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

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

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

STENOGRAPHIC RECORD of an Investigative
interview conducted pursuant to notice.

INTERVIEWEE: PAUL W. LARRABEE

APPEARANCES: HERBERT TEITELBAUM, ESQ.
Executive Director

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

JOAN SULLIVAN, ESQ.
Investigative Counsel

PRESENT: ROBERT SHEA, Investigator

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

REPORTED BY: BETH S. GOLDMAN, RPR
Certified Shorthand Reporter
PAUL LARRABEE, called to testify before the Commission, and being duly sworn/affirmed by the notary public, was examined and testified as follows:

EXAMINATION BY MS. TOOHER:

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

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

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

A. Yes, Ma'am.

Q. You are here with your attorney?

A. Yes, I am.

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

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

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

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

Q. And, what is your position?
A. I am a Deputy Press Secretary to the Governor.

Q. How long have you held that position?
A. Since January 1st.

Q. What are your duties in that position.
A. I interact with the media on a day to day basis to advance the issues and items of interest to the public.

Q. When you say you interact with the media, could you expand upon that a little?
A. I have relationships with all the reporters in the Capitol, capital-based correspondents, the broadcast media across the state. And when they have questions or inquiries on questions related to the agenda of the Governor or issues taking place at the capitol I try and fulfill those requests.

Q. Where were you employed prior to the executive chamber?
A. I worked for the Attorney General of the State of New York.

Q. What was your position there?
A. I was a Deputy Press Secretary.

Q. And, do you handle particular areas for the
Governor?

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

Q. What is your portfolio?

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

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

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

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

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

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

A. I interact with the press office. At those agencies I would have a counterpart, usually the
public Information Officer in each of those agencies. And it wouldn't be unusual for me to speak to them on a fairly regular basis. As a matter of fact, it's not unusual for them to initiate calls to me when there is a question or issue that might come before them.

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

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

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

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

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

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

A. On occasion I may interact with them, but
our primary responsibility is to interact with the media, and the media being an extension of the public through their work.

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

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

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

A. Sure.

Q. Do you have any experience with FOIL?

A. Yes.

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

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

Q. And is there a policy or protocol concerning
FOIL in the executive chamber?

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

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

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

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

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

Q. Do you keep track of oral requests like that?
A. In a log or something of that nature?
Q. In any fashion.
A. I don't recall that. I don't recall keeping a log of FOIL requests. I might have an individual file on my desk that might relate to FOIL.
Q. Would you keep notes of what you had provided or the documents that you had turned over pursuant to an oral request?
A. Again, it would depend on the topic and how frequent a request it would be.
Q. Well, if you received a request in the cafeteria or in your office how would you keep track of that request? Would there be any tracking system?
A. If I received a formal FOIL it would --
Q. No, an oral request in this instance.
A. Probably not. It might go in on an index card.
Q. Do you keep index cards about those requests?
A. Until it was fulfilled, and I would probably throw it away.

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

A. Sure.

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

A. Yeah.

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

A. Not in any formal way.

Q. Do you keep notes or files --

A. Yes.

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

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

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

A. I'm not sure if we are in a semantic
discussion of what I keep and what I don't keep.
Q. What do you keep?
A. I might have a file with a request from
someone for a specific set of -- or requests that
they may have made of me for annual reports for
the last five years. I might slip those reports
into a file and that might be it, so that in the
event that that question were to be asked again I
might be able to easily retrieve it and provide
it.
Q. So, if it's a request that you receive or
that you know you are going to receive again, you
might keep track of that and keep a file?
A. I might just keep a file in my desk that
would be easily retrievable and available for
distribution.
Q. In the area of executive travel have you
received requests in the past orally for documents
concerning executive travel?
A. Sure.
Q. And how often do you receive those types of
requests since you have been with the executive
chamber?
A. One or two times, maybe.
Q. Since January of 2007?
A. Yes.
Q. And can you describe those requests?
A. I received a verbal request from the New York Post asking me to assist them in expediting a request they had with the State Police over executive travel from the 1st of the year involving several statewide officials and their use of the aviation fleet. And I may have received one or two other requests of similar note once that issue became known publicly and published publicly.
Q. Do you mean in July?
A. Yes.
Q. The request you received from the New York Post what reporter was that from?
A. Fred Dicker from the New York Post.
Q. And can you tell me how that came about?
A. Sure. In the middle of March I received a call from my counterpart at the State Police. There were two folks there, Glen Miner as Lieutenant and Sergeant Swoboda. And they had received an inquiry from Mr. Dicker asking for the flight manifests from the start of the year 2007
until the present. They said that they had
received a FOIL from Fred and that Fred was
somewhat animated about his desire to get these
documents and that they are going to make him FOIL
them.

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

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

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

A. I don't remember if they had a FOIL request
in hand or if it was a verbal request. I think it
was a verbal request, but I do not remember
exactly right now whether it was a verbal or
written request. I think it was verbal because
the more I think about it, Fred had made an issue
of the fact that it should no longer be necessary.
The Governor had instituted a policy that we would
be as transparent, open and accountable as
possible for retrieval of documents, and if
documents were readily available we should fulfill
those requests. In this particular case we are
talking about in March, Fred contacted the office
and asked was there something we could do to help out. I talked to either Glen or Kern -- I'm almost positive it was Glen. And I said: Is there some way we can expedite these records? Do you have them immediately available? And he said the protocol was to require a FOIL, and I shared with him the Governor's vision of the way FOILs should be conducted and how it should be something that if it is readily available to the public, it should be made available to the public. They shared with me the documents that were able to generate with respect to aviation. They sent them down to me at the office and I hand-delivered them to Mr. Dicker.

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

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

Q. How had you gotten that understanding?

A. I have been with the Governor since 1999 and I was well aware of his position on it.
Q. When you came into the chamber was this a change in the FOIL policy in the chamber?

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

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

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

Q. Did that letter refer to FOIL at all?

A. I don't remember.

Q. Do you have a copy of that document?

A. No.

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

A. I don't think so.

Q. Do you recall anything else that the letter
contained?

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

Q. How long a letter was this?

A. A couple of paragraphs.

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

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

Q. And Darren is --

A. Darren Dopp.

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

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

Q. What occurred last week?

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

Q. When was the last time you spoke with Mr.
1 Dopp?
2 A. The Friday before the Attorney General's
3 report was issued.
4 Q. Have you had any contact with him since that
5 time?
6 A. No, I have not.
7 Q. Now, you indicated there was an open letter
8 to the legislative correspondents and that there
9 was a second document concerning the transparency
10 and the governor's viewpoint on availability.
11 A. I think I said there may have been two
12 instances that I was thinking of. I don't know if
13 I said there were two documents.
14 Q. I apologize. What is the second instance?
15 A. I believe I was probably standing next to
16 the Governor when he said that, when he made that
17 kind of statement.
18 Q. Had he made a direct statement about FOIL?
19 A. I don't remember the exact words, but the
20 spirit was always very clear.
21 Q. What was the spirit?
22 A. That we will make -- that the government
23 will operate with as much transparency as possible
24 and that the press will be given every courtesy
Q. And did the Governor ever give you any information concerning the provision of documents specifically?

A. Again, can you help me understand?

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

A. Not that I recall.

Q. And did he ever specifically speak to FOIL?

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

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

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

Q. And you were speaking about the request from
Fred Dicker to the State Police.

A. Um-hmm.

Q. And you indicated that you provided Mr. Dicker with some aviation records that you have received from the State Police?

A. Yes, absolutely.

Q. Did you keep any kind of listing as to what those records are?

A. I didn't keep a listing of the records, but the flight manifests come in kind of an -- they have like a helicopter and airplane indicia on the top of them and list by date and point of origin and both origination and conclusion of the trip on the flight manifest. And they also list perhaps a tail number associated with the aircraft or what type of aircraft, who was on the aircraft. And they are difficult to read. So, what I did was I went through this set of documents and synthesized them and put a little cover note on top so he could see who flew on the plane, where they flew, and where they went.

Q. So, you actually provided some kind of synopses with the manifest to Fred Dicker?

A. Um-hmm.
Q. Do you have a copy of that, by any chance?
A. I believe you have it.
Q. I don't believe we do.
A. I would be happy to provide it if you would like it. Upon request of the executive chamber prior to her securing Mr. Conboy I turned over numerous documents. And I believe they were included in that.

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

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

Q. Thank you. And, you indicated you thought it was Sergeant Miner --
A. Lieutenant Miner.
Q. -- at the State Police?
A. Yes.
Q. Did he express some concern about giving the documents pursuant to an oral request?
A. He said the State Police had a very specific protocol and he wanted to continue to follow that protocol. I shared with him the intention and nature of the provisions in the policy of the administration and indicated to him that I would
be -- if we had them readily available and these were, in fact, documents they had routinely released before, because it was my understanding they had -- I was quite aware of the fact that aviation had been commonly requested, that I would be happy to fulfill the request so that he didn't have to violate the protocol.

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

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

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

A. For aviation?

Q. For aviation requests.

A. I believe just the manifest.

Q. I'm going to show you what has been previously marked as Commission Exhibit 6 and ask
you if you recognize this document.

A. Yes.

Q. Can you identify this?

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

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

A. Yes.

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

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

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

A. Yes.

Q. Do you recognize that handwriting?

A. Yes.

Q. Can you tell me whose it is?

A. It's mine.
Q. Can you explain to me what these notes are?
A. Certainly. On the left is the request probably -- I'm assuming these are notes taken while I was -- I followed up either a conversation with Glen or with Kern and said that they had records from January 1, 2007 involving the Governor, the Lieutenant Governor, and the Minority Leader for helicopters and planes for executive travel and that it was approximately eight pages.

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

INTERVIEWEE: It's working for me right now.

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

Q. And did they indicate if there were any records available for Senator Bruno at the time?
A. I don't remember. I think they did.

Q. Is there a reason you didn't write Senator Bruno's name down?
A. I don't remember. I just don't remember why
I would have made those three notations.

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

A. Anyone who had flown on executive aircraft.

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

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

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

A. Sure.

Q. Who did you speak with?

A. Darren Dopp.

Q. What did you say to Mr. Dopp?

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

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

A. No.
Q. And did Mr. Dicker in his March 14th request ask you for any ground itineraries for any of the individuals who flew?

A. I don't remember that, no.

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

A. I don't recall them.

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

A. Yes.

Q. On what types of issues?

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

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

A. No.

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

A. Not that I recall.

Q. Did you ever any conversations with Mr.
Howard about the provision of ground
transportation for Senator Bruno?

A. No.

BY MR. TEITELBAUM:

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

A. No, sir.

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

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

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

A. I don't recall that.

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

A. No.

Q. Why?

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

Q. How do you know they were routinely released
in the past? As I understand your testimony this
1 is the first request that was made for them since
2 January 1st.
3 A. Aviation requests had been routinely
4 requested in the past by the press office.
5 Q. Which press office?
6 A. Since there has been executive air travel it
7 was my understanding that aviation requests had
8 been a topic of interest by the media.
9 Q. And, do you have any knowledge as to whether
10 in the past the records that we are talking about,
11 types of records we are talking about would be
12 presented to a FOIL officer before release to the
13 press?
14 A. (No response)
15 Q. Is my question clear?
16 A. No, it's not. If you could help me out --
17 Q. Let me rephrase it.
18 A. Thank you.
19 Q. Sure. You are testifying that, to your
20 knowledge, these flight manifests were routinely
22 A. Um-hmm.
23 Q. That would be during the Pataki
24 administration. Is that the period you are
Talking about?

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

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

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

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

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

Q. I take it, you don't know whether in prior instances during all of the administrations that you have named whether there was a practice of having the documents reviewed by a FOIL officer before they could be available to the press; is
A. I am unaware of what the procedure was in the prior administrations, sir.

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

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

Q. What were you responding to?

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

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

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

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

A. Yes, sir.
Q. Did you have a conversation with anybody at the State Police concerning that issue in the instance that we are now discussing, the March Dicker incident?

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

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

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

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

A. I believe so.

Q. When was that?

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

Q. Do you mean while you were working in the Attorney General's administration you had made
requests of the State Police for documents?
A. I believe so.

Q. What was the protocol that applied there?
A. I believe they routinely related cases in which the State police worked with the Attorney General's Office.

Q. So, these were matters under investigation?
A. No. They would be subsequent to an investigation.

Q. And what were the circumstances under which you would be requesting documents from the State Police?
A. There may have been a case that the Organized Crime Task Force worked on or the Special Investigations Unit, and there may have been a news conference scheduled and there may have been documents that were helpful to me in developing a news release or talking points for disclosure. Those are instances I am thinking of in terms of when the State Police would have sent me documents. We routinely sent draft news releases back and forth to each other.

Q. The documents you received from the State Police while you were in the Attorney General's
Office, would those be documents that you were requesting in order to give to the media or for internal use in the A.G.'s Office?

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

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

A. No, sir.

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

A. No, sir.

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

A. I don't remember if it did or not.
Q. Did the documents that you turned over to Fred Dicker, did they have the tail number of any aircraft?

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

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

A. I do not know, sir.

Q. You have never heard that before?

A. No, sir.

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

A. If the documents were something that had been disclosed on prior occasions there was no reason that it wouldn't be disclosed again unless there were an issue associated with it that would prohibit us from doing so.
Q. Do you mean those very documents?
A. Aviation records have been the subject of numerous articles for as long as I have been in state government, sir. And I didn't view their disclosure as anything sensitive.
Q. So, I just want to nail down what you mean by "readily available." So, if a type of document had been previously released to the press, from your perspective that type of document is one that you would characterize as readily available and one for which the media shouldn't be required to go through the formalities of FOIL? Is that an accurate statement?
A. I don't know. What I think -- I can only speak to what I know. And what I do know is that aviation records have routinely been requested and disclosed to the media. So, when this particular request came in I didn't treat it any differently from any other routine request that had come in.
Q. And if a document had not been given out to the press previously, I take it, then, you would deem that to be not readily available; is that accurate?
A. Not necessarily so, sir. I would have to
make a different judgment.

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

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

Q. What would you do?

A. I probably would seek guidance.

Q. From whom?

A. Counsel's office.

Q. Did you ever do that?

A. Yes, sir.

Q. In what kinds of instances?

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

Q. And in an instance in which, to your knowledge, a document -- type of document had not been released to the media before, would you make
the judgment all by yourself as to whether it
ought to be released?
A. No, sir.

Q. What would you do?
A. I would seek guidance.

Q. From counsel's office?
A. Perhaps.

Q. Anybody else?
A. I might speak to someone else who has
familiarity with the topic and has more experience
in it than I do.

Q. Would that be within the executive chamber?
A. Yes, sir.

Q. Have you ever done that?
A. I'm sure I have. I would have to think for
moment, thing of a for-instance for you, but I'm
sure I have.

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

(Pause taken)
A. I can't recall a specific instance at this
moment, sir. But I can assure you that it's not unusual to seek guidance and support on topics that I'm not familiar with.

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

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

BY MS. TOOHER:

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

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

Q. On that issue?

A. No, I wasn't.
Q. Did you have any discussion with him in mid May concerning Senator Bruno's travel issues?
A. Not that I recall.

Q. I am going to show you what has previously been marked as Commission's Exhibit 77 and ask you if you have seen this document before.
A. I don't recall if I have seen this document before. I think I have seen something like it before.

Q. What were the circumstances under which you saw it?
A. I believe it was contained in D.A. Soares' report.

Q. Do you think you saw it in D.A. Soares' report?
A. I believe I saw something very much like it.

Q. Did you have any conversations with anyone in the executive chamber concerning this statement?
A. No.

Q. And, did you ever have any discussions with Darren Dopp concerning Senator Bruno's travel?
A. Pertaining to this document?
Q. Yes.
A. I want to be clear that I understand what your question is. Did I have any conversations with Darren Dopp about this document specifically?

Q. Yes.

A. No.

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

A. Yes.

Q. What was the subject matter of those conversations?

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

Q. When did you first become aware of that?

A. In June.

Q. Do you recall when in June?

A. Within the latter part of June.

Q. How did you become aware of that?

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

Q. So, you saw Jim Odato in his office, in Darren Dopp's office?

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

A. About ten feet away from mine.

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

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

Q. What did he say to you?

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

Q. Did he say anything about what Jim Odato was working on specifically?

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

Q. Did you ask him what Mr. Odato was talking to him about?

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

Q. Did he indicate anything else concerning this story?

A. He believed that the story Jim was working on would be perceived in a negative light for the
Q. Did he indicate why he felt that way?
A. I believe he indicated that there were both legislative and political travel as part of the frame of the story.

Q. Did Mr. Dopp tell you where he had gotten that information?
A. No.

Q. Did he tell you what the nature of the information was that led him to that conclusion?
A. Nothing other than the conversations that he had with Jim.

Q. What did he say about those conversations?
A. I don't really recall specifics.

Q. Did he say anything about providing documentation to Mr. Odato?
A. He must have, but I don't recall specifically.

Q. Do you recall in general?
A. He indicated that there was both -- he believed there was both legislative use and had non legislative use of state aircraft.

Q. But he didn't indicate where he had gotten that information from?
A. No.

Q. Did he indicate any discussions with anyone else?

A. Not that I recall.

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

A. In June?

Q. At any time.

A. Yes.

Q. When did he first show you documents?

A. Early July.

Q. Did he show you any documents in June?

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

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

(Pause taken)

A. Sorry?

Q. Have you ever seen this document before?

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

Q. What were the circumstances under which you
saw a document similar to this?

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

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

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

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

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

Q. What was the conversation that you had with him?
Q. When you say "that much here" --
A. I didn't believe that there was much news here.

Q. And why is that?
A. Because it had been widely documented that he was frequently mixing government and political travel.

Q. Was it your understanding that Mr. Dopp had written this document?
A. I didn't know who had written it.

Q. Was it your understanding that it was going to be provided to Jim Odato?
A. I didn't know what the intention of this document was, who it was going to be provided to.

Q. What did you think the intention of this document was?
A. You would use it to help order your thinking prior to making a presentation to someone.

Q. Do you do that? Do you do a document as some sort of background before making a presentation to someone?
A. I might take notes, and that's what I would
1 have considered.
2 Q. In your experience with Darren did he do
3 that, create a background document in order to
4 give a presentation on a particular topic?
5 A. Everybody operates in a slightly different
6 way. But virtually everyone in the press office
7 keeps a pad on their desk and keeps notes about
8 how they are going to present material to the
9 press.
10 Q. But this is a little more than notes. It's
11 fairly clearly written out, and it has attachment
12 files as well. Was that Darren's practice in
13 preparing to give a presentation to reporters in
14 your familiarity with him?
15 A. I wouldn't be surprised if he had done this
16 in prior cases where there was complexity to them.
17 Q. Would you consider this a complex case, the
18 issue of the itineraries and providing documents?
19 A. I think for someone who was not familiar
20 with documents any kind of guidance is helpful.
21 BY MR. TEITELBAUM:
22 Q. Focusing on Exhibit 67, I just want to make
23 sure the record is clear. From your perspective
24 as you read Exhibit 67 is it your sense that this
is a document that would be used with respect to
the media?

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

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

A. No.

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

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

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

A. Yes, sir.

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

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

Q. That would be a significant piece of
information if you were going to give an opinion

on the document; wouldn't it?

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

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

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

Q. Can you tell us more about that?

A. (No response)

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

A. I wasn't sure whether this was -- we generate a lot of papers, sir, in the press office. Sometimes we take notes and prepare drafts and then they go right into the wastebasket. Other times you use them with great regularity and repetition. I don't know what the intention of the use of this document was. He asked me what did I thing, and I assumed that meant: Would you please read through this
document and tell me if you think there are any holes in it or lack of clarity. He didn't explain to me what the use of this document was.

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

A. Absolutely not.

Q. Did that happen pretty routinely?

A. Yes, sir.

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

A. Yes, sir.

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

A. He might.

Q. Did that ever happen before?

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

Q. In instances where he would be creating a document, a memorandum, internal memorandum to David Nocente that wasn't to go to the public --
A. Yes, sir.
Q. -- would he have you review that document?
A. He might.
Q. Did that happen in the past?
A. I know that over the course of the last nine years for more than ten hours a day I worked alongside Darren Dopp. It was not unusual at all for him to share what he was working on with me and for me to share what I was working on with him. I didn't always ask for a context for what it was. It was often clarity and point of view, and it was not necessarily something that was common that he would say: I'm sending this to David Nocente to read this. Or, he might say I'm trying to explain this particular rationale for this particular topic.
Q. As you look at 67, can we agree that 67 appears to be a document that is related to Mr. Dopp's work with the media?
A. I'm not sure that it is. I assume that's what it's for.
Q. Does it look like it's a document that would
A. It would not be be unusual to provide some
sort of guidance to someone on a complex case at all.

Q. To someone in the media?
A. Yes, sir.

Q. My understanding is that "for background only" is a term of art in your business. What does that mean?
A. The way I use "background" means it can be attributed to the office but it cannot be used for attribution for direct attribution on a direct quotation.

Q. To a particular person?
A. Yes, sir.

Q. So, if you are going to do that with a document that you are going to hand out to the media, in other words, that it's going to be attributed to the office but not to a particular individual you would print on the top "for background only"?
A. I wouldn't necessarily put that on there at all.

Q. Well, how would you indicate that it was to be attributed to the office but not to the individual?
A. I wouldn't generally write a memorandum like this.

Q. You would not?
A. No.

Q. You would have handwritten notes?
A. Yes, sir.

Q. Are there instances in which you hand out something to the press for background purposes only and not for attribution to an individual?
A. It's a very, very complex thing. If you have a minute I would be happy to explain it.

Q. Please.
A. People routinely interchange "background," "for the record," "off the record," and they mean a whole host of different things. And, so, it's quite necessary to be very specific with the person you are speaking with as to what those rules are. If I said to you: This is off the record somebody might say, oh, that means I can't use your name. Not when I play this game. When I say "off the record" What I mean is you cannot attribute this in any way, shape, or form to a newspaper. Those are my rules when I say "off the record." But when I talk to another reporter who
1 has not necessarily worked with me in the past or
2 might be a little aggressive in pursuing a story,
3 they might not hear "off the record." They might
4 hear "for background." Often, people who don't
5 work routinely with the media will interchange
6 "background" and "off the record" and there is a
7 tremendous blurring of lines. And, that's why I
8 like when I speak to someone to let them know very
9 specifically what the conditions of my
10 conversations are. Like we are on the record
11 right now, sir.
12 Q. So, the word "background" has meaning
13 although the meaning might vary in what you saying
14 from one person to another person, but it has
15 meaning for people in your business?
16 A. Yes, sir.
17 Q. And when you saw Mr. Odato in Mr. Dopp's
18 office and Mr. Dopp said that they were working on
19 a story about executive travel, would that involve
20 both the person from your office -- in this
21 instance, Mr. Dopp -- and Mr. Odato actually
22 working on a story together?
23 A. Part of what we do in the press office is we
24 essentially are reporters or try and assume the
role of a reporter. You try and anticipate what
questions they are going to ask and you try and
provide to them the clarity that their readers can
understand. So, when I saw they are working on a
story I didn't mean that someone is sitting at a
Times Union keyboard. But what they may be doing
is reviewing circumstances and facts, or Jim Odato
may have a series of ten or fifteen questions that
he was seeking guidance from Darren on.

Q. Would Mr. Odato also be providing some kind
of text for review before it went to the press for
accuracy to make sure that his facts were right?
A. That would be highly unusual.

Q. Would it?
A. Not unprecedented. It's not unusual that
when I am working with a reporter one would call
me and say: If I said -- if I read you a series
of statements and I said, you know, it's the
thinking of the administration that the budget may
be in surplus, is that an accurate representation,
that wouldn't be unusual at all. It would be
extremely -- it's rare, but not unprecedented that
somebody might send you their copy in advance for
review.
Q. So, when Odato is with Dopp in Dopp's office and you see them together several times when he is working on this article on executive travel, what you are saying is that the probability is that Odato is there with questions that he is asking Mr. Dopp to answer?

A. Yes, sir, or seeking some clarification.

Jim is a dogged reporter, one who asks questions several layers deeper than many of his colleagues.

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

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

Q. I understand that. Maybe my question was unclear. I take it, that what you meant -- and
correct me if I'm using the term "making a presentation" -- it's not necessarily actually physically presenting the document to the press but using the documents -- perhaps not giving the document but using the document to make a presentation to the press. Is that accurate?

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

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

A. Yes.

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

A. Yes, sir.

BY MS. TOOHER:

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

A. I believe so.
Q. And you indicated that Darren Dopp was working with Mr. Odato for some time during the end of June. Were you familiar that he was working on that story?

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

Q. Do you know what that story was?

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

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

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

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

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

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

A. I may very well have been. I don't recall them at this moment.
Q. And, did Darren ever discuss with you his work with Mr. Odato on the Senator Bruno story?

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

MR. TEITELBAUM: "This," meaning 67?

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

Q. That it was concerning the Bruno story?

A. Yes.

Q. And, what did he relate to you?

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

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

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

Q. I'm sorry, a detail --

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

Q. And, did you discuss the details with Mr. Dopp?
A. No.

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

A. Next to none.

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

A. He was not working on it with me.

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

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

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

A. Not at the time.

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

A. It was a Sunday.

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

A. Yes.

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

A. That this would generate a number of other stories.
Q. And, were you given any indications as to how you should respond?
A. I believe so.
Q. And, what were those indications?
A. When a story of this nature appears it's not unusual for there to be immediate follow-up. Being a Sunday I don't remember who was on call that weekend. But we break on-call duties up over the course of a weekend. It also was not unusual for those reporters with whom you have long term relationships to call you at home. My wife and I have been in the same business for almost 20 years. So, again, it's not unusual for reporters to call our home. I believe Darren sent me a note that said something to the effect of: You might get calls today, or Glen might get calls today. Can you reach out to Glen.
Q. And did you do that?
A. Yes.
Q. And, how did you reach out to Glen? What did you do?
A. I believe I called him at home.
Q. What did you say to him?
A. I said, "You might get more calls day and
you should try and keep the story tight."

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

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

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

A. That it was specific to travel records.

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

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

Q. Did you ask Glen about his conversation with Odato?

A. No.

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

A. I might have asked with Odato or had he
spoken with any other reporters. I don't remember, but that wouldn't be unusual at all.

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

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

Q. Did he ask you to discuss whether or not he was speaking with Odato?

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

Q. Did he relay anything else to you?

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

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

A. No, not that I remember.

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

A. The press office is the chamber.

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

A. I don't remember. It wouldn't be unusual for him to have spoken with Christine Anderson or
myself if we were both on call or one of us was
scheduled to pick up one part of a duty assignment
for the day or not. That would not be unusual at
all.

Q. Did you get instructions from Darren about
what you should do if you received any calls?
A. I think they were going back to him. I
don't believe it was something that -- I didn't
know enough about the story to speak on it, so I'm
sure I would have referred the calls back to him
if I got any.

Q. Did you receive e-mails from him concerning
your response to the story?
A. I don't remember. I know there was some
exchange of e-mail about -- I remember something
about reaching out to Glen.

Q. Showing you what has previously been marked
as Commission's 87, and I will ask if you can
identify this document.
A. I don't recall this document.

Q. It's an e-mail from Darren Dopp to Christine
Anderson and, apparently, yourself Paul Larrabee.
Is that your e-mail address?
A. Yes.
Q. It's dated July 1, 2007?
A. Um-hmm.
Q. Regarding ATU, the Albany times Union story.
MR. CONBOY: Excuse me. Paul, would you clarify is that your e-mail address at the office or at home, please?
INTERVIEWEE: It's at the office.
Q. And, do you access your e-mail at home?
A. Sometimes, yes.
Q. And, you have no recollection of ever receiving this document?
A. 8:47 a.m. is twenty minutes into the time I am in church with my family every Sunday.
Q. But that is when it was sent?
A. Yes, Ma'am.
Q. It doesn't mean you couldn't have received the document at another time.
A. That's correct.
Q. Do you remember receiving the document at another time?
A. Like I said when you handed it to me, I don't remember this document. I receive hundreds of e-mails every day.
Q. And I'm sure that this e-mail was probably
one of many you received on that day?

A. I don't recall.

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

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

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

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

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

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

Q. Was this a story that gained a fair amount
of attention --

A. Of course.

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

A. Sure.

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

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

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

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

Q. You don't specifically recall the document?

A. No.

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

A. Yes.

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

A. Sure.

Q. And concerning the first paragraph, "off the record" perhaps --
A. "On the record" or "off the record"?

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

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

Q. Did you discuss it with him after that?

A. Yes.

Q. What were your discussions?

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

Q. What documents were those?

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

Q. And, what documents were they?

A. I believe they were flight manifests. There is a packet of documents he asked me to deliver to the D.A.'s office that I don't remember what each one was. I remember what some of them were. There was a form that when you make a request to use executive travel that verifies the use of that aircraft for government business. I remember that
was one of the ones he asked me to share with him. And I believe he also shared with me flight manifests that indicated who was on the aircraft at a particular time and what the point of origin and conclusion of the trip were.

Q. Were there any other documents in that packet?

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

Q. Did you keep a copy of those documents?

A. I did not.

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

A. Albany County D.A.

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

A. To the personnel in his office.

Q. Do you remember who you delivered it to?

A. I believe his name was Steven Stein.

Q. When did you deliver these documents?

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

Q. Did Mr. Dopp discuss with you at all the
nature of these documents, and why he was
providing them to the District Attorney?
A. I believe that he gave me an overview of
what each of the documents was and asked me to
deliver them to the D.A.'s office.
Q. So, he specifically went through the
documents with you and told you what they were?
A. Yes.
Q. And you indicated they were the forms for
executive travel and the flight manifests.
A. Yes.
Q. These were documents that you were familiar
with at that time?
A. Yes. I had never seen the form for
executive travel before, but when he explained to
me what it was, it was fairly clear. I had no
reason to doubt it.
Q. What was the nature of the other documents?
A. I really don't remember.
Q. Were they travel documents?
A. I do not remember.
Q. Did you provide documents to anyone else at
Mr. Dopp's instruction?
A. No.
Q. Did you provide documents to anyone else at anyone else's instruction?
A. No.
Q. After you brought the documents down to the D.A., did you meet with Stein?
A. Yes.
Q. What did you discuss with Mr. Stein?
A. I brought the documents in a folder like Mr. Conboy's. There were four or five files each with a different document in it or different series of documents that were similar. And, based on what Darren had indicated to me they were, I indicated the same to him. And that was the extent of the conversation.
Q. And, what did you believe was the purpose of providing these documents to the D.A.?
A. I believe we had indicated that we would be sharing these documents with the D.A.'s office. And I contacted the D.A. I said, "I understand that someone from your office is prepared to receive these." And that was it. I went down and brought them to him.
Q. Why did you think you were sharing them with the D.A.'s office?
A. I believe we had indicated that we were going to share this material with the district attorney. I believe there was a whole public exchange about what was going to take place.

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

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

Q. Who did those documents concern?

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

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

A. I don't recall.

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

A. No, I did not.

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

A. Yes.
Q. Who did you discuss them with?
A. I didn't discuss the documents. I discussed it with the D.A.'s office.

Q. Who did you discuss that with?
A. I know one of the assistant district attorneys. I was having trouble reaching Mr. Stein and I asked him to get me a better number.

Q. Did you discuss with anyone in the executive chamber that you were bringing these documents down to the D.A.'s office?
A. No.

Q. Mr. Dopp just advised you to take the documents down and showed you what the documents were and you went down?
A. Yes.

BY MR. TEITELBAUM:
Q. What was your understanding of the purpose for your going down with the documents to the D.A.'s office?
A. Simple transmittal.

Q. You are not a message boy; are you?
A. No, I am not, sir.

Q. So, you must have had a conversation with Dopp when he reviewed the documents with you;
Q. So, it was more than just delivery. You weren't going to go down there and kind of explain what was this file; correct?
A. I'm sorry, sir?
Q. You weren't going to go to the D.A.'s office and explain what was in the files; that wasn't your charge, was it?
A. I was asked to deliver the documents and outline what was in each of the files and they would draw their own conclusion.
Q. So, did you speak to Stein?
A. Believe so.
Q. And, when you spoke to Stein you explained to him what was in the file?
A. Yes, sir, to the best of my knowledge having learned of them within the previous 15 minutes.
Q. From Mr. Dopp?
A. Yes, sir.
Q. And did Mr. Dopp tell you that you are delivering these documents to the D.A. for the following reason -- Did you know what the reason was?
A. I believe that there had been a public disclosure earlier in the week, either Monday or Tuesday, that there had been communications between the Albany County District Attorney and the executive chamber.

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

A. Can you help me once again, sir?

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

A. Yes, sir.

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

A. I believe there had been -- I believe Darren had indicated or somebody in the chamber -- again, I don't remember the exact sequence -- but I believe on Monday or Tuesday that the senator had a very aggressive rebuttal to the story and I believe the executive chamber indicated, based on
the senator's rebuttal, we would be sharing the
documents with the D.A. in either Albany or in New
York.

Q. What newspaper did this appear in?
A. I don't recall, sir. I go to news
conferences almost every single day. So, what I
hear in a news conference may sometimes be much
more in depth that what I read.

Q. I take it, your understanding based on
either a news or press conference is that you were
delivering documents down to the D.A. and so the
District Attorney could commence an investigation.
Is that fair to say?
A. That's my understanding. I know when I was
in the Attorney General's Office an investigation
has a very, very different context than a review.
A review is a much more casual process, and an
investigation had a much more formal sense to it.
Q. But, it was one of those two things, a
review or investigation?
A. I thought it was a review, but --
Q. Did someone tell you that?
A. No. I believe that's how all matters start.
Q. At the D.A.'s office?
A. I believe so, sir, before they make any judgment.

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

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

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

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

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

A. I don't remember.

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

A. About the delivery, sir?

Q. In the context of the conversation where he described to you the content of the documents.
A. No. It was a very quick conversation. Half of Albany County was empty on the morning of July 3rd, and I didn't think that -- I thought if whatever these documents are, if they have to get to the D.A. office today it has to happen rather quickly.

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

A. Nothing.

Q. How long was your meeting with Stein?

A. Less than ten minutes.

Q. Where did you meet with him?

A. The D.A.'s office.

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

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

Q. Was he the only one there?

A. Yes, sir.

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

A. "We'll take a look," I think is what he
Q. And did he say anything about getting back to you?
A. No, sir.
Q. And what did you do after you delivered the documents?
A. I asked to speak to Heather Ornick.
(Phonetic)
Q. Who is that?
A. Heather is my counterpart at the D.A.'s office. I never had the opportunity to meet her in person. And I had a very positive and cordial working relationship with Rachael MeEneny who was her predecessor and I wanted to continue that relationship.
Q. What did you talk to her about?
A. Nothing other than: Good morning. It's pleasure to meet.
Q. That was the sum and substance of the conversation?
A. I believe so.
Q. After you had the conversation with her what did you do?
A. I went back to the office.
Q. Did you speak to Mr. Dopp?
A. I'm sure I told him I delivered the documents.
Q. Is that all you had to say to him about the documents at this point?
A. Yes.
Q. You just delivered them?
A. Yes, sir.
Q. Did you ever have a conversation with Mr. Dopp after that concerning the D.A.?
A. I don't remember, sir.
Q. You could have, but you don't remember?
A. I don't remember having one.
Q. I see. So, your testimony is that after you returned from the D.A.'s office and reported to Mr. Dopp that the delivery had been made, words never passed between you and Dopp again concerning the D.A.'s office?
A. Yes, sir.

BY MS. SULLIVAN:
Q. Was there a cover letter attached to the documents that you brought to the D.A.'s Office?
A. No.
Q. So, it was just in an envelope with just the
A. No cover letter; not that I recall.

BY MR. TEITELBAUM:

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

A. Yes.

Q. Exhibit 67 --

A. Yes.

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

A. Based on my reading of that and knowledge of Mr. Odato.

Q. So, the idea was that Odato writes detail-laden stories?

A. Absolutely.

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

A. Again, when there is a complexity to a story it's always helpful to have your notes in front of
you so your thoughts are organized and you present them in a fashion that is coherent.

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

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

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

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

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

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

Q. And, the documents that were delivered to the D.A., did Mr. Dopp tell you that ground
itineraries were in those documents?
A. I remember him indicating to me that the senator made some specific requests for the type of travel he requested. I remember him making mention of specific investigators and specific types of vehicles.
Q. Driving him around?
A. I assume that it was driving him around.
Q. Did Dopp tell you that as part of the package you were delivering there were itineraries of where the senator went when he was on the ground in New York after he took a flight on government aircraft?
A. You are helping me recollect that right now sir. I never saw those documents after July 2nd, but I do remember that they were itineraries.
Q. Did you see them?
A. I looked at them.
Q. That was on July 3rd?
A. Yes, sir.
Q. And that was in the package that you brought eventually to the D.A.?
A. Yes, sir.

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

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

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

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

BY MR. TEITELBAUM:

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

A. I understand that, sir, with my apologies.
The nature of the questioning this afternoon is causing me to focus on items that I have not thought about in terms of specificity. And when you present documents to me that I do not recall, I am making certain assumptions.

Q. What assumptions are you making regarding those documents?

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

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

INTERVIEWEE: Thank you.

BY MS. TOOHER:

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

A. Immediately following?

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

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

(COMmission's Exhibit 93 was marked for
Q. I am going to show you a document that has been marked as Commission's 93 and ask you if you can identify this document. Can you identify this document?

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

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

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

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

A. I don't.

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

A. I remember having conversations with him, yes.

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

A. I believe he may have, yes.
Q. What did he relate to you in that regard?
A. Exactly that. He believed there was a mixed use.

Q. Did he tell you what his understanding was of the policy on the use of the aircraft?
A. I don't believe it was exclusive use, but I do believe there was some sort of affirmation that was signed that you were conducting legislative business.

Q. When you say you don't think it was exclusive use, what do you mean?
A. You asked me -- Can you repeat the question?
(The requested portion was read.)
A. I believe there was a period of time where mixed use -- there wasn't an affirmation signed. I believe that during the first portion of the year that there wasn't an affirmation; it was a simple request for use of the aircraft. And I believe there was a change in policy at some point in the middle of the year that may have resulted in a declaration in the use of the aircraft.

Q. Where did you get that understanding from?
A. I believe when we went through the documents that I took to the D.A.'s Office because there was
this document that you did have to sign the
affirmation. And I believe that I probably asked
a question about was there some policy before
that.

Q. And, what was your question?
A. I didn't know what that form was. I had
never seen it before, so I wasn't even aware that
there was a change in policy. I was trying to
learn something about the documents that I was
about to present.

Q. And, what did Mr. Dopp say to you?
A. It is my recollection that he had indicated
that there was an affirmation that had to be
signed that indicated the use of the aircraft was
for government purposes.

Q. But you used the word "exclusive" a moment
ago. What does that mean when you say: I don't
believe it was exclusive?
A. Your initial question to me asked something
about what did Darren say about the use of
aircraft.

Q. Um-hmm.
A. And I said that I did not believe it was
exclusive use; that there was some mix of
legislative and government business.

Q. And did Darren ever explain to you that
distinction?
A. I'm familiar with what the distinction is.
Q. What is your understanding of the
distinction?
A. Exclusive use would be that there was no
secondary uses beyond government.
Q. So, it was your understanding that
"exclusive use" -- I think we are almost reversing
it -- that if the plane was used almost
exclusively for political purposes that presented
a problem?
A. You had to sign an affirmation indicating
that your use the aircraft was strictly for
legislative use, that might be a violation of that
policy.
Q. Is that your understanding of what the
affirmation required?
A. That was my understanding.
Q. Did anyone ever explain to you that there
was a different policy in place?
A. Either -- over the course of the last three
or four months I have either absorbed that piece
of information or I was told before, but I couldn't tell you specifically when I knew and when I didn't. I know I was aware of the fact that there was some sort of document that you had to submit and affirm that you were using it exclusively for government purpose.

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

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

Q. How did you come to that understanding?

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

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

A. It is at odds with my understanding that there was a change in policy over the course of the first six months of this year; that there may have been permissible use and then it may not have been permissible. But I don't remember when that
1 particular item came to -- that I came to
2 synthesize that information.
3 Q. I was going to ask how did you gain that
4 understanding.
5 A. I believe it is based on the fact of the
6 volumes of material that I have read in the last
7 three months.
8 Q. When you say the "volumes of materials" what
9 type of material?
10 A. There has been a newspaper story every day
11 about this topic. It's part of my job to read as
12 many newspapers as I can. And I don't often
13 differentiate between one story and the next. But
14 I believe that's where that notion came to my
15 head.
16 Q. I am going to show you what has been marked
17 as Commission's 28G, and this is a flight request
18 form. And I will show you the certification which
19 is contained at the bottom and ask you to take a
20 look at it.
21 MR. CONBOY: Sure.
22 A. Just the one page?
23 Q. Yes. That is the certification. Is that
24 what was shown to you as a flight request form?
A. It may have been. I can't say with certainty.

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

A. Yes.

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

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

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

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

Q. That's why I am asking is there anyplace else that you can tell me you drew the conclusion that there was an exclusivity requirement. Did Mr. Dopp relay that to you?
A. I don't recall if he did.

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

A. Not that I am aware of.

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

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

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

A. Never.

BY MR. TEITELBAUM:

Q. Mr. Larrabee --

A. Yes, sir.

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

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

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

A. I don't remember if I had a conversation with him on the 1st, sir, or if I simply exchanged
Q. Was it your understanding that Dopp viewed the senator's use of aircraft to be in violation of something, some law or policy?
A. I don't know.
Q. Was it your understanding that Dopp viewed the senator's representation on the flight requests that he was doing legislative business as a misrepresentation?
A. I think that may have been the tone of some of the articles that I read, sir, but I don't remember if that was his representation.
Q. Did Dopp express to you at around July 1st what his perspective was on the senator's use of state aircraft?
A. I don't remember him expressing a view on his use of state aircraft. I remember a number of written communications that followed the story, but I don't remember him offering a personal opinion.
Q. From the time he asked you to take documents down to the D.A. on July 3rd -- this is a couple of days after the article appeared --
A. Yes, sir.
Q. -- did Dopp express to you a view as to the propriety of the senator's use of state aircraft?
A. No, sir. He asked me to deliver the documents.
Q. But in addition to that, did he express a view as to the propriety of the senator's use of the state aircraft?
A. I believe the senator -- I don't remember if he did or not, sir.
Q. At any time; is that your testimony?
A. I don't remember him offering a personal opinion about it. I remember him indicating to me that he believed the story worked on by Odato was going to be perceived in an unfavorable light to the senator.
Q. Did Mr. Dopp express to you a perspective on the senator's use of state aircraft that was held by the executive chamber?
A. I don't remember that, no.
Q. So, you have no recollection, it is your testimony, of any perspective being expressed to you either by Mr. Dopp on his own behalf or on behalf of the executive chamber as to the propriety of the senator's use of state aircraft.
1 Is that what you are telling us?
2     A. I don't recall anyone in the chamber
3 offering me any opinion about the propriety prior
4 to the story. There were many people talking
5 about the story and following it. And I know
6 there were many different opinions. But whether
7 or not they were anything other than a personal
8 opinion of those individuals rather than the
9 chamber proper, I don't remember him saying -- I
10 don't remember him making a significant statement
11 beyond the fact that there was mixed use of the
12 aircraft.
13     Q. Did he say that mixed use from his
14 perspective was inappropriate?
15     A. I don't remember if he characterized it as
16 appropriate or inappropriate.
17     Q. Do you have an understanding as to why Mr.
18 Dopp was in communication equation with the D.A.'s
19 Office?
20     A. I don't.
21     Q. Is that a normal job function of somebody
22 who was -- what was his title --
23     A. Director of Communications, sir.
24     Q. -- the Director of Communication to be in
communication with a law enforcement official?
A. I wouldn't say it was unprecedented.
Q. Was it unusual?
A. It may not be common.
Q. In your six months, approximately, working with Mr. Dopp in the executive chamber had he been in communication with any other law enforcement official in this or in any other context --
A. I'm sure he had been.
Q. -- to your knowledge?
A. I'm sure he had been. I don't -- I couldn't put a precise -- well, I do believe during the spring there were a number of tragedies at the State Police. And I remember on numerous occasions myself, Mr. Howard, and Darren were having some sort of communication with Preston Felton about the circumstances involving those shootings involving the incident in Margaretville and a series of tragic circumstances at the State Police.
Q. Fair enough. I need to improve my question. So, my question is: Other than the situation in which Mr. Dopp had prepared documents and given them to you for delivery to the D.A. Soares'
office, are you aware of any other situation in which Dopp took on the responsibility to deliver documents to a law enforcement agency in connection with that law enforcement agency's commencing an inquiry or an investigation?

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

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

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

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

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

Q. Had you ever seen him do that before?

A. I don't recall him doing that before, sir.

At the same time, sir, it wouldn't be for me to speak to the Inspector General on matters related to the award of the thoroughbred racing franchise.

Q. That would your media responsibilities;
A. It was part of my portfolio to work with the I.G.'s office.

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

A. Yes, it did.

Q. And, did you ask?

A. No, I did not.

Q. What led you to have that thought?

A. That it was --

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

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

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

A. Yes, sir.
Q. Why did it cross your mind?
A. Because I thought it would have been handled by the lawyers.

Q. Did you ever get an explanation as to why it wasn't being handled by the lawyers?
A. No, sir.

Q. Did Mr. Dopp ever express to you that it was his view that an investigation needed to commence with regard to Senator Bruno's use of state aircraft?
A. I don't recall that, sir.

Q. You reported to Mr. Dopp?
A. I reported to Ms. Anderson and to Mr. Dopp.

Q. To your knowledge, was Ms. Anderson aware of the communication with the District Attorney's office?
A. I don't think so.

Q. You never mentioned it to her?
A. No.

Q. In the scheme of things of what you do during the day, Mr. Larrabee, wouldn't delivery of documents to the D.A.'s office as part of a commencement of an inquiry or investigation of the Majority Leader of the Senate be a significant
A. It had been disclosed by the chamber, sir, that there was going to be an exchange of documents. How they got there was really inconsequential to me. I have a 17-year relationship with Mr. Dopp. There were very few people working on the floor that day. I had the opportunity to deliver them. I think he may have asked me was I doing anything that morning that had a time constraint to it.

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

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

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

A. No, sir.

Q. And what is your best recollection of where this piece of information appeared concerning the exchange between the executive chamber and the D.A's Office? What is your best recollection?

A. I started to go down a different path.

Would you say it once more for me?
Q. I want to know your best recollection of the source of your information that it was being made public that there was this exchange between the D.A.'s office -- Mr. Soares, and the executive chamber, concerning the commencement of an inquiry or investigation relating to Senator Bruno's use of state aircraft? What is your best recollection? For example, was it a newspaper article or at a press conference, two of the things you mentioned, or was there another source?

Give us your best recollection or have you --

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

Q. Is your understanding that the Soares report that has come out -- I assume you are aware of it --
A. Yes, sir.

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

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

Q. Was it in connection with this?

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

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

A. No, sir.

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

A. I don't know, sir.

BY MS. TOOHER:

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

A. Yes.
Q. -- concerning his comments to the press?
A. Yes.
Q. How did you do that?
A. Shortly -- by telephone.
Q. What were your instructions to him?
A. Let him know that he should probably anticipate calls coming in today and that he should stay focused on those issues that he had already been authorized to speak about.
Q. Do you remember sending him e-mails in that regard?
A. The thing that stays in my head is something about staying tight. It's a phrase I use all the time. That's why it's in my head. It may not be a garden variety phrase that people use, but I use it all the time.

(Commission's Exhibit 94 was marked for identification.)
Q. You have been handed what has been marked as Commission's Exhibit 94. Can you identify this document?
A. Right. It's an e-mail from me to Glen Miner regarding a comment I probably -- regarding a call I probably received from Liz Benjamin at home.
1 She's a reporter with the Daily News.
2 Q. This was sent to your chamber e-mail
3 address?
4 A. Yes.
5 Q. So, you accessed your chamber e-mail at home
6 on that day?
7 A. It may have been on my BlackBerry. It may
8 have been by my chamber e-mail.
9 Q. And the comment, as you read it, "all same
10 standards apply. No comment on security
11 issues" --
12 A. Right.
13 Q. What are the "standards" you are referring
14 to here?
15 A. I don't remember what they were at the time.
16 "No comment on security issues" means we don't
17 discuss matters of security, whether it be related
18 to the Governor or anyone else on a State Police
19 detail.
20 Q. When you say "we don't discuss it" --
21 A. We in the realm of public information
22 officer. It's just not -- It's a habit.
23 Q. Is that an established policy?
24 A. It's one that I have always tried to adhere
Q. Had you advised Mr. Miner of that?
A. Glen is even more conservative about that than I would be.

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

Q. -- you were reiterating something that he would follow anyway?
A. I believe I was underscoring something for him.

Q. And, why did you wish to speak to him?
A. Because I am never confident that an e-mail from a BlackBerry is received.

Q. So, you were looking to speak to him on the security issue?
A. Just to confirm he knew Liz was looking for him.

Q. And that you want him to make no comment on the security issues?
A. That's correct.

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

BY MR. TEITELBAUM:
Q. What do you mean by "security issues"?
A. We don't comment on issues relating to security, I believe. Prior to a story being published it would not be unusual for the subjects of the story, whether it be Senator Bruno in this particular case or any other party that may be related to the story to be granted an opportunity to comment as well. I believe the story started to break on Friday at least in terms of who was notified about it or who was hearing about it. And I believe that on the Friday prior there were some conversations with Glen.

Q. By the media?
A. Yes.

Q. By Odato?
A. Yes.

Q. What was your understanding of what was the discussion between Lieutenant Miner and Mr. Odato?
A. My recollection is that the senator indicated that there had been threats on him.

Q. So, that is your understanding of what Odato spoke to Lieutenant Miner about?
A. I believe so, sir. I don't have terrific recall about this particular item, but that's how
the thinking was on that.

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

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

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

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

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

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

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

A. Yes.

BY MS. TOOHER:

Q. If I can refer you back to Commission's Exhibit 87, Darren Dopp to Christine Anderson and Paul Larrabee, "off-the-record," Mr. Dopp's third paragraph: "Another problem of this claim for security as provided because of alleged death threats we are still adopting but the brass is not aware of such support. No threat assessment was ever requested of the D.A. or made." It appears
that Dopp, at least, was exploring the area of
security and preparing to comment on it at that
time. Had he discussed that with you at all, the
issue of security?
A. No, not that I recall.
Q. Let me ask you this, Mr. Larrabee. Given
the protocol that you have described to me
concerning security issues being out of bounds, in
the fourth paragraph down beginning with "Another
problem" in Exhibit 87 does that fall under the
category of security information?
A. The Hevesi situation was well known to us
because our office handled a significant portion
of the review as Attorney General. We were there
at the time of the Hevesi term so I know what he
is talking about here. The Hevesi situation was
that Mr. Hevesi used a security concern to justify
an improper arrangement. That was something that
was in the public domain.
Q. How about the rest of that paragraph?
A. Yes, sir. Your question about it?
Q. Would that fall under the category of
security issues?
A. It may. The way it is listed here it is
"off the record," sir. It's as if the conversation never took place.

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

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

Q. For security reasons?

A. Yes.

Commission's Exhibit 95 was marked for identification.)

BY MS. TOOHER:

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

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

(Recess: 4:15 p.m.)

Q. Could you identify this document?

A. It's an e-mail from myself to Darren in response to something he had sent me earlier in
the day. And actually, it's from Darren to me, excuse me. And he said: Yes, a lot of people will be reaching out to Glen.

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

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

Q. Should that be: "No comment"?

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

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

A. Correct.

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

A. I did not recall it.

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

A. No.

Q. Did you ever become aware that Mr. Dopp was looking into the security issue with Bruno?
A. No.

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

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

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

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

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

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

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

A. No.

Q. I want to backtrack for one second. Commission's Exhibit 67, the "background" document, was that among the documents provided to the District Attorney's Office?
A. I don't believe so.

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

A. Oh, yes.

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

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

Q. Were you asked about ground itineraries?

A. I don't remember it.

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

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

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

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

Q. Were you asked anything about the Governor's use of the state helicopter and his schedules while using the state helicopter?
A. I may have been.

BY MR. TEITELBAUM:

Q. Were you asked about threat assessments?

A. Yes, sir.

Q. What were you asked concerning threat assessments?

A. My understanding is that a threat assessment review is a global review of risk and reality associated with a particular figure. Subsequent to the July 1st story, I remember taking several calls about had a threat assessment ever been conducted on Senator Bruno. And it was my understanding that subsequent to the 1st of July that no formal threat assessments had been conducted. There may have been incidents that had been investigated. But a threat assessment is a broader situation where the totality of a situation is assessed by professionals rather than an individual complaint that when you are in public life or serve in a public capacity that you may occasionally receive. I don’t know if I would call them threats, but at the very at least you are badgered and you may -- there may be something more serious or sinister at work. But it is
fairly routine in the Legislative Office Building for such a public building and public figures to receive individual, isolated incidents at their office that may be investigated by Capitol police or state police. But the way the threat assessment had been communicated to me was that it was something much larger and more significant.

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

A. They are until they are disclosed publicly.

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

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

(Question from the Commission.)

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

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

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

A. Um-hmm.

Q. In the second line second paragraph, "Is
looking for a source-based quote regarding potential referral to the Inspector General or the D.A."

A. Um-hmm.

Q. Can you explain that?

A. What it means?

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

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

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

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

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

A. Yes, Ma'am. That might be the point that I couldn't recall earlier today that speaks to the fact that someplace I had read that there was going to be a referral to the Inspector General in the end.
Q. "Looking for a source-based quote," can you explain that?
A. It means he wants to attribute it to someone.
Q. And there is no attribution in the chamber at this with regard to referral to the I.G. or D.A.?
A. That's how I read that.
Q. Why would that be?
A. Because it wasn't on the record. It may have been just be a notion. I don't know.
Q. Is there some reason you wouldn't want to release the information that you were referring this to an investigatory agency?
A. I don't know. All I am doing is parroting the question that was posed to me.
Q. So, from your e-mail, I would assume that you had been told you couldn't provide this?
A. That is what "off the record" means. Yes, Ma'am.
Q. Did Mr. Dopp ever explain to you why he didn't want that information disseminated?
A. I do not recall that, no. I don't know.
Q. In the fourth line down you indicate that,
"you would like to respond we routinely provide
the Governor's schedules for public review. And
if it is requested under FOIL we will fulfill that
request."
A. Yes, Ma'am.
Q. Is it that you are now going to require a
FOIL for the Governor's schedules?
A. The Governor's schedule has a lot of
information on it pertaining to both family and
medical issues. And those, because of that
specific -- because of some of those specifics,
when we have released the Governor's schedule it
is redacted and reviewed by counsel.
Q. So, prior to releasing the Governor's
schedule --
A. There are two different types of schedule
that we release. There's what we call the "week
ahead" which is all the governor's public events.
We routinely put it out the Friday afternoon. It
lists where he's going to be, what his schedule of
public events are, there's an event that we plan
on being in Monroe County but don't have a
particular location. It will say TBA or TBD. It
may not list a specific address or venue. Those
are all his public events. That's different from,
you know, there may be what I would call the
minute-by-minute schedule of the Governor. That
has been questioned in the past and has been
provided to the reporters in the past in a
redacted context to protect the privacy of some of
the folks that are associated with it like his
children.
Q. So, prior to releasing the Governor's
schedule you would check with counsel or the FOIL
officer or --
A. Absolutely, yes. That is a physical
document, you know, again, that is multiple pages
in the course of a day. You know, that's
different from somebody saying: Paul, can you
tell me what the Governor's schedule is for today?
It's two very, very different things, two very
different contexts. That's why I have two
different issues with it.
BY MR. TEITELBAUM:
Q. In Exhibit 96, Mr. Larrabee, the second
paragraph, I infer from this that the subject of a
potential referral to the Inspector General and
D.A. was a subject that came up between you and
Mr. Karlin when you had your conversation with him.

A. Yes, sir.

Q. And did you tell Mr. Karlin that without attribution that there was going to be a referral to the Inspector General or D.A?

A. I don't remember if I did or didn't, sir.

Q. How did the subject come up?

A. I may -- I very well may have, sir. I just don't recall.

Q. At that point in time your knowledge, I take it, a referral to the Inspector General or D.A. came from Exhibit 87? You had mentioned that; is that right?

A. It may have, yes.

Q. Is there another source from which you learned that there was going to be a referral to the Inspector General or D.A. on July 1st at 8:12 in the evening?

A. I don't have anything else in front of me, sir.

Q. Did Darren Dopp tell you that?

A. I don't remember.

Q. Is it fair for us to conclude from these
e-mails that by July 1st at 8:12 your
understanding was that there was going to be a
referral to the I.G. or D.A.; correct?
A. My note says "potential referral." It
doesn't say there is going to be one.
Q. Fair enough; that there was a potential
referral to the I.G. or D.A. in the works on July
1, 2007 at 8:12 in the evening, and you had
knowledge of that?
A. Apparently sir. What I don't know is
whether Rick asked me that based on a conversation
I had or someone else that he may have had a
conversation with that afternoon or that day.
When that story came out I assume two or three
different reporters at the Times Union jumped on
the story to follow Mr. Odato's lead. And they
may have spoken to a variety of folks throughout
state government or sources that they have.
Q. Who else were they are speaking to in the
executive chamber on July 1st besides yourself?
A. I don't know, sir.
Q. Were they speaking to Dopp; do you know?
A. I don't know.
Q. Do you have any reason to believe that at
8:12 on the evening of July 1st was the first time
you learned of a potential referral to the I.G. or
the A.G. from Rick Karlin? Do you have any reason
to believe that that was the first time you
learned about that?
A. You see, we have this other document that I
am not going to contradict.
Q. Do you mean 87?
A. Yes, sir.
Q. Had you read 87 at 8:47 in the morning? Let
me put it this way. Before 8:12 in the evening?
A. I'm sure I did that.
Q. So, before Exhibit 96 was received by you --
or sent by you, I should say -- you knew that
there was a probability of a quick move, perhaps
as early as July 2nd, to have appropriate
authorities -- the I.G., Attorney General, and
District Attorney -- commence an investigation of
Senator Bruno's use of the state aircraft?
A. I know the document was sent to me, sir. I
don't know that I had read it much prior to 8:12.
Q. Is there a reason for you to believe that
you read the July 1, 2007 8:47 a.m. document,
Commission's 87, after you sent Exhibit 96 in
which you referred to a potential referral to the
I.G. or the D.A.?
A. It was a Sunday, sir. I don't know if I
read all of these in any kind of sequence or not.
I don't know if I was reading them off my
BlackBerry or not. I don't know what else I was
doing on that Sunday, sir. I can't tell you that
I read them in that sequence. I don't remember.
Q. But you did read 87, is that correct, before
today?
A. Sir, I have not seen this document.
Q. I don't mean the document. I mean the
e-mail.
A. No, sir. I did not recall this document
until you showed it to me today.
Q. Do you recall it now?
A. I believe I do, sir. But I can't with
crystal clarity say to you I read this document on
July 1st.
Q. But you sent the 8:12 document, 96. You did
send that; right?
A. Yes, sir.
Q. So, you were working on your e-mail on July
1st; right?
A. Yes, sir.

Q. And Darren Dopp was your boss?

A. Yes, sir.

Q. Christine Anderson was your boss?

A. Yes, sir.

Q. And would your e-mail have indicated that 87 was an e-mail from Dopp and Anderson on the screen?

A. 87 would have -- -

Q. As you looked at the screen -- I don't know what kind of computer you have, or BlackBerry, but it would tell you who is sending an e-mail to you? Mine does; I assume yours does.

A. Yes, sir.

Q. July 1st was a pretty special day aside from it being a Sunday?

A. Sir, not really.

Q. A very important story broke that day.

A. In retrospect, sir, it wasn't that unusual.

Q. On July 1st you were on deck, as it were;

A. I don't know if I was on call or not, sir.

Q. Let's see. We have here several e-mails that you are receiving on July 1st and you are in
contact with reporters and you are in contact with
the State Police on July 1st; is that correct?
A. Yes.
Q. Do you infer from that that you were on
call?
A. No, sir.
MR. CONBOY: Could I just point out this
e-mail at 8:12 p.m., Commission's 96, expressly
acknowledges that you had received an e-mail prior
to that day, you note from this a.m. And it tells
everyone that he read that, even though he doesn't
recall it.
MR. TEITELBAUM: That transcript is
going to be what it is.
INTERVIEWEE: I'm not denying that I
read it, sir.
BY MS. TOOHER:
Q. Do you have a follow-up article in the New
York Post by Fred Dicker on the same topic of
Senator Bruno's travel?
A. There were hundreds of pieces by Fred Dicker
on this topic. Maybe not "hundreds" but at least
scores.
Q. Do you recall a follow-up article in the
Post that drew attention to the activities of the executive chamber directly after the July 1st Times Union article?

A. Again, there were several. You would have to help me. I don't know.

Q. I'm showing you what has been marked as Commission's Exhibit 53, and ask you if you have seen this document before. Are you familiar with this article?

A. I remember the story.

Q. Are you aware as to whether or not Darren Dopp issued a public statement in response to this article?

A. I know that there were several statements from Darren issued the week of the 2nd.

Q. I will show you what has previously been marked as Commission's Exhibit 9. I will draw your attention to the second page and ask if you are familiar with this statement as issued by Darren Dopp on July 5th.

Pause taken

A. Yes.

Q. Yes, you are?

A. Yes.
1     Q. Is that an accurate statement?
2     A. I don't know.
3     Q. Were you ever aware as to whether or not the
4 State Police had been asked to do anything other
5 than follow standard operating procedure?
6     A. I'm not aware of that.
7     Q. Are you aware that the State Police was
8 asked to recreate documents?
9     A. No.
10    Q. You are not aware of that?
11    A. I wasn't aware of that.
12    Q. Are you aware of that now?
13    A. Yes.
14    Q. How did you become aware of it?
15    A. I read about it in the Attorney General's
16 report.
17    Q. Have you discussed that with anyone in the
18 executive chamber?
19    A. The reason I am pausing is because for the
20 last three months these topics have been talked to
21 death around the water cooler and everyplace else
22 in the executive chamber. So, the answer would be
23 yes.
24    Q. Have you discussed it with Darren Dopp?
A. I have not had a conversation with Darren Dopp since the Friday before his suspension.
Q. Did you discuss the recreation of State Police documents with Darren Dopp?
A. No.
Q. Have you discussed it with Christine Anderson?
A. No.
Q. Have you discussed it with David Nocente?
A. Not that I am aware of, no.
Q. Have you discussed it with Richard Baum?
A. No.
Q. Have you discussed it with William Howard?
A. No.
Q. Who have you discussed the recreation of documents by State Police with?
A. I have not discussed the recreation of documents with anyone other than a characterization that there had been stories written about it.
Q. So, you have not discussed the documents themselves?
A. No, Ma'am.
Q. And the statement, "A similar procedure is
followed when the State Police are driving the
Governor and others concerning the keeping of
records," are you aware as to whether or not that
is an accurate statement?

A. I do not know.

Q. Have you in providing responses to requests
for travel documents ever provided the ground
schedules of the Governor?

A. Ground schedules of the Governor -- I'm not
familiar with what you mean when you say "the
ground schedules." There are daily advisories
that are distributed that talk about the
Governor's program -- what his public program is
for the day, whether it be a speech to the Chamber
of Commerce or whether it be a press release. I'm
not sure what you mean when you say "ground
schedule."

Q. When you were asked to provide documents in
response -- you were originally asked to provide
documents concerning executive travel by Fred
Dicker you provided the manifests?

A. Yes.

Q. And, you didn't provide the ground schedules
of the Governor at that time; is that correct?
A. That's correct.
Q. Have you had any subsequent requests for travel documents?
A. Aviation?
Q. Yes.
A. I believe so.
Q. In the aviation requests have you ever provided the ground schedules of the Governor?
A. Not that I am aware of.

BY MS. SULLIVAN:
Q. You testified that prior to the July 1st article you knew that the article would negatively portray the senator.
A. Um-hmm.
Q. Was there any concern prior to the July 1st article that the article would negatively portray the Governor?
A. I don't know what the content of Mr. Odato's article, where it started and stopped. I know one of the subjects was Senator Bruno. I didn't know that it was exclusively related to Senator Bruno. I know that there had been mixed use of aircraft by a whole host of state officials in the past.
Q. Did you discuss the Governor's use of the
1 aircraft with Darren Dopp?
2 A. I may have indicated that hasn't this been
3 done previously, or something of that nature.
4 Q. Was Darren Dopp concerned prior to the
5 article that it would negatively portray the
6 Governor?
7 A. I don't believe so. He didn't express it to
8 me. I don't know what he thought, but he didn't
9 express it to me.
10 BY MS. TOOHER:
11 Q. Have you discussed your testimony here today
12 with anyone prior to coming here today besides
13 your attorney?
14 A. No.
15 Q. Have you discussed it with anyone in the
16 executive chamber?
17 A. My testimony --
18 Q. Yes.
19 A. -- or review of records?
20 Q. That will be my next question.
21 A. No. I have not discussed my testimony.
22 Q. Did you review documents with anyone before
23 you came here today in the executive chamber?
24 A. Prior to the retention of Mr. Conboy, yes.
Q. Prior to the retention of Mr. Conboy?
A. Yes.

Q. What documents did you review?
A. There were a series of e-mails, some of which -- virtually every one of these are ones I have not seen. There were e-mails, flight manifests, things like that, some index card notes.

Q. Index cards notes concerning what?
A. Phone number for the District Attorney's Office, the business card of Mr. Stein, those kinds of things.

Q. From where had you received those documents?
A. Where I received them?

Q. Where did the documents come from?
A. From my desk. They were in response to requests for information from, I believe, this office and the District Attorney's office and the Inspector General's Office and the Attorney General's office.

Q. With whom did you have the document review?

MR. TEITELBAUM: You can answer.

A. Peter Pope, Sean Maloney -- that's it.
Q. When was this?
A. Mid July, sir.

Q. And, when did you retain present counsel?
A. Wait, that's wrong. In August.

MR. CONBOY: In August.
A. The Attorney General's report came out on
the 23rd of July. I know there were conversations
maybe the week before that.
Q. That's when the review took place?
A. Yes, sir.

Q. At some point in time did you have
conversations with persons in the executive
chamber concerning your coming here today and
giving testimony?
A. No, sir.

MR. TEITELBAUM: Thank you for coming
in.

MS. TOOHER: Thank you very much.
(The interview was concluded at 5:00
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 hereinafore 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 hereinafore.

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 this 17th day of October, 2007.

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