STATE OF NEW YORK
COMMISSION ON PUBLIC INTEGRITY

In the matter of

An Investigation into the Alleged
Misuse of Resources of the Division
of State Police

Commission on Public Integrity
Alfred E. Smith Building
80 South Swan Street, Suite 1147
Albany, New York 12210-8004

Wednesday, September 26, 2007
10:20 a.m.

STENOGRAPHIC RECORD of an Investigative
Interview conducted under oath.

INTERVIEWEE: GLEN ROBERT MINER
Director, Public Information NYSP

APPEARANCES: For the Commission:
HERBERT TEITELBAUM, ESQ.
Executive Director

APPEARANCES: MEAVE M. TOOHER, ESQ.
Investigative Counsel
JOAN P. SULLIVAN, ESQ.
Investigative Counsel

PRESENT: ROBERT SHEA, Investigator

REPORTED BY: BETH S. GOLDMAN, RPR
Certified Shorthand Reporter
called as a witness before the Commission, and being duly sworn/affirmed by the Notary Public, was examined and testified as follows:

MR. TEITELBAUM: Sir, before we begin and, on the record, we met before. I am Herbert Teitelbaum. You understand that you have the option, if you wish, to have counsel with you. You understand that?

THE WITNESS: Yes, sir.

MR. TEITELBAUM: Okay.

EXAMINATION BY MS. TOOHER:

Q. Would you state your full name for the record, please.

A. Glen Robert Miner.

Q. Your position?

A. Technical Lieutenant, Director of Public Information for the New York State Police.

Q. And you are here voluntarily today; is that correct?

A. Yes.

Q. And what are your job duties with the State Police?

A. I am primarily liaison with the media and
with the Governor's Office with regard to media
type events and issues.

Q. When you stay "media type events and issues"
can you expand upon that a little bit?
A. Anything that might relate to the media in
terms of media questions, in terms of how our
agency presents itself publicly in terms of -- to
separate, we have local media type events where we
would have investigations at the troop level.
Normally, I wouldn't be involved in those types of
situations. But if there are issues that would be
more of a statewide type -- I'm trying to give you
an example; new programs, things like that that we
would be presenting or part of, I would be dealing
with the Governor's Office with regard to that.

Q. So, issues that apply to the agency as a
whole would also go to you?
A. Correct, yes.
Q. And, how long have you been in that
position?
A. I have been in the office since early 2001.
I have been acting as Director since mid 2002.

Q. When you say "in the office" --
A. I was working as an assistant in the office
from early 2001 as a Sergeant.

Q. And, what office is that?

A. I'm sorry; the Public Information Office.

Thank you.

Q. And you have been the Director since mid 2002; is that correct?

A. Correct, um-hmm.

Q. And, as Director do you supervise others in the office?

A. Yes. I have a Sergeant currently in my office who acts as the Assistant Public Information Officer. And there's a young man who answers phones in our office as well.

Q. And, as Director are you aware pretty much of all inquiries that come into your office?

A. That come into our office, generally. There may be issues we are dealing with -- different companies are looking to do stories. For instance, on our forensic investigation center along the CSI lines, oftentimes the Sergeant in my office will be handling those. I may not be aware of every single issue. But with regard to most of the issues that are coming through the office I would be aware of most of those, yes.
Q. And, you indicated that you are the liaison with the Governor's Office. What does that entail?

A. With regard to media type things I would be -- it would be incumbent upon me to inform the Governor's Press Office of any issues that might come up; for instance, things that might happen down in the Plaza. I think a situation I used as an example in former testimony was an investigation we are doing into an employee of the State Education Department who apparently was accused of -- could possibly be accused of inappropriate behavior with a young lady. At the time, we didn't have a victim, although somebody had observed some behavior in the State Museum. Subsequently, we made an arrest of this man. During my prior testimony with the Inspector General I was using that as an example. But that is the type of thing I would let the Governor's Press Office know, hey, we are looking into this in case you get inquiries into this, the media apparently has some information. People have made calls about this individual and we are looking into it. This is what we have so far, so they
aren't caught off guard about inquiries like that if they come up.

Q. So, if it's a hot button issue, something that's getting a fair amount of media play, you will reach out to the Governor's Office?

A. Or something that might potentially get some media play, especially something down in the Plaza area, issues -- Sometimes we have found white powder in a mail room from somewhere. We have gotten many of those since 2001. Those are the types of things that if I became aware of that, I try to give them a heads-up on it so they are not caught off guard by a reporter asking a governor: Hey, what about this? So, hopefully, they have some information on it on what we are doing.

Q. Currently, who is your contact in the Governor's Office?

A. Currently, it's Paul Larabee.

Q. And how long has that been the case?

A. Since the beginning of the administration, since the beginning of the year. At that time I was -- well, earlier in the year I was also dealing with Bill Howard. He is no longer in the position that I was dealing with him.
Q. When did you stop dealing with him; do you recall?

A. At the end of July, right after the Attorney General's report came out and the Superintendent -- I'm sorry, the Governor had reassigned Bill Howard, I believe, at that point.

Q. And did you know Bill Howard prior to the Spitzer administration?

A. Yes, I did.

Q. And, how did you know him?

A. Occasionally I had dealings with him through the Pataki administration. He oftentimes -- or occasionally would have inquiries about different functions, different -- he might be looking for information, for instance, regarding an upcoming academy graduation. Just facts and figures type things. My understanding is that he sometimes had some input in terms of maybe some of the speeches and things that the Governor might have been involved in at that time. He wasn't -- my recollection is that he was not really involved as much with that type of stuff in the Pataki administration. He became more involved in the new -- in the Spitzer administration with those
types of functions.

Q. So, you had more contact with him with the Spitzer administration than you had with the Pataki administration?

A. Absolutely, correct.

Q. I think your testimony before the Inspector General indicated that you were his "go-to guy," in effect, for press issues?

A. In the current administration?

Q. Correct.

A. Correct, yes.

Q. Did that continue through the end of July?

A. Yes -- yes. I think more of it -- I knew we were dealing with an academy graduation, I believe the second week of July. And he was asking me information about specific attendees. For instance, I believe there were some issues having to do with -- I don't recall exactly, but having to do with -- we just dealt with a line-of-duty deaths and shootings. And it was along those lines; graduates, particular ones who were receiving awards, along those lines. Again, I don't remember exactly what the conversations were but it was more information for the Governor.
because he was going to be at the graduation.

Q. Okay. Now, back to the parameters of your position. What are the parameters as far as comment? I have seen you quoted in the newspaper. Do you have guidelines as to what you can and cannot say to the public?

A. You are talking (about) to the media?

Q. Yes.

A. Guidelines -- Generally, if it's something that I have an immediate answer to, something very clear, I would give them information. If it's something that's -- give that information. If it's something that we have given on prior -- if it's something that's standard type information I would just give that out. If it is, for instance, you know: How many helicopters do we have, we give that information out, just that type of stuff. If there's something new or evolving I may not have enough information to give an answer at that point in time. Most of the time I would tell them "I will have to get back to you on this." I would then check with usually the Superintendent about it, depending on what the issue is, if he is familiar with what's going on. Maybe it's an
1 Internal Affairs question. For instance, we had
2 some troopers that were alleged to have been
3 involved in some misconduct at the New York State
4 Fair several years ago and there was an ongoing
5 investigation. Prior to this New York State Fair,
6 I had some inquiries from the Syracuse Post
7 Standard. With regard to that I would talk to our
8 Internal Affairs section and find out, all right,
9 where did this go? What do we have? I would
10 possibly speak with Counsel's Office if it was
11 something that may involve litigation where I
12 didn't want to give information that might hurt an
13 investigation.
14     Q. Is there information that you are not
15 permitted to give that is not public information?
16     A. "Not permitted to give" -- as a -- I'm not
17 sure I understand the question.
18     Q. Would there ever be information -- You
19 mentioned an investigation at the Plaza before
20 where you might not be divulging information
21 concerning an ongoing investigation.
22     A. Right. That's common police practice. I
23 mean you wouldn't want to hurt an investigation by
24 giving too much information out. On the other
hand, too, because -- in that instance we didn't have enough information necessarily to show that this individual may have committed a crime. And we wouldn't want to give out that individual's name, in fact, he didn't commit a crime. That would be premature. I might explain that normally to a reporter. Hey, you may want to be careful on this. We don't have enough information, so you may be unduly hurting an individual before we have all of the facts here.

Q. So, you would give the information to the reporter with a caution or --

A. I wouldn't give the information, but I would caution them if they were receiving it from another source, which I believe at that point in time, someone had given the individual's name up, I would caution them. Hey, we don't have enough information here. You might want to be careful on this for your own sake not to pursue this at this point until we do have more information. But in terms of an absolute: No, you cannot say this, I can't think of an example where I wouldn't be allowed to. I mean it would be a sense of my position and, hopefully, common sense and a sense
of, like I said, from past experience of what I should or shouldn't say. But I can't think of anything that would be absolutely prohibited from saying.

Q. And you indicated earlier that you would check with the superintendent on certain issues or check with counsel on issues?

A. Correct.

Q. In terms of potentially confidential or non-public information, is that the kind of thing that you would check with the Superintendent or counsel?

A. Yes. That would be an example --

information non-public -- I'm not sure exactly what you mean by "nonpublic."

Q. I'm not sure that I am. I am trying to kind of tease out from you what would be examples of the kinds of things that you wouldn't give out.

A. That I couldn't give out. Well, we are basing this on inquiries essentially from the media. If the media is calling me and asking me for a specific type of information if I didn't have -- well if, for instance, there were voluminous documents. I'm not going to just read
the documents. I'm not just going to hand over
the documents. Sometimes, there would be -- I am
trying to think of a specific example.

Q. Well, documents are a good example. How
often do you receive requests for documents?
A. Most of the requests for documents go
through our records section. Even -- and the
media generally knows that if they want to make a
request under the FOIL law for documents, they
file that type of written request directed to the
Records Section, our Records Section.

Q. We are talking about a FOIL request here?
A. A FOIL request.

Q. Do you get FOIL requests?
A. Sometimes they come through our office and
they are redirected to the Records Section.

Q. So, you do not handle FOIL requests?
A. I don't handle FOIL requests.

Q. Do you handle document requests?
A. It depends on what they are. If a document
-- well, I'm going to bounce around here a little
bit hopefully to make this more clear.
Occasionally there would be a FOIL request coming
to our records section where it might be just
something very simple, a request for documents about how much troopers' salaries are. For instance, I believe we got one recently on that. The records section may then contact me and say, hey, this reporter is looking for this relatively simple information you can give out orally. Maybe they don't know this. Do you want to reach out and give this to them? I don't see a problem with that to make it easier for the reporter. For instance, in that case I reached out and said, hey -- actually, it was a Post Standard reporter. This is relatively simple. I can give you this over the phone orally, depending on -- sometimes they don't have their FOIL requests or the request for documents very clear. Sometimes, they are asking questions which FOIL isn't really responsive to to answer questions. It's for documents specifically. And I will attempt to help them out with those types of requests as well. I got off topic here a little bit.

Q. Does the FOIL officer come to you with those kinds of requests?

A. She will call me. If it looks like something that is from a media representative and
It looks like it might be something that I might be able to answer and handle rather than push it through their system which could put off -- which could delay the process. I mean my understanding is that we get hundreds of FOIL requests through that office. And if it is something that they are looking for relatively soon, we try and be responsive and handle it outside of FOIL if it's something that could be handled out of FOIL.

Q. Do you get notified as to all of the media FOIL requests?

A. Generally, yes. They try to notify me. Have I ever been not notified? It's possible. But most of the time they try to let me know, hey, they are looking for this, just to kind of give me a heads-up on what a potential story might be about and perhaps I might be able to guide them, the reporter in an easier direction. I'm trying to think of a recent example where -- actually, we received -- I spoke with a reporter from Newsday recently who wanted along these lines -- I'm sure it's a spinoff of this story -- the whole flight use. His editors felt they might want to do a story on overall State Police aircraft use to kind
of do a pie chart and talk about how much of this
is used for executive transport. And I gave him
some input. I told him we have I believe 19
aircraft and only three of those, I believe, are
used for executive transport. So, the story he is
looking to do may be a lot more difficult in terms
of looking at overall use. We have many, many
missions, including DEC missions and many
non-executive transport-related missions despite
what has been in the papers recently. And that
helped him in terms of being able to talk to his
editor rather than denial of a FOIL request for
all of the documents relating to all flights we
have made. That would in my mind, in my
estimation, that might not be very helpful to him
at all.

Q. So, the FOIL officer will give you a
heads-up on media requests and will also direct
requests to you that she thinks are better suited
to you?

A. We have a discussion. She'll say -- she'll
tell me: So-and-so has filed a particular request
for documents. You know, she might suggest it's
something that I might be able to handle, or I
might say: This is something we have given out before. I have got this right here. It's relatively simple. I will tell her I will handle this, and she'll say: Okay, I won't worry about it unless I hear something different from you that we are going to continue with it as a Foil request.

Q. And the FOIL officer with the State police, who is that?

A. That's a Captain Lori Wagner who is the Records Access Officer.

Q. Now, do you ever get those types of heads-up from the Governor's Office?

A. I can't think of a specific example. But if they are aware that we might be getting a specific request, if they have redirected a reporter to us for a particular record it would be possible. I think I would have it more under the last -- I can't think of a specific example where that happened, but it wouldn't be out of the question.

Q. But you can't recall any instance under the current administration where they have given you a media heads-up or reached out to you?

A. Oh, a media heads-up, sure, that: You are
going to get a call from a reporter. Sure. Oh, that happens all the time. With regard to a FOIL request, not necessarily.

Q. And, who would reach out to you from the Governor's Office?

A. Normally, it would have been Paul Larabee. I'm trying to think of others in the press office who have reached out to me under this administration, but --

Q. Has Bill Howard ever reached out to you?

A. Yes -- yes. Obviously, not recently.

Q. And, more particularly, are you familiar with requests for aviation records from the State Police?

A. Meaning what?

Q. Have you received requests for aviation records?

A. Yes.

Q. And, historically, what type of requests have you received?

A. This tends to be an annual, if not perennial, request from the media to see what can be found out about who is using state aircraft.

When I started in the office in 2001, I recall a
request -- I don't remember from which agency. It was the summer of 2001. I believe it was July 2001. My then supervisor, Lieutenant Jaime Mills, I remember her speaking of getting a request -- it was probably from Fred Dicker. I think the title of the story was "Air Pataki." And it was over the use of aircraft. And, again, that's from my time in the office. Prior to that, Governor Pataki had made it a campaign issue when he ran against Cuomo about the use of the aircraft. So, this is nothing new. With regards to requests for the flight manifests, as we call them, it would show who the passengers were. Fairly regularly we receive these types of requests.

Q. Now, do you respond to those types of requests?

A. It would be forwarded -- I would explain to a reporter who is asking for these that they would have to make a FOIL request to our Records Section and go through that process.

Q. Now, if you recall, in the past have those requests been for particular individuals or particular time frames?

A. I don't recall for particular individuals in
terms of my recollection. It was usually for time frames. It would be for, you know, from such-and-such a month of this year to such-and-such a month or for the entirety of a particular calendar year. But I don't recall at any time ever being requested for records of an individual.

Q. And, in providing -- have you ever provided the flight manifests, the documents themselves?

A. I don't recall. I don't believe so, no. I mean my recollection is that they always went through the Records Section.

Q. So, if you got a request for the manifests you would redirect it?

A. Correct.

Q. Do you recall ever getting a request for any ground itineraries in that context?

A. No.

Q. You got a request in March --

A. Um-hmm.

Q. -- of 2007. Do you remember that request?

A. Yes, I do.

Q. Can you tell us about that.

A. I don't remember the exact date. It was
sometime in mid to late March, I believe. Mr. Dicker from the Post Standard called our office -- I didn't receive the call directly to my recollection -- asking for flight records. I'm not sure exactly how he worded that. It was either the gentlemen who answers our phones or it was the Sergeant in my office explained to Mr. Dicker that you would have a FOIL law request, the normal process for those types of records. He complained that this administration was more open and transparent and that our office should be more responsive and just turn over the records. Now, he did not -- this was not a FOIL request per se by definition. He was requesting records orally, so there was nothing in writing at that point in time. He didn't like that response. I explained -- I spoke to the Superintendent after that call and explained to him that we weren't going to respond; that I didn't feel that we should respond to his request orally, as we haven't done this before and that, you know, this would make it very difficult for us, for the Records Section for us to start responding to these types of requests if we established that type of precedent and that,
frankly, he shouldn't be given any special privileges. Everybody else has to go through this process, unless it's something relatively simple to supply. But in this case, that was not my recollection in terms of doing this over and over again or the potential for doing it.

Q. What was your understanding as to the documents he was requesting?
A. As to what they were?
Q. Um-hmm.
A. I believe he was looking for flight manifest records, executive flight manifest records for the beginning of the year up until that point in time for 2007.
Q. And you felt that if he was looking for the executive flight records that he would be required to seek a FOIL?
A. That is -- yes, because that's how I have handled those in the past and those can be quite voluminous.
Q. Was it your understanding that he was looking for ground itineraries at that time?
A. No.
Q. And, if he had been looking for ground
itineraries at that time what would have been your response?
A. I still would have referred him to our Records Section.
Q. For release of ground itineraries?
A. Yes, if we had ground itineraries. I mean whatever records he might be asking for, I would have referred him to our Records Section.
Q. Was it your understanding that the State Police had ground itineraries?
A. At that point in time I really had no knowledge one way or the other. I had not worked in a position in recent years where we had that type of document where we would have created such a document. I did work security years ago for Governor Cuomo here in Albany. I recall us having schedules for the Governor. They were internal schedules so that we knew where we would be going. But, in terms of whether those would be our documents or the Governor's Office's documents I wouldn't know. And, again, that would be something that would be decided by records.
Q. Would you release that kind of information if you had it?
A. It wouldn't be up to me.

Q. Who would you consult?

A. I wouldn't consult. I would refer that to our Records Section. Our Records Access Officer would then be looking at that. And, if we had those documents, whether or not they should be released would be discussed with Counsel's Office. But that wouldn't be something that I would be involved in.

Q. So, that's the type of request you would refer to the FOIL officer?

A. Correct.

Q. And, when you told Mr. Dicker that he needed to put his request in writing what happened?

A. He didn't Like it, as I stated. He felt that we should be more responsive and that he was going to -- I don't know if he said he was going to call the Governor's office or not. But I assumed he would, because that has been his past practice. When he doesn't get his way he tries to go over people's heads. So, after I advised the Superintendent that I didn't think we should just release those documents that way without a written request, I also e-mailed Paul Larabee explaining
that I didn't want to establish a precedent of just releasing these orally.

Q. If I can stop you for just a moment. You indicated that you advised the Superintendent.

A. Yes.

Q. What did you do?

A. What did I do?

Q. Did you go in and speak to him?

A. I believe I spoke to him personally in his office.

Q. And, what did you relate to him?

A. I related to him that Fred Dicker had requested flight manifest records and that our office advised him that he would have to follow the FOIL process to do this. And he agreed that, you know, if he wanted those records from us that is what he would have to do. Now, in the meantime -- and I don't remember if I spoke to the Superintendent after or prior to relating this to Paul Larabee at the Governor's Office -- I explained that I didn't think that our agency should establish a precedent of responding to these requests orally. Subsequent to my conversation -- I realize I may sound confusing
here. I spoke to Paul Larabee. I spoke to the Superintendent. I don't know in which order there. Subsequent to those conversations regarding what we had told Fred, I spoke with Paul Larabee who advised me that, apparently, Fred had contacted him and was asking for those records. I said -- I explained to him: Look, if you want these records, if you want to provide these records, we are not establishing a precedent from our agency of providing them orally. That's is up to you. We are a department -- we are a division of the Executive Department. He then requested those records.

Q. Larabee requested those records?
A. Yes. He requested those records from us.

Q. Did he request them directly from you?
A. Yes, I believe so.

Q. And how did you obtain those records?
A. My Sergeant called our Aviation Unit who compiled those records.

Q. And your Sergeant is --
A. Kern Swoboda.

Q. So, just so we are clear here, you got the request from Fred Dicker?
A. Um-hmm.

Q. And, you tell him he needed to get a FOIL?

A. If he wants them from us he needs to use the FOIL process in writing.

Q. Did you tell him to go to the Governor's Office?

A. No.

Q. Then, you reached out to Larabee --

A. Yes.

Q. -- and advised him that you had told Dicker that he needed to get a FOIL request?

A. Correct.

Q. You also reached out to the Superintendent and advised him that you had told Dicker he needed a FOIL request?

A. Correct. Well, if he wanted them from our agency. I realize it may not sound like a distinction, but if you wanted them from our agency.

Q. I understand the distinction.

A. Okay. I want to be clear on that.

Q. When you spoke with the Superintendent he agreed with you that requesting a FOIL request was appropriate in those circumstances?
A. From us, yes. Right.

Q. And, then, you reached out to Larabee by e-mail --

A. Yes.

Q. -- and advised him --

A. I advised him of my concern.

Q. Go ahead.

A. -- of my concern that we should not respond to Dicker's verbal request for this. Do you have a copy there? I'm okay.

(Commission Exhibit 6 was marked for identification.)

Q. I'm going to show you what has been marked as Commission 6. Can you identify this document?

A. Yes. It's not exactly the format that I recall but, yes. It appears to be an e-mail from me to Paul Larabee.

Q. Now, this e-mail says it was sent at approximately 2:24 p.m. Do you recall when you first received the inquiry from Dicker?

A. I don't -- I don't.

Q. And, in this, you were advising Larabee that you had received the inquiry and redirected it.

A. That I redirected it?
Q. Rejected it, I'm sorry. Is that correct?
A. Let me just look at it. (Pause) Correct, yes.

Q. And, was there a response from Mr. Larabee to this e-mail?
A. I believe we spoke on the phone. There was not a follow-up e-mail. Otherwise, he would have had something to the effect that he said that he would handle it if we gave -- if we turned over the records to him.

Q. So, he advised you that he would handle this request from Dicker?
A. Correct.

Q. There are some notes on the bottom of this. Do you know what those are?
A. Those aren't my notes.

Q. And, do you know what happened as a consequence of your conversation with Mr. Larabee?
A. I assume that he took care of it. I didn't have any follow-up conversations with either Fred Dicker or Paul about this. I don't remember even a story coming out of it, even. So, I really don't know.

Q. So, to your knowledge, nothing further
happened?

A. To my knowledge, yes. I mean they may have -- because of my conversation with Paul as we obtained those documents, turned them over to the Governor's Office. What they did with them after that, I have no direct knowledge. Again, the assumption was they would have been turned over to Fred Dicker, but I don't know.

Q. Okay. And, when you spoke with Mr. Larabee after the e-mail had he already been in contact with Fred Dicker?

A. I believe so. After the e-mail, yes -- yes.

Q. And, so, he asked you to gather the records and get them to him?

A. Correct.

Q. And you did that?

A. Correct.

Q. And, did you advised the Superintendent of that?

A. Absolutely, yes. And that's important in this because that established a different way of doing business, if you will, in terms of if the Governor's Office wanted to be more responsive in terms of quicker turnaround, at least it didn't
put the onus on our agency to change our procedures, to which my concern was related that we would be overwhelmed with -- potentially overwhelmed with requests orally for records that would make it difficult for us to respond to.

Q. So, your understanding was this was a change in procedure?
A. A change in not necessarily in our procedures. I mean this was a request from the Governor's Office for documents. If the Governor's office asks us for documents, I mean we are part of the Executive Department. But it did certainly make it easier for us to not have to respond to a request orally for documents that -- I mean if they insisted that we handle it, we might have had to handle it that way. But they did it for us, in essence.

Q. But you had not done that previously; you did not accept oral requests for documents?
A. Ever? I don't know if that's the case. I mean the prior administration routinely, no.

Q. Obviously, you are directing Mr. Dicker to make an oral request for documents, so that was your practice up until this --
A. I directed Dicker to make a written request.

Q. Written request, I'm sorry. So, up until this time that had been your policy was to require written requests for documents.

A. Yes. And because of our conversation -- my conversation with Paul Larabee this wasn't changing our policy. The request still didn't come to our agency. The request went to the Governor's Office.

Q. Prior to your conversation with Mr. Larabee had it been your practice to give documents to the executive chamber in response to oral requests?

A. From the Governor's Office?

Q. Um-hmm.

A. If the Governor's Office asked us for documents, yes. We would give them documents.

Q. Had you ever had a situation where a member of the press had made a request to you and, when told to put it in writing, had gone to the Governor's office before?

A. Not that I recall -- not that I recall.

Q. And, when you spoke to the Superintendent initially you told him that you had directed this request to be made in writing; is that correct?
A. Correct, yes.

Q. And the Superintendent agreed with you at that time; correct?

A. That if it were to come from our agency, yes, that it should be in writing; that we didn't want to change our procedures for handling requests from the media.

Q. And, did you discuss with the Superintendent at that time any correspondence from the Governor's Office concerning turning over documents? In your initial conversation with him did you discuss this request coming potentially from the executive chamber?

A. No, no. I wasn't aware -- there were two different -- my recollection is there were two different time periods when I spoke to the Superintendent; initially, upon the request orally from Fred Dicker, and then subsequently with the Superintendent after I had spoken with Paul Larabee. And they said they would handle the request if it were okay. And I advised the Superintendent at that time that the Governor's Office said they would handle it if we provided them the document.
Q. Why did you go back to the Superintendent after --

A. He is the head of our agency. I would let him know what was going to be with regards to this. And if he objected, I mean I would have to discuss that with the Governor's Office. I mean he is in charge of our agency.

Q. So, this was something new at the State Police, this type of protocol?

A. Especially -- had we ever done that, I don't recall at this time.

Q. For you, this was something new?

A. The big thing to recall here is that Superintendent Felton was only in that position for approximately two weeks at that point. So, there were a lot of new things going on and I was trying to keep him advised and apprised of everything possible so that he was aware of anything that might be going on.

Q. And, so, you advised him that this request was being handled in this fashion as an oral request now from the chamber?

A. Correct.

Q. And that was something you had not done in
the past?

A. I had gotten requests to handle things in the past but not necessarily to turn them over, not to necessarily say that the executive chamber would handle them. An example -- I don't have the exact date. It was under the prior administration, the Pataki administration. I had received a request from, I believe, Fred Dicker. He was asking about -- I might be incorrect on that. But he tended to be the only one in the media who would demand documents, if you will, or information outside of the requesting documents type protocol. And he was asking specifically if an individual -- I believe it was Mayor Bloomberg -- if he had a pistol permit. Normally, that would be something that you would ask -- you would do a Freedom-of-Information-Law request for. In that particular instance I advised the press office again under the prior administration. And normally for most reporters they would have wanted a written request for documents for that. I was advised to just give it to Fred. Protocols were, for whatever reason, it seemed that many people were afraid of Fred and wanted to try and handle
things in a different manner for Fred because they
thought Fred might write something negative about
them if they didn't.

Q. I am well familiar with Fred's writing.
A. Yes.

Q. But I am going to ask you again, and I'm
just trying to clarify. From your experience in
terms of producing these types of documents --
A. Right.

Q. -- this was outside of your normal protocol
to produce these types of documents which are
normally sought in a FOIL request knowing they are
being released to the media?
A. Through my office, yes -- yes, um-hmm.

Q. And, when you received the request from the
executive chamber, that was not the normal course
of events for producing these documents; is that
correct?
A. (Pause) Not to my knowledge. I am trying
to think of examples because I don't deal with
records, the Records Section.

Q. I understand that. So, for you to be
dealing with these records is somewhat out of the
ordinary; is that correct?
A. For me to be dealing with them; correct.

For me to be turning them over would be out of the ordinary because normally they would be referred to our Records Section, correct.

Q. Anything else?

BY MS. SULLIVAN:

Q. On this particular request when you were treating Fred Dicker was it your understanding from the Governor's Office that it was limited to this specific request or was this in the future, with a future reporter from another paper, would go -- would you go through the same procedure? Would you reach out to the Governor's Office for them to handle it?

A. If it was political in nature I would always advise the Governor's Office of what was going on. To answer your question, I don't know that I had an understanding one way or another if this was isolated or establishing a new way of doing business, if you will. It seemed like a reasonable way to handle this particular request at the time considering that we were avoiding establishing a precedent in handling these from our Agency's point of view that could potentially
open the doors to anybody asking. I didn't want
to treat Fred any differently than anybody else.
And if they wanted to treat Fred differently, you
know, I felt it was incumbent upon them to maybe
do that themselves.
Q. So, in the next week after your conversation
with Paul Larabee you got a request from James
Odato from the Times Union for the same
information, how would you have responded?
A. If he had orally requested them to be turned
over I probably -- because they would have been
turned over from the Governor's Office, the same
exact records, I would probably have referred him
to the Governor's Office on those, because they
are the same records. Otherwise, we would have
had to follow our procedures. But, to be
responsive, I would have advised him that I
believe these records were turned over from the
Governor's Office, not my office. Something,
along the same lines, Fred Dicker made a
subsequent request for flight manifest records in
mid July after a lot of this started unfolding.
And he wasn't happy that I told him he would have
to file a FOIL request like everybody else would,
again, sticking to that procedure. He argued that: Wait a minute. You handed these over before. And I reminded him, no, we did not turn these over to you outside of that process. You requested them of the Governor's Office who turned those over to you.

Q. So, did you refer him to the Governor's Office then?

A. I reminded him that's where he got them. I didn't advise him one way or the other to go to the Governor's Office.

BY THE EXECUTIVE DIRECTOR

BY MR. TEITELBAUM:

Q. May I ask a question? You had mentioned in your earlier testimony this morning that there were some difficulties inherent in responding to oral requests for documents.

A. Um-hmm.

Q. Could you just elaborate and tell us what those difficulties would be?

A. My biggest concern at the time was that we would establish a different way of doing business and anybody could request voluminous documents and bog down our Records Section in terms of doing
these searches. Whether these particular records would require other work to be involved, I don't know. But other -- we would get requests for records, say, on past investigations which could be literally thousands of pages. And within those investigative reports numerous redactions have to be made and it takes time. So, by just allowing them to request these orally without going into a queue, if you will and, you know, having them come up when their turn arrives in terms of turnaround, this would make it awfully difficult. And the media in particular I didn't feel should have any priority over anybody from the general public. That is my understanding of what FOIL is all about. It's the public's right to get these records. And just because somebody is from the media, it shouldn't give them access quicker. That kind of puts it into a sense of order so that things can be done in an accomplished process. Outside of that, if I get a request from the media to my office, if I can be responsive and be helpful, I think that I should do that. I should try to help out. Now, at times I go to the Records Section, and it also can help them as well
because it takes it out of their realm of having
to go through this and go through the process of
processing it if it's something that I can say:
Sure, here you go.

Q. Apart from what you have just described, the
burden of a lot of work, apart from that
difficulty, would it also be a difficulty in the
sense of document management tracking what
documents are being released, for example? Would
that be a concern yours?
A. Of mine, no. Of Records, I would imagine,
yes.

Q. Any other difficulties other than what you
have just mentioned?
A. Other difficulties?

Q. Other difficulties, yes.
A. I'm sure there are. Off the top of my head,
I don't know what you might be speaking of.
Q. Couldn't the media, for example, create the
very same difficulties you just described by just
giving you a FOIL request? Is there a difference
between getting a written FOIL request for
documents as opposed to an oral request in terms
of response of your agency?
A. In terms of being responsive, a written request would end up going to our Records Section, go through the process. I don't have all the days of response memorized, but my understanding is that within five business days of them seeing it, they would then have to write the requester a response of some sort. It wouldn't necessarily be the release of the documents. It could be: Hey, you know, you need to clarify this or, you know, it's going to take awhile. We estimate it's going to take two months to find and research these documents to get them prepared and send them out, something along those lines. So, it puts it into a process like that. For them to be just orally given out, it would essentially be putting it to the top of the heap and saying that it's a priority just because there are media requesting it orally.

Q. When you had your conversation with Mr. Larabee in which, I guess from your perspective, it became apparent that Mr. Dicker was now going to have his request dealt with by Larabee and not by the State Police, did you alert Mr. Larabee of the difficulties that you foresaw in now having
requests, perhaps, go through the executive
chamber but ultimately end up with the State
Police having to do the work as you have just
described? Did you alert him to that?

A. I pointed out to him in this e-mail that my
concern if we were to have to handle these things
on a regular basis, essentially just open the
doors, that that would bog us down. But I would
assume that if the Governor's Office is requesting
any document from us, I mean that is their
prerogative. I wouldn't necessarily question
that. I would assume, again, that it wouldn't be
for every single type of request. But, again,
that would be their prerogative. If they ask for
documents I mean it's the Governor's office
saying: We would like these documents. I don't
say, well --

MR. TEITELBAUM: I'm sorry. Continue.
A. I have expressed my concern as far as our
own agency establishing a different precedent in
terms of responding to these FOIL law requests
directly. But, for them to -- I mean they are
also putting themselves in a difficult position in
terms of volume by handling it this way. And I
would assume that they would have to be selective
on how often they chose to use this process by
requesting this and handling it themselves,
whether or not it's through a formal FOIL process
or an oral request because they are dealing with I
don't know how many dozens of state agencies in
the same manner. I mean that's -- but for them to
have to do that every single time, that would
become cumbersome on them. I would figure it
would be more cumbersome to them than it might be
to us. But if they wanted to choose to do that,
it would be their prerogative.

Q. The consequences that you have just
described that would befall the executive chamber
would also, of derivative basis, befall the State
Police, would it not, because if the executive
chamber is being subjected to significant numbers
of requests for State Police documents and then
the executive chamber turns to the State Police,
to you and your colleagues and says: Get us those
documents; we have an oral request, you are in the
same position; aren't you?

A. This is a little bit of a situation because
of the individual we are dealing with. Most
reporters -- I'm trying to think of an example
where I have not had a reporter just follow the
normal FOIL request or not refuse to follow the
normal FOIL request when requested to do so. If I
say to a reporter, well, you need to follow this
request, they follow it. Fred is the only example
that I can think of who just outrightly thinks
he's special and doesn't have to follow it. All
the more reason why he would want to try and go
over my head, so to speak, and handle it in a
different way. It would be their prerogative to
handle it differently if they wanted to. But, no.
I don't see that as overwhelming the process,
because like I said, most of the reporters -- and
I can't think of other examples outside of Fred
who don't follow this process. They're decent
about this.
Q. When Mr. Larabee asked you for the records
did you consider that a request for records of the
State Police by the executive chamber?
A. A request for records -- an interagency
request. If you want to put it in the plainest
sense, I could consider it a demand. Was it done
in a demanding way, in a demanding manner, in a
disrespectful manner, no -- no.

Q. Is there a reason why you didn't ask for that request in writing from the executive chamber?

A. I don't see why I would need to have that request in writing. It never occurred to me that I would need a request from the Governor's Office in writing. They are our supervisors. They are our bosses. I don't demand that from any of my supervisors. I have never heard of anybody demanding of their supervisor a request in writing.

Q. The reason I'm asking you is, were you interested at all in having a paper trail indicating that documents were leaving the State Police and going to some other entity within the government?

A. If the Governor's Office requests something from us, I mean that's incumbent upon them to maybe be concerned about a paper trail. I mean we work for them.

Q. If it were another agency other than the executive chamber would you have requested it in writing for the documents?
A. I'm not sure what the requirements are for interagency. I don't know that FOIL even applies to interagency requests.

Q. Putting aside FOIL; just the releasing of documents.

A. I don't know. You would have to check with our Records Section.

Q. If I went to the State Police offices now and looked for a document that recorded what you gave to Larabee would I find one?

A. Recorded what I gave to Larabee?

Q. Yes.

A. No. I don't believe so, no.

BY MS. TOOHER:

Q. When you provided those documents did you review the documents before you gave them to him?

A. I did not.

Q. So, they were just the documents as they came from Kern Swoboda?

A. I believe so, yes.

Q. And, to your knowledge, did anyone review those documents?

A. To my knowledge, no. From the State Police level, to my knowledge, no.
Q. When you provided them to Paul Larabee you knew he was going to be providing them to Fred Dicker; that was your understanding?

A. My assumption was, yes.

Q. And you indicated in the past when you had released aviation records or other records that there were issues as far as redaction is concerned. Were any redactions done on the records that were provided to Mr. Larabee?

A. Not to my knowledge.

Q. Were the documents reviewed to determine, to your knowledge, whether redactions were necessary?

A. Not to my knowledge.

Q. If documents were being given to Mr. Dicker would they have been reviewed to see if redactions were necessary?

A. For those particular records, I don't believe so.

Q. Because the aviation records don't require redaction?

A. There is nothing in there that, to my knowledge, would necessarily require redaction, but I don't know.

Q. And after you had the request from Mr.
Dicker what was the next instance where you were dealing with requests for records for information concerning the manifests?

A. You are talking about the March incident?

Q. After the March incident.

A. After the March incident -- requests for records, you are asking specifically?

Q. Um-hmm.

A. It is possible that other requests were directed to our Records Section. I don't recall any particular requests.

Q. Directed to you?

A. Directed to me, correct.

Q. And, there was an article in the Times Union on July 1st concerning, in part, your records from the Aviation Unit and concerning the airplanes. Are you familiar with that article?

A. Yes.

Q. And, can you tell me in sum and substance what your reaction to the article was?

A. Well, prior to that article appearing I had received requests via telephone from Mr. Odato who wrote that story.

Q. Requests for what?
A. Requests -- he wanted pictures of the aircraft, of the helicopters. And we were trying to set up something where one of his photographers would be able to come out to the airport and take a picture of the helicopter. And we weren't able to -- I think one of the helicopters was being stripped for maintenance and another one was out of town. We were working on that. Somehow, we ended up getting him either a picture. My biggest concern was the tail number being shown. And I remember relating that to him. He was also asking about costs to land at the New York City helipads, what payments needed to be made. I asked some of our people about those. I don't remember what the costs were, but I related that to Mr. Odato. He was also asking about, if I recall, costs for actual flying of the aircraft. And I told him we didn't do estimates, but I referred him to a resource known as Conklin and Dedecker who does. It's a professional aviation resource that does estimates of flight costs. I referred him to a publication -- there's a book they publish which could have those answers. But I told him we couldn't compile it because they have different
costs and don't keep track of individual costs, et cetera. I did ask him on that point. This was probably Thursday, Friday, possibly the Wednesday prior to his story. So, June 28th - 29th, right around there he was asking these questions. And, of course, I was curious about where he was going with this. I asked him what his story was about. And he said he was doing a story on executive flights. That's how he worded it.

I was in contact with Paul Larabee to let him know that this was what Odato was asking about. And there was a good exchange because of the recurring story all the time. Usually it was about the Governor and the Governor's flights. I assumed that he was looking into that. I don't recall anything specific about Bruno at that particular time.

Q. When Odato called you did he say anything more about his article than he was working on executive flights?

A. He said "executive transport." I don't recall him naming names. I assumed it was probably about the Governor and perhaps Senator Bruno. I don't recall. He might have mentioned
Senator Bruno, but at that point I really didn't -- I didn't have any -- I don't really have a recollection. I assumed it was more about the Governor because that's what the stories have always been about. And when I called Paul Larabee to let him know that, hey, this is what he is looking for and this is what I am telling him, this is where I am directing him for cost information, et cetera, he acknowledged that okay, I understand what you are saying. He didn't give me direction one way or another on this, nor did he relate any additional information about anything else at that point in time.

Q. Did he indicate he was aware that Odato was doing an article?

A. Not that I recall. You know, there might have been a couple of exchanges where, you know, when he called about the tail number. I told him we were concerned from a security standpoint about the tail number being shown in pictures. I might have related that to him in case --

Q. Related it to Larabee?

A. Yes, because I would know that Odato would likely be in contact with the Governor's Office as
well on some of this stuff because he wasn't asking me very many questions about any specific flights or anything like that. So, it was more about costs.

Q. So, you just gave Larabee a heads-up? You didn't say: I'm aware of this. Did he indicate he had spoken with Odado?

A. Not that I recall -- not that I recall.

Q. Did you reach out to Bill Howard at that time?

A. No. I assumed that Paul and Bill would have been in communication with each other if that was an issue.

Q. And did you have any further contact from Odato prior to the article?

A. I believe it was those three or four related issues. But, no, I don't recall any other contact prior to the article.

Q. So, he contacted you three or four times?

A. Yeah, two or three or four times. It was, again, wanting to set up a photographer at our helipad. And I probably called him back two or three times to set that up where the photographer would be able to come down to our hangar at the
airport and then regarding the cost of landing.

And -- I don't remember if that was a separate
call or a separate question. But I had two or
three or four phone calls all relating to costs of
landing at the helipad and the per hour cost that
he directed him to this other resource.

Q. How many times did you call Mr. Larabee?
A. Once or twice, I believe, just to let him
know. The initial call might have been, like I
said, Wednesday or Thursday. I don't remember.

And I believe that was to set up the picture and
let them know, hey, they are going to take a
picture of our helicopter and this is what we are
attempting to do on probably on Thursday and/or
Friday. I don't remember exactly which day to let
him know he is looking at cost information just as
a heads-up. It may have been all one call. I
honestly don't recall.

Q. That was your last contact with either
Larabee or Odato before the article?
A. Before the article, yes.

Q. What was your reaction when you saw the
article?
A. It really didn't -- nothing stood out that
1 day to me. I read it in the Sunday paper, and I
2 am probably didn't.
3 Q. Did you say that is what I was calling
4 about?
5 A. Yes. I assumed it was about the aircraft.
6 And it looked like other information had come out,
7 and I assumed it was from the Governor's Office
8 then.
9 Q. When you say "other information had come
10 out" what are you referring to?
11 A. Specifically, about flights specific to
12 Bruno, about Bruno's flights, because obviously
13 that had not come through my office. So, I
14 assumed that had come from the Governor's Office.
15 Q. Why did you assume it came through the
16 Governor's Office?
17 A. Because it didn't come from our office; I
18 mean, some other source.
19 Q. Did you reach out to the Superintendent at
20 all?
21 A. No, not at that point.
22 Q. Did you reach out to him at any point?
23 A. This was Sunday. I don't remember if I
24 called him on Sunday. I got two or three -- I'm
trying to remember what it was about. I got an --
I think Paul Larabee left a couple of messages
with me on Sunday to return calls of reporters.
And I don't remember -- oh, it was about -- I
believe it was about Bruno's security threat
assessment because this story kind of evolved.
Initially, I believe the Senator was defending his
use of the aircraft by stating that he had --
there had been death threats made. And, if I
recall, Paul had directed to reporters -- it took
several phone calls regarding that to me, I
remember, on my voicemail on my phone. I remember
calling back the reporter telling him I didn't
have any information; it's Sunday and I don't have
any way to look up that information.
Q. By "that information" what do you mean?
A. I mean any death threats to Senator Bruno,
what security was, et cetera.
Q. Do you generally give that information out
concerning public officials?
A. Generally not, no.
Q. Have you ever given that information out?
A. About specific threats, no. Generally, we
might say: Yes there, have been some concerns
brought to your attention by -- and I believe this may have been the wording that I used to one of the papers. There have been concerns over the Senator's safety because of the events that we have investigated or have been brought to our attention of. Very generally, but specific threats generally we wouldn't discuss.

Q. And when you say you had given that information out in the past, who have you given that information out about in the past?

A. Oh, in the past, I don't know. It's something that we wouldn't necessarily as a general rule we wouldn't talk specific security measures. But, generally, there wouldn't be problems or a problem affirming or confirming that yes, we have some concerns. Whether it's -- well, one example was regarding former Governor Pataki in January. If you remember, there was some concern why we were continuing a security detail for the Governor beyond his tenure as Governor. And I believe we confirmed that there were some other issues then. But, again, nothing specific.

Q. Did you confirm that?

A. With the media?
Q. Yes.
A. I don't recall. I have -- I don't recall.
Q. Have you ever discussed with the
Superintendent or any of your supervisors the
information that should be given concerning
threats?
A. Yes.
Q. Who did you have those conversations with?
A. The Superintendent.
Q. And, what did he advise you?
A. Okay. Which are we talking about, generally
or specifically, with this particular instance?
Q. We can do both. Let's start with generally.
Did you have a conversation with the
Superintendent concerning release of information
involving security issues for particular public
officials?
A. Particular public officials -- I can't think
of a specific example. But, well, with Pataki,
yes. I don't remember exactly what was stated. I
would have to go through and do a search of the
newspapers and find out what we discussed. But
back then that would have been former
Superintendent Bennett at the time.
Q. So, you discovered release of information concerning security?

A. Whether or not we would comment one way or another, yes.

Q. What was decided?

A. The same thing would apply back to my security measures we had taken for an event. And after 9/11 people were asking: How many troopers are you going to have at such-and-such a point or what measures. And I would say: Look, we can't discuss the specific measures to put it bluntly. Then, the bad guys know what we are doing, and that defeats the purpose of security. But I would say, generally, we have increased our number of personnel, our measures, in very general terms. That would apply similarly to what we would release about whether or not a government official was receiving specific threats or not.

Q. And, did you have a conversation with Superintendent Felton now about Senator Bruno?

A. Yes.

Q. And what was the substance of that conversation?

A. Well, the timing of that would have been
subsequent to the Sunday, July 1st article because
the questions that were coming from the media
were: Was there ever a threat assessment done?
You know, all of those types of things. I did
discuss it with the Superintendent. He then
referred me to Inspector Gary Berwick who was the
former head of security down at the Capitol for
Governor Pataki. So, he was more involved with
threats to government officials, if you will, in
recent history.
Q. But what was the Superintendent's direction
to you?
A. In terms of what to say?
Q. Um-hmm.
A. That we would -- I am trying to remember
what the specifics were; that we had not done a
formal threat assessment, that we had concerns
over specific incidents which we wouldn't discuss,
concerns over the senator's -- for the senator's
safety that were brought to our attention by the
senator's staff.
Q. Now, when you say you had not done a formal
threat assessment what was your understanding of
what that meant?
A. An overall evaluation looking at threats from the past going back how many years. My understanding is that threat assessments, the formal threat assessments were a fairly recent type of construct coming out of the whole -- Mr. Hevesi's assertion that he needed protection for his wife regarding the transporting of his wife, et cetera. And I don't recall the agency that was reviewing that, but to determine that a threat assessment should be conducted. Well, there had never, prior to, been a formal threat assessment by our agency conducted. So, my understanding is that our people looked at what other agencies, specifically New York City does for threat assessment type work and that we would try to follow a procedure that would be similar to what they would follow. But in the prior circumstances prior to this happening that these were essentially based on whether the Superintendent -- based on other information received from our executive -- I am trying to use the term -- our executive services protection. I'm not using the right term -- basically, the people charged with protecting the Governor and other executives, what
their assessment would be and whether or not an individual should have protection on a case by case type basis. It may not be long-term. It could be short-term, for instance. But that would be based on an individual instance possibly, but not if a formal overall type assessment, if you will, had not been done prior to that. That is my understanding.

Q. And the Superintendent related to you that you could discuss this with the press?
A. No.
Q. What did the Superintendent relate to you at that time?
A. He related to me that I could state that a formal threat assessment had not been conducted for Senator Bruno; however, we had been concerned because of specific threats brought to our attention for his safety. We had some legitimate concern for his safety based on specific threats, but that I couldn't go into detail or discuss those.

Q. And, obviously, you had a lot of press interest in this story and in this particular issue?
1 A. Correct.
2 Q. Did you have any contact at that point with the Governor's Office?
3 A. I'm sure I did. It would have been just to kind of give a heads-up of what type of inquiries I am getting and how I am answering those questions.
4 Q. And did you receive any contact from Mr. Larabee around that time frame?
5 A. I am certain I did. I don't recall specifically what it was.
6 Q. Do you remember him reaching out to you at all concerning the whole security issue and comments on that issue?
7 A. Him reaching out to me?
8 Q. Yes.
9 A. I'm sure we discussed -- I'm sure we discussed it, yes. I don't recall what specifically that would have been. Look. As I said, the story evolved. Initially, it was about, you know -- I believe at some point during those -- whether it was Monday or Tuesday -- the Governor I think called for a threat assessment to be done for Senator Bruno to determine whether he
needed security. So, that was kind of part of where that was going. Then, some of the inquiries -- well, has that been conducted yet. And my answer is: No. It takes time to conduct a threat assessment. Would we discuss it, I don't know, things that were very general questions at that point in time that I recall.

(Question: I am going to show you what has been marked as Commission Exhibit 7. And, the top part of this e-mail is an e-mail directed to you --

A. Um-hmm.

(Question: -- concerning a Liz Benjamin looking to speak with you on the story and documents on security issues. Do you recall this e-mail?

A. I remember this, okay. Yeah, I remember Liz Benjamin returning -- I remember returning her call. This is one of the messages or voice mails that I had gotten -- maybe it was an e-mail then. I don't remember that part, "all same standards apply." I might have told them at that point that I didn't have any information on it. This is early on. This is Sunday afternoon, it looks
like. And I had no one from our agency to discuss
what security measures we would have taken or what
we had done to that point. Would I be telling
reporters -- And, what I probably told Paul is
that I didn't have any information to tell anybody
one way or the other at that point until I spoke
with our own people about what has been done.

Q. You don't know what he might be referring to
by "All same standards apply; no comment on
security issues"?

A. I don't recall.

Q. You may not have actually received this. He
may have really -- there were apparently delivery
status, but apparently "all same standards" to me,
indicates that he did speak to you at some point
and it's curious as to what "those standards"
might be?

A. It doesn't even look familiar to me. I
don't know what standards -- the only thing I can
guess is that I might have told him that I don't
have any information at this point in time
regarding our security. But I don't know what
"standard" would be.

Q. What about, "No comment on security issues"?
A. Again, I don't remember ever seeing that, so I don't know. I remember calling Liz and I remember, you know, Liz asking me questions. And I was telling her: Look, I can't get any of the information you are asking for today. You are going to have to wait until tomorrow." And, she agreed that, okay, that's reasonable. How would I know anything or who would he even go to at this point.

Q. There did come a time that you reached out to gather that information?

A. The following day when I spoke with the Superintendent.

Q. Did you speak to anyone besides the Superintendent?

A. Within our agency?

Q. Correct.

A. Gary Berwick, the Inspector, I was speaking with.

Q. Who did you speak to in the media?

A. In the media -- there were articles in the next day. Probably Liz, probably the New York Times. I remember there was an article in the New York Times. I don't remember Joe Mahoney
bothering me about this, but he might have.

Q. Did you speak to anyone in the Governor's Office?

A. On Monday?

Q. Yes.

A. I'm sure I did.

Q. Do you recall discussing the issue of security?

A. I would have told them that -- what my discussions were with the Superintendent and this is what I am saying. But what specifically that was, I mean -- again, I wish I had brought my notes with me from the last time. It would have been just along the lines of, you know, that regarding that no formal threat assessment had been done for Senator Bruno and that we did have some concerns based on specific instances that were brought to our attention by his staff but that I wouldn't be able to discuss those specifically.

Q. And that direction came from the Superintendents?

A. Yes, um-hmm.

Q. And did there come a time where you became
aware of the documents that the Times Union had in
their possession?

A. Monday, because of the article, I mean I
read through the Sun article initially, not really
thinking much of it. It's just another article on
flights is the way I initially looked at it. And
until I started getting some inquiries about --
because of Senator Bruno defending his stance as
far as from the security issue, I was looking at
the security side of it. And then, on Monday,
looking at the article again, the reference I
believe in the article to "flight manifest
records," I was curious and I asked Sergeant
Swoboda in my office. I said, "Did we get an a
FOIL request? Did anything come through our
office for flight manifest records?" I thought
these were from older requests, but these
references were something more recently, it
looked like, and he had no knowledge of it.
Because normally, if we had gotten something or if
records had gotten something, they would give us a
heads-up on this. So, I had no knowledge of that.
I then went to the Superintendent and
asked him about, you know, these records. Why are
they referring to a FOIL request if we didn't get
one? And he explained to me it was his
understanding that the Governor's Office had
received a FOIL request and that this is what this
is referring to, even though it was regarding the
flight manifest records. And at that point it was
around the same time period that he had discussed
-- he had explained that to me and the threat-
related stuff we issued or shouldn't say.

Q. And, there came a time when you were aware
that there were other records beyond the flight
manifest records?
A. Yes. And I don't remember if it was that
same Monday or the following day on Tuesday, the
Superintendent mentioned that are there were other
-- how did he word it -- itinerary information or
other records relating to itineraries. I don't
recall him being specific about who they were
about. Again, I assumed some of them were about
Senator Bruno. He also explained to me at that
time that we didn't have possession of all the
itineraries and that some of those that were
missing, we synopsized because the Governor's
Office had requested that information.
Q. And, in your experience had you synopsized records like that before?
A. "Like that" --
Q. Had you ever seen records like that before?
A. I never even saw these. I went to -- by about July 4th I realized here they are talking about all of those and this is an ongoing story. And I went to look at the records on the Times Union's web site where apparently they were displayed. And I couldn't find them at that point in time, and I thought maybe I should look at what the heck they are talking about here. And I never in fact, have seen them since. I have no idea what they even look like.
Q. When you spoke to the Superintendent about these records did he relate any impression to you about the story or the records that it contained?
A. Story --
Q. The Times Union article, and then the State Police records that were contained.
A. Though it was more just responsive. It was not really a discussion. He related to that; the Governor's Office had requested these records from the State Police very similarly to what we had
done prior with the Fred Dicker type thing.

Q. And he just volunteered that information?

Did you ask him anything about where the records came from or where the documents had come from?

A. They are flight manifest records, State Police records.

Q. Not the flight manifest records, now, the individual itineraries.

A. I was not familiar. I'm not familiar with every single type of record that the State Police keeps. So, I made the assumption that there was some sort of record; whether it was ours or not.

Then, as I was getting more inquiries from the media about where these came from, I asked him questions about, you know, what these were. That's when he explained to me that these were itineraries that were given to State Police for purposes of knowing where to make stops and that the Governor's Office had also had itinerary type information as well for the Governor and the Lieutenant Governor, and that on three particular instances that the Governor's Office was asking for regard Senator Bruno, that we didn't have his itinerary for whatever reason. Either it wasn't
given to us or, for whatever reason, we didn't have it. So, they were synopsized, the stops were synopsized and that information was then given to the Governor's Office.

Q. Did a report on this discuss the process of synopsizing documents and indicate that the Superintendent testified he's angry when he saw these documents in the media? Did he express that to you at all.

A. Anger about them being there, no, not anger. I mean I think he was -- he seemed a little bit surprised that something other than, you know, the flight manifests might be there. I am going on an -- I mean interpreting something other than words, so that's probably not --

Q. Your impressions?

A. Yes. My impression, but he didn't express that. He was angry over this. He was doing his best to give me the information I needed to describe what these records were. But, that and beyond that, that we turned these over to the Governor's Office, and I stated that numerous times in different articles that these were --
Office at their request.

Q. These were previously marked. I am just going to show you -- for purposes of the record, these were previously marked as Commission Exhibits 1 through 5, and they are the transportation assignments for Senator Joseph Bruno. I am just asking you to clarify if you have ever seen these documents.

A. No. I have never seen any of those.

Q. I am just going to ask you if you could take a look and see if you are familiar with this type of document in the State Police.

A. I am not.

Q. I'm going to ask you if you would release this type of information to the press.

A. This is a little after the fact. Yes, after the fact it might be released. But, again, that wouldn't be up to me. That would be up to our records people.

Q. So, if you had these documents in your possession and someone asked to review them, would you make a determination to release them or would you --

A. It wouldn't be my determination to make.
Q. Who would you go to?

A. It would usually be because it appears to be a record of ours, our Records people, or in consultation with Counsel's Office.

Q. And, to your knowledge, you never received any inquiry on these specific documents?

A. I don't know if they are referring to those specifically or not. I'm not really sure what those are. If those are what I was referring to via the Superintendent's explanation of synopses, then yes.

Q. These are the documents, at least three of those documents were contained in the Times Union blog --

A. Okay.

Q. -- and publicly disseminated. I don't know if you have had an opportunity to see them or not.

A. I didn't, so I don't know.

Q. And, did you ever receive any instruction from the Superintendent concerning commentary on this area after the article?

A. As I explained, with regard to threat assessments -- with regards to what?

Q. The Bruno article.
A. Just generally?

Q. Um-hmm.

A. I was responding to any media requests I received. If it was not something that I already had commented on or had some direction on already from the Superintendent I would advise the Superintendent for direction on something like that to make sure, if it was something I had no knowledge of -- which was most of this -- I would get direction from the Superintendent.

MS. TOOHER: I am going to ask that you mark this as Commission 8.

(Commission Exhibit 8 was marked for identification.)

Q. I am going to show you what has been marked as Commission 8. It's a one-page document, an e-mail from you to William Howard which indicates:

FYI, Superintendent Felton has requested that I not answer any questions that might be related to the Bruno matter until the current reviews are completed."

A. Right. That's the following week. I thought we were still in the earlier stages of this. Yes, approximately the Fourth of July, I
think was a Wednesday. Probably around Friday we were getting numerous inquiries asking the same stuff all over again from different reporters, people that weren't following this earlier on. And, all of a sudden said: This might help sell papers. So, at that point in time, rather than continue to comment on these things because different reviews were requested -- reviews/investigations were going to be conducted, it wouldn't be prudent to be putting more stuff out into the media that could possibly be counterproductive to the investigations. So, yes. At this point in time I let the Governor's Office know that, hey, I'm not going to be answering anything more on this because of this. This is the direction. I remember that.

Q. What was the instruction from the Superintendent?
A. What was the instruction?
Q. Yes.
A. That there are several investigations -- I don't remember how many were called for at that point in time, but that we shouldn't comment on any at this point until those are concluded.
Q. And, did he give you that in writing or --
A. That would have been oral.
Q. Did he call you in his office by telephone?
Do you recall how that occurred?
A. It probably would have been conversations.
I walked into his office quite a bit when there's stuff ongoing. So, it only would have been face to face. At about the same time -- I don't know -- give or take a few days. Glenn Valle, our Counsel, also issued a memorandum along the same lines stating that, you know, that we should not be responding to media inquiries regarding this because there are investigations that are going to be conducted.
Q. And you sent this e-mail to Bill Howard?
A. Um-hmm.
Q. Were you in contact with him on this issue concerning the whole --
A. Yes, both he and Paul Larabee. I mean sometimes I would be able to get holds of one and not the other. But my understanding was that they were in communication with each other and the press office.
Q. Do you recall what you were communicating
with Bill Howard about in that time frame?

A. It would have been the same types of things I would -- I'm surprised I didn't cc Paul on this because normally I would, you know, try to cc them both on what was going on. That was my recollection in terms of how I was responding. On July 4th there was an article that started going into questioning what these were, et cetera. So, on July 5th, the day after the Fourth of July the story kind of changed into what are these. This is the whole New York Post angle that we were now spying on the Senator. So, I believe it was on the 5th that communicating with Bill Howard, there are probably e-mails on this -- that I was told that Darren Dopp was going to issue some sort of a statement. And I had received a couple of inquiries in the interim and I wanted to be consistent with whatever he was saying. And they told me to hold off until Darren made the statement because it would probably take care of these inquiries. And, at some point I e-mailed Bill to find out, hey, has the statement been released? What is it? And he followed up with another e-mail on that date giving me a copy of
what the statement was. And it was a general type statement so, yes, I had some communication with Bill regarding that. But that was the extent of it.

Q. And, did you talk to him about the document at all during this time frame?

A. I don't think I did. I think any knowledge of the documents to my recollection was from the Superintendent.

Q. Did you talk with Paul Larabee about the documents at all?

A. I don't believe -- so, I mean other than just went on the same general -- I'm trying to remember how. The only thing I would have said is that, hey, the media is asking what these are. I'm explaining that they are flight manifests and itineraries as well as synopses of days that were missing from the itineraries. I would have communicated that to Paul and/or Bill either verbally or through e-mail.

Q. Just so the record is clear, I am going to show you a two-page document that has been marked
as Commission Exhibit 9. The first page is an
e-mail from William Howard to you. And the second
page is a statement -- is the same, and
communicates what you were referring to earlier,
that yes, it looks like something just attached to
the e-mail which would be the statement?
A. Yes, um-hmm. That's on the 5th; correct?
Um-hmm.
Q. And Bill Howard provided this to you?
A. Yes.
BY MS. SULLIVAN:
Q. A quick follow-up. You said earlier, prior
to the July 1st article, James Odato called up and
wanted to photograph the helicopter. But you had
a concern about the tail number being shown in the
photograph?
A. Right.
Q. Why?
A. From a security standpoint, if you were to
publicize that, whatever tail number was, or
several tail numbers were or were not, the actual
aircraft being used to check transport so
potential terrorists could target that helicopter.
We have got like, as I said, 19 aircraft, I
believe eleven helicopters. And some of them look very similar to the executive aircraft. And I think that's what actually happened. But you allowed them to photograph one that wasn't an executive aircraft. Most people wouldn't know the difference from just looking at it. But what they were specifically asking for was one of the aircraft that was being used for executive transport. And that's why my concern was if they were writing in the article that this is the actual aircraft used to transport the Governor and/or Senator Bruno, that's not -- I mean anybody somewhere around here who might want to target could use that.

Q. So, that information is not contained in the flight manifest?
A. It would be.

Q. That is disclosed?
A. Yes. That was also a concern. But you realize that you throw a picture up there, the old adage is 1,000 words when you throw a picture up there. Now, they are looking at a number. For someone looking through the flight manifest, someone would have to be looking at that
specifically. The idea wouldn't pop up as easily
and it wouldn't be anything that you could prevent
the Times Union from doing.

Q. So, it was just a question of you recognize
the fact that that posed a security concern?

A. Yes. It may be the Superintendent that
mentioned that we prefer the tail number not being
in the picture. If they were to say: This is one
like the one they used, they could eliminate that
one pattern.

Q. Is there other information regarding
transportation of a public official that would
cause you to have concerns about it being released
to the public?

A. It's just a real general -- I'm not sure.

Q. That was one example, the tail number.

Would there be other information that you would
protect?

A. Theoretically, any of that stuff could be --
I mean like I said, there wasn't -- we can prevent
him. This was just a request by Odato; hey, this
is a picture. It could be very obvious to someone
who doesn't speak our language to target this.

So, some of the things are more obvious than
others. But, theoretically, probably anything could be of concern. But how far do you go? I mean we didn't have anything -- that wasn't of such concern that we would say no; no, you can't photograph this helicopter.

Q. But that was the subject that you spoke to the Superintendent about and made a decision?
A. When I told the Superintendent that they wanted to photograph the helicopter, that was one of the things he mentioned. Hey, you know if possible, have them avoid the tail number, and my understanding, I know the photographer, Skip Dickstein. When we told him that, he photographed it in such a way that that was kind of hidden. So, it was blocked by the tail rotor a little bit so it is doesn't look like it was obviously taken out to bring attention to it. It's not that major of a deal. But if there's something that incidentally could help from a security standpoint, without looking, we are not trying to say no to everything because everything could possibly be a security risk. I can't think of anything else off the top of my head.

Q. Would releasing the name of an investigator
or State Trooper driving a public official, would that in your mind pose a security problem?

A. No, not necessarily. If they were doing undercover work, which they wouldn't be if they were doing this particular detail. Occasionally, we have concerns of pictures of some of our investigators who may prospectively be doing undercover work we try to keep out of photographs because somebody could identify them that way, no. We try not to overreact, if you will, to all the potentials. I mean potentials are limitless and, obviously, there is a difference in how the last administration treated information and security in terms of the perception with security than this administration. This administration has kind of toned that down a little bit and allows a little bit more access than the last administration. Did that mean that the last administration was overreactive or overly concerned, not necessarily. Part of that is a perception that this administration wants to try to at least appear to be more open. And I think that's how they have tried to follow through with, you know, with the perception of -- including access to records and
the quote "transparency" and all of that. So, there is kind of a change, if you will, that was trying to be effected from the last administration to the current administration in terms of the openness and in terms of let people know what's going on without looking overly cautious.

Q. How was that communicated to you? Was that memorialized or in any way stated?

A. It was stated over and over in the news and from open meetings and at conferences to on the Internet, all kinds of things that were being done differently to try to appear to make government more accessible.

BY MS. TOOHER:

Q. If I told you that the Governor's Office routinely redacts the investigator's name when they provide the Governor's itineraries or redacts other information, would that change your assessment as to whether or not information should be provided?

A. It's not my decision to redact. Again, that would be the Records people on advice from counsel whether that should be redacted or not. My personal feeling is it wouldn't necessarily pose a
1 concern. But, depending on what their rationale
2 is, I might reconsider that that would be up to
3 them.

4 BY THE EXECUTIVE DIRECTOR:

5 Q. Sometime back in your testimony you
6 referenced a conversation that you had with
7 Superintendent Felton -- and I think I'm quoting.
8 You said that the discussion was "threat-related
9 stuff and what I should and shouldn't say."
10 A. Um-hmm.

11 Q. Would you tell us what you said to him and
12 what he said to you?
13 A. I thought I clarified that.
14 Q. I may have not connected that with this
15 discussion.
16 A. With regard to -- we had not done a formal
17 threat assessment. So, what I could say is, for
18 instance, we have not done a formal threat
19 assessment. Clarifying that from informal, what
20 does "informal" mean? Well -- and I didn't state
21 it that way but intentionally chose the word
22 formal deletes assessment -- because some sort of
23 informal evaluation or assessment had been
24 obviously assessed, if you will, based on prior
threats to Senator Bruno, brought to your
attention by his staff that would give us concern
for his safety. And that is essentially what I
recall saying to the media. But when they asked
-- if they asked how many, I wouldn't discuss
that. If they asked what the specific threats
were, one was a failure. Number one, I believe
someone tried to gain access through his office, I
think in Saratoga, a few years ago, so I brought
that one up as an instance because it was from a
public standpoint as an example. But, beyond that
-- and I don't think that was even quoted. But I
used that as an example because I knew it was out
there. Others might have occurred from letters or
incidents that were not public knowledge and I
wouldn't discuss it.

Q. You had also mentioned that you wish you had
brought your notes with you.

A. Um-hmm.

Q. Did you take notes of any of these
conversations?

A. No. What I did, I compiled for my testimony
with the Attorney General's Office just reminder
notes with Glenn Valle or counsel to keep me on
track of how the story was evolving day to day,

essentially starting from the 28th of June. I

think I have recalled most of that. So, hopefully

it's not a problem or inconsistency there.

Q. You still have those notes, I take it?
A. I don't know. I was looking for them this

morning, and I couldn't find them; at that time,

that is.

Q. Does the State Police have particular

expertise regarding security concerns applicable

to documents?
A. Security concerns applicable to documents?
Q. Do you understand my question?
A. No.
Q. Okay. We can agree, can we not, that there

are occasions in which documents are requested

when the contents of those documents would raise

security concerns.
A. Sure.
Q. And we can agree that from time to time when

those documents are requested and the State Police

are involved in a request, the State Police would

deny the request because of security issues,

security concerns?
A. Sure, um-hmm.

Q. My question is this. The State Police or personnel at the State Police have particular expertise in assessing whether a document contains information that raises security concerns?

A. If an individual were to see a document that he might have a concern about, a security concern, I would assume he would bring it to somebody else before they would release it to somebody if that's where you're going, in terms of universally, all troopers are trained in knowing what a security risk might pose with a particular document, part of that -- part of that might be common sense or -- I shouldn't say "common sense" but from training. And, obviously, if there is something that gives away -- I'm trying to think of an obvious -- you know, the number of personnel we have and where around the Governor at a particular event, that would be an obvious security risk maybe to most people, maybe not to most people, but definitely to our own people. Going to in general, whether somebody would or not, our people -- if there was a question it would be brought to somebody else.
Q. Let's take a person who is in charge of handling FOIL requests, okay, our Records Access officer. Does the Records Access Officer have particular expertise in making determinations as to whether a document that has been requested contains information that raises security issues and shouldn't be released?

A. Yeah. I mean, again, there is probably a continuum of what is obvious and what is not. And when you get into the gray area, if you will, I would assume she would consult with somebody with more knowledge, whether it be from our investigative side -- more likely it would come from our counsel. But as an absolute yes/no, like I would assume it would get to the point where some are obvious -- this is a security issue, I think this is a security issue, therefore, I would redact it or not release the document. But coming to the point of where it may or may not, there is a question. Bring it to somebody else for interpretation on that.

Q. Is it accurate that the person who is handling the FOIL request, the frontline person to make determinations on whether a document raises
security concerns?

A. I don't know. It's not my area. You would have to ask the Records people.

Q. Who else, other than she, would be doing that on a FOIL request?

A. Our Records Section is huge. There are many clerks that work in the Records Section.

Q. And the Captain would be in charge of all of them; correct?

A. Um-hmm.

Q. So, if there were an issue concerning a possible security concern it would be in terms of my expression first line, it would go to the captain?

A. I have never worked in the Records Section, so I can't speak for what their process is.

Q. Is there a process at the State Police to make determinations on when something raises security concerns, a document raises security concerns?

A. You would have to ask Records. Again, it's not my area. If there was something that I saw that was supposedly going to be released and I had a concern about it, I would raise that concern.
probably to counsel or to Records. But it wouldn't initially come through me.

BY MS. TOOHER:

Q. There came a point after the Times Union flurry where you received another contact from Mr. Dicker. Do you remember that?

A. Yes.

Q. It was on or about July 10th, I believe?

A. Approximately. I don't -- yes.

Q. What was the nature of that inquiry?

A. I don't have -- I can give you an approximation. I don't have -- I don't recall the exact details, but he was -- after the direction that I had given him based on the Superintendent's request that anything relating to this we shouldn't answer any further questions. Fred was making inquiries about -- I believe he didn't say what he was calling about -- maybe or maybe not, but I related to him that we wouldn't be able to comment further about this. And he made a statement that it wasn't about this. So, at that point in time he had misquoted me enough times that I didn't really want to talk to him in person, so I was doing this by e-mail. And I
probably have the documents to memorialize what
the interchange was. He said he wanted to know
how many aircraft we had and what types. I'm sure
he had this information before, so I wasn't sure
where he was going. But I e-mailed him back in
Links to our web site on the type of aircraft we
have information with: Different times, and what
they are used for, et cetera. He then responded
that I was ducking his questions and threatened to
write an article in the New York Post about how
unresponsive I was. I relayed back to him -- and,
again, I may be missing something in this
interchange -- but that I had been responsive to
all of his inquiries and he was asking for
additional flight records, I believe. And, I
pointed out to him that he would have to follow
the FOIL process like all other reporters and I
believe I cited the section of law that points out
what that is because he seemed to question that he
didn't have to do this. He then followed up
stating that he didn't have to do this back in
March. And I pointed out to him that he -- that I
asked him to follow that process if he was going
to get it from us. But because he had gone
through the Governor's office, the Governor's offices had responded to his request, that we did not. And that effectively ended the conversation with him on that.

(Commission Exhibit 10 was marked for identification.)

Q. I am going to show you what has been marked as Commission Exhibit 10 and ask you if you can identify that document.

A. Yes.

Q. It's a five-page document. The top page is from Glenn Miner to FUD31@AOL.com, July 11, 2007.

A. Yes.

Q. Can you identify this document?

A. Yes, I can.

Q. And what is it?

A. That, in sum and substance, is the interchange that I think that I just related to you regarding our e-mail exchange of approximately that date between Fred Dicker and myself.

Q. And it appears from the communications that Mr. Dicker is looking for the flight manifests from the State Police.

A. Yes. He was implying that the New York
State Power Authority's plane which at times is flown by State Police pilots on State Police missions, that those flights manifest would not -- may not have been included in prior requests. And I responded that that not everything that we fly would have been included. And that's kind of where he was going with this, trying to say we were hiding something.

Q. And you told him he had to file a formal FOIL request?

A. Right.

Q. But I thought you testified earlier that once he had been given these documents by the chamber and that he had come through you that if someone called and asked for them you would have --

A. These are different documents. These are documents -- the original request back in March was for documents through March 14th, or whenever the time his request was. This request is for documents beyond that date. So, whatever the Governor's office supplied to him, the earlier date, that would have been what he had, what he was limited to at the time. So, these documents
1 would have been in addition to those.
2 Q. So if there were additional documents
3 requested you would not provide them without a
4 FOIL request; is that correct?
5 A. From our agency, correct.
6 Q. Was there ever any follow-up with Mr. Dicker
7 on this request?
8 A. No, not to my knowledge.
9 Q. To your knowledge, did you receive a FOIL
10 request?
11 A. No. And I specifically expected to or --
12 well, actually, I didn't expect to because he
13 doesn't do that. But I did direct -- I did let
14 our Records Section know that he might request it.
15 And I also had the young man who works in our
16 office check our general e-mail box to see if
17 there was a request from him. And he never
18 followed up on this.
19 Q. Did you reach out to anyone from the
20 Governor's Office about this request?
21 A. I don't recall. I mean there's a good
22 chance I might have let either Paul or Bill Howard
23 -- Paul Larabee or Bill Howard know that he did
24 this, but I don't recall.
Q. Do you recall sending an e-mail similar to the one you sent with the earlier request?
A. I'm sorry?
Q. Do you recall sending an e-mail similar to the one you sent with the earlier request from Mr. Dicker?
A. Oh, to Paul?
Q. To Paul Larabee.
A. I don't think I sent anything via e-mail to them, and I don't recall communicating to them about it.
Q. Is there a reason that you did not? It's the same type of request.
A. Yeah. The only thing -- again, I might have. I'm just trying to remember specifically. With the first one I remember because there is an e-mail there. There's a very good chance I called Paul or Bill and let them know that Fred was requesting this. But at this point in time we were basically on the -- we are not discussing this anymore. So, there was kind of an understanding that, you know, this is what he was going to have to do.
Q. When you say "we are not discussing this
A. This started from Fred's request for information ostensibly about something other than this whole ordeal, this whole flight manifest stuff. And it went right back to it. And based on the Superintendent's request of July 9th we weren't going to answer any questions relating to this anymore, and that's what I e-mailed to Bill Howard. So, the understanding was that we weren't discussing this anymore. The only thing -- I am trying to -- in all likelihood, I probably called one or the other, either Bill Howard or Paul Larabee and let them know -- this is what I told Fred, but that would have been the extent of it.

Q. And you don't have any direct recollection of that?

A. No, I don't.

Q. Did you speak with anyone about your testimony today before coming in?

A. No.

Q. And you indicated that you had spoken with Glenn Valle before your testimony with A.G --

A. Yes.

Q. -- and also with the Inspector General?
A. Correct.

Q. And did you have any discussions with him about your testimony here today?

A. No, other than times and things like that to be here, no.

MS. TOOHER: Nothing further. You are done.

INTERVIEWEE: Is there anything I can add?

MS. TOOHER: If you'd like.

INTERVIEWEE: Just -- I don't know what the relevance might necessarily be, but with the matter of politics mixing and how we have been used in a political way, I recently recall another high profile instance where I would consider the State Police got dragged into something of a political nature. Back in 2002, if you recall, former comptroller Carl McCall was running for Governor, if I have the year correctly -- against Governor Pataki, the Comptroller's Office had done an audit of the State Police records or books, if you will, on the accounting for cellular 911 collections, the surcharge. The money was put into a large fund; I don't know if it was the
general fund, but whatever the fund was. And that
same account was used for other purposes. Now,
the conclusion that was drawn by the Comptroller's
Office in my belief to embarrass the current
administration, stated that the money that was
collected for the cellular surcharges was used to
pay for uniforms, mow lawns at State Police
station, on and on and on. Well, that general
account was, in fact, used for those things but
the money, if you want to call it, is com mingled
and was still in the same account because that was
the only choice that the State Police had at the
time. So, that was publicized widely and the
State Police came under immediate scrutiny because
of this and we got dragged into this from a
political standpoint because of the upcoming
election. Now, we were put in a difficult
position to defend ourselves. And, then, Governor
Pataki's press office directed me -- and I believe
rightfully so, to point out to the media in
response that this was politically motivated; that
the Comptroller's Office was doing this in a
political standpoint to try to discredit the
current administration at the time for political
purposes. It was a very uncomfortable situation because I personally had to go on the record stating that this was -- appeared to be political in nature. But it also made the most sense because we were defending our agency which was being dragged into this because we were under that current administration at the time.

I just wanted to point that out because I know at other times others have said we never get pulled into things of a political nature.

BY MS. TOOHER:

Q. So, that is another tale of how you guys have gotten politicized in the past?

A. It's one example that was kind of high profile. I realize it doesn't necessarily equate equally to the situation that we are alleged to be involved in at this point. But because of who we work for, because our agency comes under the Executive Department, somebody is going to allege that there is political use of us merely because there are two parties, two major parties in the state right now. And, whoever has control of us, if you will, the other party may assert that we are being used politically. Sometimes this is not
-- the fact that we are just involved in something
doesn't mean it's for a political purpose.

Q. At what point do you think this became
politically motivated?

A. The whole Bruno situation is politically
motivated.

Q. That there were allegations --

A. It appeared to be more political after it
came out, after the Senator tried to point out
that he was supposedly being spied upon and where
Fred Dicker was able to run with that information.
I mean that whole idea is ludicrous. And that's
coming out slowly and, hopefully, for sure in the
long run. But it's ironic that there is more
politics involved in the investigation -- I'm not
pointing to you -- in hindsight looking at it,
than there was initially supposedly involved in
the whole incident to begin with.

Q. Did you feel there were politics involved at
the time?

A. No, I had no knowledge. And it may be
unfair for me to answer -- I had no knowledge of
what was going on until after the story initially
came out. So, you know, to look into legitimate
and illegitimate use of state resources, that's one thing. Whether that is political, that is probably more subject to opinion than maybe can be analyzed objectively.

MR. TOOHER: You are done. Thank you very much.

(The interview was concluded at 12:45 p.m.)
STATE OF NEW YORK )
) SS:
COUNTY OF ALBANY )

I, BETH S. GOLDMAN, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the County of Albany and the State of New York, hereby certify that the proceedings recorded hereinabove were recorded stenographically by me and reduced to computer-generated transcription.

I FURTHER CERTIFY that the foregoing transcript of said proceedings is a true and correct transcript stenographically recorded at the time and place specified hereinbefore.

I FURTHER CERTIFY that I am not a relative or employee, attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand.

BETH S. GOLDMAN
Certified Shorthand Reporter
Registered Professional Reporter
Notary Public