasizing in
21 Exhibit 94 that Glen Miner should not comment on
22 security issues, meaning the issues that were
23 raised by Senator Bruno's office of his need for
24 staff of State Police for security reasons; is

1 that right?

2 A. That's correct. It's just not something
3 that we would comment on.

4 Q. And you wouldn't comment on it because --

5 A. Because of the security concerns for all,
6 whether it be specific to Senator Bruno or anyone
7 else. It just kind of the standard protocol that
8 we are routinely asked how many people in the
9 Governor's security detail? How many cars do you
10 use? Are your agents plainclothes or uniformed
11 that are assigned. And we just don't comment on
12 subjects that implicate security matters.

13 Q. What I am hearing from you is that they are
14 out of bounds? They are out of bounds?

15 A. Yes.

16 BY MS. TOOHER:

17 Q. If I can refer you back to Commission's
18 Exhibit 87, Darren Dopp to Christine Anderson and
19 Paul Larrabee, "off-the-record," Mr. Dopp's third
20 paragraph: "Another problem of this claim for
21 security as provided because of alleged death
22 threats we are still adopting but the brass is not
23 aware of such support. No threat assessment was
24 ever requested of the D.A. or made." It appears

1 that Dopp, at least, was exploring the area of
2 security and preparing to comment on it at that
3 time. Had he discussed that with you at all, the
4 issue of security?

5 A. No, not that I recall.

6 Q. Let me ask you this, Mr. Larrabee. Given
7 the protocol that you have described to me
8 concerning security issues being out of bounds, in
9 the fourth paragraph down beginning with "Another
10 problem" in Exhibit 87 does that fall under the
11 category of security information?

12 A. The Hevesi situation was well known to us
13 because our office handled a significant portion
14 of the review as Attorney General. We were there
15 at the time of the Hevesi term so I know what he
16 is talking about here. The Hevesi situation was
17 that Mr. Hevesi used a security concern to justify
18 an improper arrangement. That was something that
19 was in the public domain.

20 Q. How about the rest of that paragraph?

21 A. Yes, sir. Your question about it?

22 Q. Would that fall under the category of
23 security issues?

24 A. It may. The way it is listed here it is

1 "off the record," sir. It's as if the
2 conversation never took place.

3 Q. I understand. I'm not saying this was
4 disclosed. I'm just talking about the contents of
5 it. Would you say the contents of it is something
6 that you would not want to make public?

7 A. I think it would depend on whether someone
8 else disclosed it or not. Assuming it had not
9 been disclosed, I certainly wouldn't have
10 disclosed it, sir.

11 Q. For security reasons?

12 A. Yes.

13 (Commission's Exhibit 95 was marked for
14 identification.)

15 BY MS. TOOHER:

16 Q. I am going to show you what has been marked
17 as Commission's of 95. Again, I will ask you if
18 you can identify this document.

19 A. This is the document I believe I was trying
20 to make sense of earlier to today.

21 (Recess: 4:15 p.m.)

22 Q. Could you identify this document?

23 A. It's an e-mail from myself to Darren in
24 response to something he had sent me earlier in

1 the day. And actually, it's from Darren to me,
2 excuse me. And he said: Yes, a lot of people
3 will be reaching out to Glen.

4 Q. Earlier in the thread of the e-mail is your
5 document to Darren.

6 A. He says reach out to him and ask him to stay
7 tight on comments regarding security.

8 Q. Should that be: "No comment"?

9 A. I think it should be: No comment. I'm not
10 sure that -- When you use a BlackBerry with any
11 kind of regularity it's not unusual.

12 Q. This is a similar comment to your earlier
13 e-mail to Mr. Miner that he shouldn't be making
14 any comments on security issues?

15 A. Correct.

16 Q. Were you aware that Mr. Dopp was exploring a
17 security issue at that time?

18 A. I did not recall it.

19 Q. Were you aware that Mr. Howard was also
20 exploring a security issuing concerning Senator
21 Bruno at that time?

22 A. No.

23 Q. Did you ever become aware that Mr. Dopp was
24 looking into the security issue with Bruno?

1 A. No.

2 Q. What about Mr. Howard? Did he ever discuss
3 that with you?

4 A. No. If we could just back up for a second.
5 When you asked me about Mr. Dopp and that he was
6 working on a security issue, can you be more
7 clear?

8 Q. Was Darren Dopp exploring the security issue
9 and exploring it with the State Police?

10 A. I don't know what he was discussing with
11 Jim.

12 Q. Were you aware that he was having
13 discussions with the State Police concerning
14 Bruno's security issues?

15 A. I am not aware of Darren having any
16 discussions with the State Police. He may have
17 had it with Glen as the PI office.

18 Q. Were you aware of his having discussed
19 security issues about Bruno?

20 A. No.

21 Q. I want to backtrack for one second.
22 Commission's Exhibit 67, the "background"
23 document, was that among the documents provided to
24 the District Attorney's Office?

1 A. I don't believe so.

2 Q. And, did you have a number of inquiries
3 following the Bruno story from the press?

4 A. Oh, yes.

5 Q. What were the issues the press was exploring
6 with you when they were inquiring?

7 A. They would routinely cover the same ground
8 as in the initial story and then try to advance it
9 in some way. I don't remember precisely what some
10 of the questions were.

11 Q. Were you asked about ground itineraries?

12 A. I don't remember it.

13 Q. Were you asked about whether or not this
14 matter was being referred to another entity?

15 A. I may have been. Again, I don't recall.

16 Q. And were you asked anything about the
17 Governor's schedules?

18 A. I believe I had been asked. And, again, I
19 can't recall the date precisely, but I know I had
20 been asked about things like: Does the Governor
21 ever fly commercially.

22 Q. Were you asked anything about the Governor's
23 use of the state helicopter and his schedules
24 while using the state helicopter?

1 A. I may have been.

2 BY MR. TEITELBAUM:

3 Q. Were you asked about threat assessments?

4 A. Yes, sir.

5 Q. What were you asked concerning threat
6 assessments?

7 A. My understanding is that a threat assessment
8 review is a global review of risk and reality
9 associated with a particular figure. Subsequent
10 to the July 1st story, I remember taking several
11 calls about had a threat assessment ever been
12 conducted on Senator Bruno. And it was my
13 understanding that subsequent to the 1st of July
14 that no formal threat assessments had been
15 conducted. There may have been incidents that had
16 been investigated. But a threat assessment is a
17 broader situation where the totality of a
18 situation is assessed by professionals rather than
19 an individual complaint that when you are in
20 public life or serve in a public capacity that you
21 may occasionally receive. I don't know if I would
22 call them threats, but at the very at least you
23 are badgered and you may -- there may be something
24 more serious or sinister at work. But it is

1 fairly routine in the Legislative Office Building
2 for such a public building and public figures to
3 receive individual, isolated incidents at their
4 office that may be investigated by Capitol police
5 or state police. But the way the threat
6 assessment had been communicated to me was that it
7 was something much larger and more significant.

8 Q. Were those issues security issues, to your
9 understanding?

10 A. They are until they are disclosed publicly.

11 Q. But you wouldn't disclose them publicly in
12 the first instance, I take it?

13 A. I would not initiate it. No, sir.

14 (Commission's Exhibit 96 was marked for
15 identification.)

16 Q. I am going to show you what has been marked
17 as Commission's 96 and ask you if you can identify
18 this document.

19 A. Okay. It's an e-mail from me to Darren and
20 Christine. And it's a follow-up by Rick Karlin
21 from the Times Union.

22 Q. This was a follow-up on the Bruno article?

23 A. Um-hmm.

24 Q. In the second line second paragraph, "Is

1 looking for a source-based quote regarding
2 potential referral to the Inspector General or the
3 D.A.?"

4 A. Um-hmm.

5 Q. Can you explain that?

6 A. What it means?

7 Q. What do you mean when you write that, yes.

8 A. I don't know. It's 8:12 p.m., so it's later
9 on in the day on Sunday. It must be in reference
10 to the earlier instruction I received, but I don't
11 remember this e-mail.

12 Q. It says, "Your note from a.m. did not
13 provide this for attribution. Does this still
14 hold?" So, you were informed earlier in the day
15 of the referral to I.G. or D.A.?

16 A. I believe the document had been shared with
17 me earlier, Exhibit 87 does as much

18 Q. So, yes, you were advised of referral to the
19 I.G. or D.A.?

20 A. Yes, Ma'am. That might be the point that I
21 couldn't recall earlier today that speaks to the
22 fact that someplace I had read that there was
23 going to be a referral to the Inspector General in
24 the end.

1 Q. "Looking for a source-based quote," can you
2 explain that?

3 A. It means he wants to attribute it to
4 someone.

5 Q. And there is no attribution in the chamber
6 at this with regard to referral to the I.G. or
7 D.A.?

8 A. That's how I read that.

9 Q. Why would that be?

10 A. Because it wasn't on the record. It may
11 have been just be a notion. I don't know.

12 Q. Is there some reason you wouldn't want to
13 release the information that you were referring
14 this to an investigatory agency?

15 A. I don't know. All I am doing is parroting
16 the question that was posed to me.

17 Q. So, from your e-mail, I would assume that
18 you had been told you couldn't provide this?

19 A. That is what "off the record" means. Yes,
20 Ma'am.

21 Q. Did Mr. Dopp ever explain to you why he
22 didn't want that information disseminated?

23 A. I do not recall that, no. I don't know.

24 Q. In the fourth line down you indicate that,

1 "you would like to respond we routinely provide
2 the Governor's schedules for public review. And
3 if it is requested under FOIL we will fulfill that
4 request."

5 A. Yes, Ma'am.

6 Q. Is it that you are now going to require a
7 FOIL for the Governor's schedules?

8 A. The Governor's schedule has a lot of
9 information on it pertaining to both family and
10 medical issues. And those, because of that
11 specific -- because of some of those specifics,
12 when we have released the Governor's schedule it
13 is redacted and reviewed by counsel.

14 Q. So, prior to releasing the Governor's
15 schedule --

16 A. There are two different types of schedule
17 that we release. There's what we call the "week
18 ahead" which is all the governor's public events.
19 We routinely put it out the Friday afternoon. It
20 lists where he's going to be, what his schedule of
21 public events are, there's an event that we plan
22 on being in Monroe County but don't have a
23 particular location. It will say TBA or TBD. It
24 may not list a specific address or venue. Those

1 are all his public events. That's different from,
2 you know, there may be what I would call the
3 minute-by-minute schedule of the Governor. That
4 has been questioned in the past and has been
5 provided to the reporters in the past in a
6 redacted context to protect the privacy of some of
7 the folks that are associated with it like his
8 children.

9 Q. So, prior to releasing the Governor's
10 schedule you would check with counsel or the FOIL
11 officer or --

12 A. Absolutely, yes. That is a physical
13 document, you know, again, that is multiple pages
14 in the course of a day. You know, that's
15 different from somebody saying: Paul, can you
16 tell me what the Governor's schedule is for today?
17 It's two very, very different things, two very
18 very different contexts. That's why I have two
19 different issues with it.

20 BY MR. TEITELBAUM:

21 Q. In Exhibit 96, Mr. Larrabee, the second
22 paragraph, I infer from this that the subject of a
23 potential referral to the Inspector General and
24 D.A. was a subject that came up between you and

1 Mr. Karlin when you had your conversation with
2 him.

3 A. Yes, sir.

4 Q. And did you tell Mr. Karlin that without
5 attribution that there was going to be a referral
6 to the Inspector General or D.A?

7 A. I don't remember if I did or didn't, sir.

8 Q. How did the subject come up?

9 A. I may -- I very well may have, sir. I just
10 don't recall.

11 Q. At that point in time your knowledge, I take
12 it, a referral to the Inspector General or D.A.
13 came from Exhibit 87? You had mentioned that; is
14 that right?

15 A. It may have, yes.

16 Q. Is there another source from which you
17 learned that there was going to be a referral to
18 the Inspector General or D.A. on July 1st at 8:12
19 in the evening?

20 A. I don't have anything else in front of me,
21 sir.

22 Q. Did Darren Dopp tell you that?

23 A. I don't remember.

24 Q. Is it fair for us to conclude from these

1 e-mails that by July 1st at 8:12 your
2 understanding was that there was going to be a
3 referral to the I.G. or D.A.; correct?

4 A. My note says "potential referral." It
5 doesn't say there is going to be one.

6 Q. Fair enough; that there was a potential
7 referral to the I.G. or D.A. in the works on July
8 1, 2007 at 8:12 in the evening, and you had
9 knowledge of that?

10 A. Apparently sir. What I don't know is
11 whether Rick asked me that based on a conversation
12 I had or someone else that he may have had a
13 conversation with that afternoon or that day.
14 When that story came out I assume two or three
15 different reporters at the Times Union jumped on
16 the story to follow Mr. Odatto's lead. And they
17 may have spoken to a variety of folks throughout
18 state government or sources that they have.

19 Q. Who else were they are speaking to in the
20 executive chamber on July 1st besides yourself?

21 A. I don't know, sir.

22 Q. Were they speaking to Dopp; do you know?

23 A. I don't know.

24 Q. Do you have any reason to believe that at

1 8:12 on the evening of July 1st was the first time
2 you learned of a potential referral to the I.G. or
3 the A.G. from Rick Karlin? Do you have any reason
4 to believe that that was the first time you
5 learned about that?

6 A. You see, we have this other document that I
7 am not going to contradict.

8 Q. Do you mean 87?

9 A. Yes, sir.

10 Q. Had you read 87 at 8:47 in the morning? Let
11 me put it this way. Before 8:12 in the evening?

12 A. I'm sure I did that.

13 Q. So, before Exhibit 96 was received by you --
14 or sent by you, I should say -- you knew that
15 there was a probability of a quick move, perhaps
16 as early as July 2nd, to have appropriate
17 authorities -- the I.G., Attorney General, and
18 District Attorney -- commence an investigation of
19 Senator Bruno's use of the state aircraft?

20 A. I know the document was sent to me, sir. I
21 don't know that I had read it much prior to 8:12.

22 Q. Is there a reason for you to believe that
23 you read the July 1, 2007 8:47 a.m. document,
24 Commission's 87, after you sent Exhibit 96 in

1 which you referred to a potential referral to the
2 I.G. or the D.A.?

3 A. It was a Sunday, sir. I don't know if I
4 read all of these in any kind of sequence or not.
5 I don't know if I was reading them off my
6 BlackBerry or not. I don't know what else I was
7 doing on that Sunday, sir. I can't tell you that
8 I read them in that sequence. I don't remember.

9 Q. But you did read 87, is that correct, before
10 today?

11 A. Sir, I have not seen this document.

12 Q. I don't mean the document. I mean the
13 e-mail.

14 A. No, sir. I did not recall this document
15 until you showed it to me today.

16 Q. Do you recall it now?

17 A. I believe I do, sir. But I can't with
18 crystal clarity say to you I read this document on
19 July 1st.

20 Q. But you sent the 8:12 document, 96. You did
21 send that; right?

22 A. Yes, sir.

23 Q. So, you were working on your e-mail on July
24 1st; right?

1 A. Yes, sir.

2 Q. And Darren Dopp was your boss?

3 A. Yes, sir.

4 Q. Christine Anderson was your boss?

5 A. Yes, sir.

6 Q. And would your e-mail have indicated that 87
7 was an e-mail from Dopp and Anderson on the
8 screen?

9 A. 87 would have -- -

10 Q. As you looked at the screen -- I don't know
11 what kind of computer you have, or BlackBerry, but
12 it would tell you who is sending an e-mail to you?
13 Mine does; I assume yours does.

14 A. Yes, sir.

15 Q. July 1st was a pretty special day aside from
16 it being a Sunday?

17 A. Sir, not really.

18 Q. A very important story broke that day.

19 A. In retrospect, sir, it wasn't that unusual.

20 Q. On July 1st you were on deck, as it were;
21 correct?

22 A. I don't know if I was on call or not, sir.

23 Q. Let's see. We have here several e-mails
24 that you are receiving on July 1st and you are in

1 contact with reporters and you are in contact with
2 the State Police on July 1st; is that correct?

3 A. Yes.

4 Q. Do you infer from that that you were on
5 call?

6 A. No, sir.

7 MR. CONBOY: Could I just point out this
8 e-mail at 8:12 p.m., Commission's 96, expressly
9 acknowledges that you had received an e-mail prior
10 to that day, you note from this a.m. And it tells
11 everyone that he read that, even though he doesn't
12 recall it.

13 MR. TEITELBAUM: That transcript is
14 going to be what it is.

15 INTERVIEWEE: I'm not denying that I
16 read it, sir.

17 BY MS. TOOHER:

18 Q. Do you have a follow-up article in the New
19 York Post by Fred Dicker on the same topic of
20 Senator Bruno's travel?

21 A. There were hundreds of pieces by Fred Dicker
22 on this topic. Maybe not "hundreds" but at least
23 scores.

24 Q. Do you recall a follow-up article in the

1 Post that drew attention to the activities of the
2 executive chamber directly after the July 1st
3 Times Union article?

4 A. Again, there were several. You would have
5 to help me. I don't know.

6 Q. I'm showing you what has been marked as
7 Commission's Exhibit 53, and ask you if you have
8 seen this document before. Are you familiar with
9 this article?

10 A. I remember the story.

11 Q. Are you aware as to whether or not Darren
12 Dopp issued a public statement in response to this
13 article?

14 A. I know that there were several statements
15 from Darren issued the week of the 2nd.

16 Q. I will show you what has previously been
17 marked as Commission's Exhibit 9. I will draw
18 your attention to the second page and ask if you
19 are familiar with this statement as issued by
20 Darren Dopp on July 5th.

21 (Pause taken)

22 A. Yes.

23 Q. Yes, you are?

24 A. Yes.

1 Q. Is that an accurate statement?

2 A. I don't know.

3 Q. Were you ever aware as to whether or not the
4 State Police had been asked to do anything other
5 than follow standard operating procedure?

6 A. I'm not aware of that.

7 Q. Are you aware that the State Police was
8 asked to recreate documents?

9 A. No.

10 Q. You are not aware of that?

11 A. I wasn't aware of that.

12 Q. Are you aware of that now?

13 A. Yes.

14 Q. How did you become aware of it?

15 A. I read about it in the Attorney General's
16 report.

17 Q. Have you discussed that with anyone in the
18 executive chamber?

19 A. The reason I am pausing is because for the
20 last three months these topics have been talked to
21 death around the water cooler and everyplace else
22 in the executive chamber. So, the answer would be
23 yes.

24 Q. Have you discussed it with Darren Dopp?

1 A. I have not had a conversation with Darren
2 Dopp since the Friday before his suspension.

3 Q. Did you discuss the recreation of State
4 Police documents with Darren Dopp?

5 A. No.

6 Q. Have you discussed it with Christine
7 Anderson?

8 A. No.

9 Q. Have you discussed it with David Nocente?

10 A. Not that I am aware of, no.

11 Q. Have you discussed it with Richard Baum?

12 A. No.

13 Q. Have you discussed it with William Howard?

14 A. No.

15 Q. Who have you discussed the recreation of
16 documents by State Police with?

17 A. I have not discussed the recreation of
18 documents with anyone other than a
19 characterization that there had been stories
20 written about it.

21 Q. So, you have not discussed the documents
22 themselves?

23 A. No, Ma'am.

24 Q. And the statement, "A similar procedure is

1 followed when the State Police are driving the
2 Governor and others concerning the keeping of
3 records," are you aware as to whether or not that
4 is an accurate statement?

5 A. I do not know.

6 Q. Have you in providing responses to requests
7 for travel documents ever provided the ground
8 schedules of the Governor?

9 A. Ground schedules of the Governor -- I'm not
10 familiar with what you mean when you say "the
11 ground schedules." There are daily advisories
12 that are distributed that talk about the
13 Governor's program -- what his public program is
14 for the day, whether it be a speech to the Chamber
15 of Commerce or whether it be a press release. I'm
16 not sure what you mean when you say "ground
17 schedule."

18 Q. When you were asked to provide documents in
19 response -- you were originally asked to provide
20 documents concerning executive travel by Fred
21 Dicker you provided the manifests?

22 A. Yes.

23 Q. And, you didn't provide the ground schedules
24 of the Governor at that time; is that correct?

1 A. That's correct.

2 Q. Have you had any subsequent requests for
3 travel documents?

4 A. Aviation?

5 Q. Yes.

6 A. I believe so.

7 Q. In the aviation requests have you ever
8 provided the ground schedules of the Governor?

9 A. Not that I am aware of.

10 BY MS. SULLIVAN:

11 Q. You testified that prior to the July 1st
12 article you knew that the article would negatively
13 portray the senator.

14 A. Um-hmm.

15 Q. Was there any concern prior to the July 1st
16 article that the article would negatively portray
17 the Governor?

18 A. I don't know what the content of Mr. Odat's
19 article, where it started and stopped. I know one
20 of the subjects was Senator Bruno. I didn't know
21 that it was exclusively related to Senator Bruno.
22 I know that there had been mixed use of aircraft
23 by a whole host of state officials in the past.

24 Q. Did you discuss the Governor's use of the

1 aircraft with Darren Dopp?

2 A. I may have indicated that hasn't this been
3 done previously, or something of that nature.

4 Q. Was Darren Dopp concerned prior to the
5 article that it would negatively portray the
6 Governor?

7 A. I don't believe so. He didn't express it to
8 me. I don't know what he thought, but he didn't
9 express it to me.

10 BY MS. TOOHER:

11 Q. Have you discussed your testimony here today
12 with anyone prior to coming here today besides
13 your attorney?

14 A. No.

15 Q. Have you discussed it with anyone in the
16 executive chamber?

17 A. My testimony --

18 Q. Yes.

19 A. -- or review of records?

20 Q. That will be my next question.

21 A. No. I have not discussed my testimony.

22 Q. Did you review documents with anyone before
23 you came here today in the executive chamber?

24 A. Prior to the retention of Mr. Conboy, yes.

1 Q. Prior to the retention of Mr. Conboy?

2 A. Yes.

3 Q. What documents did you review?

4 A. There were a series of e-mails, some of
5 which -- virtually every one of these are ones I
6 have not seen. There were e-mails, flight
7 manifests, things like that, some index card
8 notes.

9 Q. Index cards notes concerning what?

10 A. Phone number for the District Attorney's
11 Office, the business card of Mr. Stein, those
12 kinds of things.

13 Q. From where had you received those documents?

14 A. Where I received them?

15 Q. Where did the documents come from?

16 A. From my desk. They were in response to
17 requests for information from, I believe, this
18 office and the District Attorney's office and the
19 Inspector General's Office and the Attorney
20 General's office.

21 Q. With whom did you have the document review?

22 MR. TEITELBAUM: You can answer.

23 A. Peter Pope, Sean Maloney -- that's it.

24 BY MR. TEITELBAUM:

1 Q. When was this?

2 A. Mid July, sir.

3 Q. And, when did you retain present counsel?

4 A. Wait, that's wrong. In August.

5 MR. CONBOY: In August.

6 A. The Attorney General's report came out on
7 the 23rd of July. I know there were conversations
8 maybe the week before that.

9 Q. That's when the review took place?

10 A. Yes, sir.

11 Q. At some point in time did you have
12 conversations with persons in the executive
13 chamber concerning your coming here today and
14 giving testimony?

15 A. No, sir.

16 MR. TEITELBAUM: Thank you for coming
17 in.

18 MS. TOOHER: Thank you very much.

19 (The interview was concluded at 5:00
20 p.m.)

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23

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