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

Friday, October 5, 2007
10:15 a.m.

STENOGRAPHIC RECORD of an Investigative
Interview conducted pursuant to agreement

INTERVIEWEE: RICHARD BAUM

APPEARANCES: For the Comission:

HERBERT TEITELBAUM, ESQ.
Executive Director

MEAVE M. TOOHER, ESQ.
Investigative Counsel

JOAN P. SULLIVAN, ESQ.
Investigative Counsel

PRESENT: ROBERT SHEA, Investigator

MANATT, PHELPS & PHILLIPS, LLP
Attorneys for the Interviewee

BY: STEVEN F. REICH, ESQ.

REPORTED BY: Certified Shorthand Reporter
RICHARD BAUM,
called to appear before the Commission, and being
duly sworn/affirmed by the notary public, was
examined and testified as follows:

EXAMINATION BY MS. TOOHER:

Q. Would you state your name for the record, please.
A. Richard Baum, B-a-u-m.

MS. TOOHER: Would you like to note your appearance?

MR. REICH: Sure. I am Steven Reich. I am counsel to Mr. Baum.

Q. You are here voluntarily today; is that correct, Mr. Baum?
A. Yes.

Q. And, where are you employed?
A. Governor's Office, the Capitol in Albany.

Q. What is your position?
A. I am Secretary to the Governor.

Q. What are your duties in that position?
A. Several. I guess I would divide it between assistant to the Governor in his decision making. I also manage the decision making structure, the flow of information to him to allow him to make
decisions, make sure opinions reach him in a form where he can make appropriate decisions. And, in the other direction outward toward the government, making sure the Governor's decisions and inclinations are carried out throughout the government.

Q. And, where are you in terms of the hierarchy of the chamber? And when I say the "chamber" I mean the executive chamber.

A. I report directly to the Governor. Most of the chamber, I believe, except for the Counsel and Lieutenant Governor reports to me.

Q. The counsel being --

A. David Nocente.

Q. Mr. Nocente also reports directly to the Governor?

A. I believe if you looked at our organizational chart, that's the way it would work, correct.

Q. And do you know a Darren Dopp?

A. I do.

Q. In what capacity do you know Mr. Dopp?

A. He was the Communications Director when Governor Spitzer was Attorney General, and he was
Communications Director when Governor Spitzer took office.

Q. For the purposes of the record, when did Governor Spitzer take office?
A. January 1st of this year.

Q. And, Mr. Dopp joined him at that time?
A. Yes.

Q. And you joined him at that time as well?
A. Correct.

Q. And what is your relationship with Mr. Dopp in the chamber, your reporting relationship?
A. He reports to me -- reported to me.

Q. And he is no longer the Communications Director?
A. I don't know officially. I don't know how it's listed. Right now, I suspect that he's still listed as Communications Director in payroll. But he's not acting as Communications Director.

Q. What you know of his current status?
A. I know -- I've been recused from these matters, But I know from reading the newspaper that he has basically been collecting his vacation pay right now. He is not coming to work every day. He is home as if on vacation.
Q. Do you know approximately the date at which he was no longer in the office?

A. The date that the Attorney General's report was released; I actually don't know precisely what date that is.

Q. What is your understanding of Mr. Dopp's duties?

A. He oversaw direct -- he oversaw the press secretary who is largely more responsible for the day to day interaction with the press, responding to the dozens of questions that come in every day; at times, did that function himself as well responding to various issues, and oversaw the general what you call communications strategy.

Q. Were his duties limited to communications in media?

A. Yes, although, you know, if everyone is in a meeting it's not like he couldn't comment on a policy matter, but that was his responsibility.

Q. And, is that somewhat the policy in the chamber, if everyone is in a meeting they put their opinion in or are free to speak if they have an opinion on something?

A. Yeah. I think people generally realize they
are mostly responsible for their area but, sure.  
You know, it is not -- yes. It's an environment 
where people can speak out and give an opinion if 
it's not directly their sphere of responsibility.
Q. Is Mr. Dopp an attorney; do you know?
A. No.
Q. Are you an attorney?
A. No.
Q. In Mr. Dopp's media responsibilities did he 
have investigatory functions?
A. No, not that I know of or that he was 
directed to by anyone else.
Q. And you were his direct report?
A. Yes.
Q. Are you familiar with William Howard?
A. Yes.
Q. Do you know where Mr. Howard is currently 
employed currently?
A. I think the State Office of Emergency 
Management, I believe, but I'm not certain. He is 
I think he's in SEMO.
Q. Was he previously located in the executive 
chamber?
A. Yes.

Q. What was his position there?

A. He was Assistant Secretary for Public Safety.

Q. And, what was his working relationship with you?

A. He directly reported to Michael Balboni who was the Deputy Secretary for Public Safety. Assistant Secretaries report to Deputy Secretaries, so he didn't have a direct reporting relationship with me. Because of the area that he was responsible for which include areas like SEMO, Homeland Security, State Police, at times he came to me directly when a matter had to be brought to the Governor quickly, if there was a highly sensitive matter the governor should know about.

Q. So, would it be fair to say that Mr. Howard felt comfortable coming to you on issues that he felt needed to be brought to the Governor's attention?

MR. REICH: You can say your perception, but you can't testify about what Howard thought.

A. Yes. I don't know what he thought. Yes, he came to me on matters that were clearly matters
that needed to come to the Governor; public safety
issues. Sometimes areas in his purview were
things that were moving quickly, so it was hard.
He wouldn't initially go to the typical meetings
and reportings and memos and all that stuff,
Someone had to tell someone, someone had to get to
the governor to get the governor to know something
or other.

(Recess taken)

INTERVIEWEE: You know, I can't tell you
what he was thinking, but I know he would come to
me whether there was an important or
time-sensitive matter, essentially, that had to
reach either me or the governor. And, because of
the area or sensitivity of what he dealt with,
sometimes he would come directly to me on an
as-needed basis because events could be moving
quickly in his area.

Q. Where was Mr. Howard's office physically
located --

A. On the second floor.

Q. -- in proximity to you?

A. On the same floor kind of the opposite side
of the second floor but it's, you know, all the
same floor.

Q. What about Mr. Dopp's office?

A. On the second floor as well, nearer than Mr. Howard's.

Q. Nearer to Mr. Howard?

A. Nearer to me than Mr. Howard's was, but all a walkable distance on the same floor.

Q. And how often would you say on a weekly basis would you meet with Darren Dopp?

A. Very frequently. Most mornings I would touch base with him just to review what's in the newspapers, what's coming up, the communications issues the next day or next week. And, on an as-needed basis during the day. If it's a slow news day not that much. If there was a lot going on, a lot if incoming questions or some controversy we would talk more frequently.

Q. What about Mr. Howard? How frequently would you meet with him?

A. Much less frequently. It tended to ebb and flow depending on what was going on in his area. Not on a daily basis and not necessarily on a weekly basis unless -- but, then, it could be a few times a week if there was something important
Q. Now, when Governor Spitzer came into office in January did he set up office protocols as far as -- there has been a lot of discussion about openness and transparency.

A. There was a general statement to the press and the public that -- I don't recall if it was written or not -- that we would try to be more open than the previous administration had been perceived, mostly to the press but to the public also on a range of matters ranging from FOIL to access to what is called the "Hall of the Governors" where we all work.

Q. On FOIL what was the approach on that issue for the chamber?

A. Generally, being more open and a general pledge that the press office would help to get the press what it was looking for when appropriate on a timely basis. The critique of the previous administration that the press took particular umbrage that it could take them a long time to get a FOIL, a long time to litigate and it was just difficult.

Q. Was a FOIL officer set up in the chamber at
that time?

A. Yes.

Q. Who was the FOIL officer?

A. I should correct that. I don't know if that person became the FOIL officer the day we came in. I am not involved in the specifics of how FOIL is materialized or who it goes to and all that. I know ultimately there was a FOIL officer who was Maria Treisman.

Q. Is it Maria or Mariah?

A. I think you might be right. It's Mariah. I'm not certain.

Q. Treisman?

A. I think so.

Q. And what is the earliest you can place Ms. Treisman as the FOIL officer?

A. Sometime since we have been here. Certainly not -- it could have been -- I have no recollection of a specific moment when I knew she was there.

Q. Is it within the last month or two or was it earlier in the administration?

A. Earlier, because when there was a FOIL that could pertain to me I would get an e-mail saying:
Do you have any responsive documents, it would be from her. I don't know her.

Q. When you say you don't know her, you have never met her?

A. I recognize her in the hallway. I don't know if we have ever spoken.

Q. At some point you started getting e-mails in FOILS pertaining to you?

A. Yes.

Q. And, is that your understanding of how the FOIL process works in the chamber?

A. You know, as I said, I was never involved in the mechanics of it, who the request went to and who spoke to who. I honestly couldn't tell you how it works precisely or how it worked. I'm more conscious of how it works now because of this whole issue.

Q. What type of an e-mail would you get from Ms. Treisman?

A. A FOIL seeking documents pertaining to -- I can't even think. You know, what to do about the prisons, I mean anything. Do you have anything responsive to this? If so, please forward.

Q. Would you receive all FOIL requests that
came to the chamber or notification?

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

Q. How frequently do you get e-mails from Ms. Treisman?

A. Infrequently.

Q. Infrequently, maybe once a week? Once a month?

A. Once a month, twice a month.

Q. Now, you indicated, though, that there were discussions about or statements in the chamber about FOIL and easing up on the FOIL requirements; is that correct?

A. I don't know if I would classify it as "easing up on FOIL requirements." It was assisting in the production of FOILS, being clearer. I guess the word probably that would be used at the time -- I don't know the precise word. I guess the word I would probably use now to describe preparing FOILS is more clearly and more timely than we were doing. If we are producing something, say, whatnot, getting an answer on a timely basis.

Q. Did you have staff meetings on this issue of FOIL?
A. I did not. I don't recall ever being at a staff meeting on that.

Q. So, how did you get this understanding as far as easing up or -- I keep using that word and I apologize -- the transparency issue with FOIL?

A. I don't recall a specific discussion. I know ultimately Darren Dopp told the press we are going to do a number of things to be more open, and this was among them.

Q. Did you discuss that with Darren, the FOIL and the presentation to the press?

A. I don't recall a specific discussion about it. I know I was told, you know, we are going to be saying we are opening up. It was a campaign promise also from the governor to the press, really, that we were going to be more open. So, it was a natural thing to do. I think I was probably just told we were saying it.

Q. When you say you were told, who told you?

A. Probably Darren.

Q. Was there ever any writing or written memo, to your knowledge, about FOIL and the processes in the chamber?

A. Not that I know of, no. But that wouldn't
-- typically I wouldn't be managing how FOIL is produced or what the regulations are. I'm not an attorney. And even if I was, given my job I wouldn't engage in the specifics of production.

Q. Okay. But, to your knowledge, was staff in the press office ever given any information or a memo of any kind concerning FOIL and the needs of the chamber in that regard?

A. Not that I know of. I don't know.

Q. And, do you know Marlene Turner?

A. Yes.

Q. How do you know Marlene Turner?

A. She was the scheduler for the Attorney General's office. And she is, you know, what's called Chief of Staff to the Governor.

Q. And, do you know what her duties are?

A. Yes. She manages what I call the space around the governor. She manages his movements, his schedule, the flow of paper and documents to him, the flow of people in and out of his office, the advance, and events.

Q. And, do you know what her responsibilities are as far as executive travel?

A. She coordinates it.
Q. And, when you say "she coordinates it," do you mean just for the Governor?

A. She coordinates it for the Governor and she coordinates it for the Governor. And I think in this area that we are going to lead into, she also ended up coordinating use of the helicopter when it was requested by people outside of the Governor's office.

Q. Do you know her responsibilities in terms of coordinating the use of the helicopter?

A. Not specifically. I know it was her general area, purview.

Q. Did you have any discussions as the chamber was coming in and setting up practices and protocols about the use of the helicopter and the state planes?

A. I don't recall anything specific. I know the form was modified in some way, the request form.

Q. Do you know how that came about?

A. I don't. I know -- I don't know specifically. I believe counsel's office modified it.

Q. When you say "counsel's office" do you know
who worked on that?

A. No, I don't recall.

Q. And what was the modification of the form?

A. I don't recall. It was generally -- the upshot was that it was right after the Hevesi matter and it was to get greater -- I don't know what the word is -- accountability about the use of public vehicles.

Q. And, do you recall ever having discussions with Ms. Turner or anyone else in the chamber concerning that accountability issue and the use of the helicopter and planes?

A. I don't recall any.

MR. REICH: Just to be clear, do you mean during the initial part of the administration?

MS. TOOHER: Yes.

MR. REICH: Okay.

A. I don't recall any right now. Obviously, I remember -- I am telling you something that I remember so I had some discussions. I just don't remember any specific discussions.

Q. So, you do remember having discussions but not particular discussions?
A. What I was telling you just now is the product of someone talking to me and me talking to somebody at some point, but I don't remember exactly what the give-and-take was or anything like that.

Q. So, you did participate in those conversations. You recall having some level of discussion?

A. I recall knowing that we were changing the form and that the point was to make sure it was responsive to what had gone on in the Hevesi Hevesi matter.

Q. I'm sure there were a lot of things going on.

A. I'm sure I found out by talking about it with someone, but I don't recall the give-and-take or with who precisely.

BY MR. TEITELBAUM:

Q. Mr. Baum, you said at the beginning of your testimony that you were recused from these matters. Could you just elaborate on that for us, please.

A. The issue of what to do about Darren Dopp's employment since he has been suspended, I was not
involved in that. If he were to be brought back, what status he would be brought back in or whether he would be terminated.

Q. Were you told why you were recused from that area?

A. In the conversation I had with David Nocentini there was nothing that -- You know, in general since I'm here as some kind of party to this, it didn't seem -- I think he felt it wasn't wise.

Q. At what point in time did the recusal occur?

A. I don't remember; after he was suspended. I don't remember when I was told.

Q. Soon after the issuance of the Attorney General's report?

A. No, because the issue of what would happen next didn't come up for at least a month. When it started to come up in the chamber. And just to be clear -- I'm not sure what you were asking. I was also recused for largely -- I don't know if I was technically recused, but I was not consulted in the decision of his suspension either.

Q. Did you ever learn why Darren Dopp was suspended?

A. Well, why the Governor and counsel's office
decided to suspend him, you mean?

Q. Yes.

A. As I said, I was not part of that discussion. It was essentially made over a weekend when I basically wasn't around. My sense was it was because of the disclosures in the Cuomo report.

Q. Did you learn what particular disclosures in the Cuomo report were the bases for the suspension?

A. No. I never had a discussion as to, okay, what were you thinking that weekend.

Q. I don't mean from Mr. Nocente or the decision makers concerning Dopp's suspension. I mean from anybody on the second floor, did anybody explain to you why you were --

A. Those would be the people who would know would be the counsel's office and the Governor. No one else really knew or was involved in the decision. It was the lawyers. Peter Pope who was not technically with counsel's office but, for all intents and purposes was working with them.

Q. Concerning the e-mails that were sent to you requesting documents in connection with FOIL
requests, and I mean generally, was Treisman the
person who, as a matter of course, would be the
one who would be sending you that e-mail?
   A. Yes.
   Q. Anybody else?
   A. No, not that I recall.
   MR. TEITELBAUM: Okay.
   BY MS. TOOHER:
   Q. Let's get back to the helicopter issue and
the use of the chopper. After you initially came
in and there were changes on the certification
requirements --
   A. Um-hmm.
   Q. -- did you have specific meetings with
individuals in the chamber staff concerning the
helicopter and the use of the airplanes?
   A. No. I don't recall any specific meetings on
that.
   Q. Do you recall ever meeting with Preston
Felton concerning air travel and on use of the
helicopter?
   A. No.
   Q. Do you recall a meeting with Olivia Golden?
   A. I don't recall a meeting on that, no.
Q. Do you have any recollection of discussing this issue with William Howard at some point?
A. I don't recall ever discussing it with him.
Q. And were you ever asked to review decisions concerning the use of the helicopter?
A. It didn't -- I don't recall. I now know from looking at the document production here that I received a few e-mails saying, hey, is it okay that Senator Bruno is using the helicopter. It wasn't an issue that I dealt with or spent any time on.
Q. Why would you receive e-mails asking is it okay if Senator Bruno uses the helicopter?
A. I don't know precisely why I received those e-mails. All I could say is that he was using it a lot so periodically it would bubble up. And so the question is: Is it okay that he is using it this much? In my view it was. As long as the proper forms were filled out it's fine with me.
Q. When you say "he is using it a lot" what do you mean by that?
A. Frequently. Basically, weekly it seemed he was using it, I guess.
Q. How did you come to know that?
A. I don't recall specifically. I just recall the general sense that he was using it quite frequently. The Speaker didn't use it at all, so it was a contrast I suppose. And, I said, that's my supposition about why I received those e-mails.

Q. Did Marlene Turner tell you when Senator Bruno was using the helicopter?

A. Not typically.

Q. And, what was your decision making process in responding to her inquiries?

A. I didn't really have a process. My view was it's fine as long as he fills out the forms.

(Commission's Exhibit 37 was marked for identification.)

Q. I am going to show you an e-mail that has been marked Commission Exhibit 37. It's an e-mail from Marlene Turner dated April 30, 2007. Can you identify this document?

A. I didn't remember seeing it until I saw it as part of the document production here. But it's an e-mail to me.

Q. Do you recall receiving this e-mail?

A. No.

Q. But it went to you, Richard Baum NYEC. Is
that your e-mail address?

A. Yes.

Q. Is that where Ms. Turner would regularly e-mail you?

A. Yes.

Q. Is there any other address that she would e-mail you at?

A. Not typically, no.

Q. So, if Ms. Turner sent this e-mail to you --

A. I would get it.

Q. You would get it. And the date, 4/30 2007, does that refresh your recollection at all as to decision making on Senator Bruno's use of the plane --

A. No.

Q. -- or the helicopter?

A. No.

(Commission Exhibit 38 was marked for identification.)

Q. I am going to ask you to look at Commission's Exhibit 38, which is an e-mail from Marlene Turner 4/30 2007. The time is now 5:57 and there is a thread of e-mails. Could you identify this document?
A. When you say identify, do I believe it's a

Q. Do you know what this document is? Have you
seen it before?

A. I have seen it before, yes.

Q. Can you tell me what it is?

A. I mean I didn't recall receiving until I saw
it as part of this investigation. But it's an
e-mail to me with a number of issues that she
needed to discuss, including the Bruno helicopter.

Q. Do you recall why she wanted to speak to you
about the Bruno helicopter?

A. No, not specifically. Although, as I said,
I assume it's generally that: Is it okay that
he's using it again.

Q. And, again, why would she be asking you this
question?

A. I don't know any specific reason other than
it was frequent and she wanted to make sure it was
okay.

Q. And, do you recall discussing with her
whether or not it was okay?

A. I don't recall this specific conversation
that ensued from this. But I recall generally
telling her when it came up that it was fine as long as he filled out the forms. I believe he was using it frequently. It's only April and we're fairly new and she was asking if it's okay.

Q. And, your understanding as to the frequency of the use of the helicopter, what is that based on?

A. I assume -- I don't remember a specific conversation. But I'm sure Marlene told me, yeah, he's using it a lot.

Q. Did you have discussions with anybody else in the chamber about the frequency of his usage?

A. I don't recall having any.

Q. And, is there anything that you would consider in deciding whether or not it was appropriate for him to be using the helicopter?

A. No. As I said, I felt that as long as he filled out the form and attested it was for an appropriate purpose it was fine with me.

Q. Did you receive copies of those forms when Ms. Turner forwarded this information to you asking if the senator could use the helicopter?

A. No.

Q. Did she provide you with any additional
information besides the information contained in
the e-mail?

A. No. My position was as long as the form is
filled out, it's fine with me. So, I'm sure she
would have told me that was not filled out.

Q. Did you relay that to her in any way?

A. In general, I believe I told her that that
was my position. I don't remember the dialogue
about it.

(Commission Exhibit 39 was marked for
identification.)

Q. I will show you what has been marked as
Commission's Exhibit 39. It's an e-mail. Again,
the thread begins with Marlene Turner, 5/01/07 at
5:55 p.m. Can you identify this document?

A. It's an e-mail from Marlene Turner to me.

Q. Have you seen this document before?

A. I have seen it. I obviously received it.

And I have seen it again in the process of this
investigation.

Q. And in the thread of the e-mail it starts
with, "Last chance. Anything changed today for
Bruno and the helicopter flight approval?" And,
then, there's a response, "Eliot agrees we should
okay." Do you recall sending that to Ms. Turner?
A. No.

MR. REICH: Wait a second. Take a look at the e-mail.

MR. TEITELBAUM: I don't think it's a response.

MR. REICH: It's from Turner to Bill. You are asking: Do you remember receiving it?

MS. TOOHER: Yes.

Q. And, do you know why Ms. Turner would send you this e-mail?

A. Well, my supposition is that I failed to respond to this one. I had been unresponsive there, so she's telling me if I have anything to say I should say it now. I think in general -- I don't remember, again, the specifics. I think I called her and said, "Fine with me if he fills out the form." And she wrote back and said, "The Governor agrees it's fine."

BY MR. TEITELBAUM:

Q. Mr. Baum, just so the record is pristine here, when you say "this one" you are talking about the e-mail that was sent at 5:25 p.m., the one at the bottom of 39?
A. Yes, I believe so.

MR. TEITELBAUM: Okay.

BY MS. TOOHER:

Q. And, then, at 5:55 there is a subsequent e-mail, "Eliot agrees we should okay." Were you aware Ms. Turner was discussing Senator Bruno's use of the helicopter with the Governor?

A. I don't recall. Obviously, I got the e-mail. I don't recall if she said "I'm going to check with Eliot" or anything like that.

Q. Would Ms. Turner have discussed it with you before she went to the Governor on this issue?

A. I always assumed implicit in this e-mail that Eliot agrees with me that it's okay, so I assume we had spoken before she got back to me and said: Eliot agrees. It's okay.

Q. But, you don't recall having any conversation with anyone beyond Ms. Turner concerning the uses of the helicopter on May 1st?

A. On May 1st, no, I don't recall.

Q. And, to your knowledge were any standards set up for determining whether or not it was acceptable for the senator to use the helicopter beyond filling out of the form?
A. No, none that I recall beyond the original form and whatever discussions occurred within the chamber at the beginning of the administration.

Q. Did you discuss the use of the helicopter in early May with Mr. Howard at all?
A. No, not that I recall.

Q. Do you recall what Mr. Howard's employment position was in early May as far as the chamber?
A. Assistant Secretary for Public Safety.

Q. Were there conversations at that time about whether or not he would be remaining with the chamber?
A. I don't remember the date, but around then there were conversations about whether he would stay there on a temporary basis. At some point we decided to make him permanent.

Q. And, it was around early May that that decision was made?
A. April or May; I don't recall. I wouldn't want to say early May. I'm not certain.

Q. Did you personally meet with Mr. Howard in that decision making process?
A. Yes.

Q. And, did you have discussions with him about
what he could bring to the chamber?

A. Not specifically because we had been dealing
with each other up until then so it wasn't -- if
you mean like a job interview kind of thing, no.

Q. What sort of discussions did you have, if
you recall?

A. I had discussed his -- I had been
interacting with him in his job up until then.
So, I knew enough about him that I wouldn't have
sat down and said -- okay, he understood what we
would be expecting from his job, I think.

Q. Did you discuss the use of the helicopter
with Mr. Howard at that time?

A. No, I don't think so. I don't recall
discussing it with him.

Q. And, did he discuss his prior experience
with the Pataki administration with you during
that time frame?

A. In general -- I'm sorry. Tell me what
you're --

Q. Did he discuss his prior experience with
you?

A. As generally what he does, his work?

Q. Yes.
A. Not in that time frame. When he started my concern was that no one on our team that was entering had a background really in what we call homeland security, anti-terrorism, or anything regarding police work. And that had been one of his areas of responsibility. And, although he was with the prior administration I was concerned about something happening when we came having no one available to us who understood the bureaucracy, the players, strengths and weaknesses and all that. So, I asked him to stay on at least temporarily. As he stayed on, I felt and the Governor felt he was doing a good job. So, at some point we decided to keep him.

Q. And when you say you started to feel he was doing a good job, what were the types of things that were influencing your decision in that regard?

A. It was just our general interaction; his level of knowledge. He seemed to be able to evaluate situations well and give candid opinions about them. He seemed to manage other people well who were reporting to him.

Q. And, did he ever bring up the issue of the
helicopter and executive travel?

A. I don't recall ever discussing it with him.

MR. REICH: You mean during that time frame?

MS. TOOHER: Yes.

A. I know there were e-mails to me from him but I don't recall talking to him about it.

(Commission Exhibit 40 was marked for identification.)

Q. Showing you Commission Exhibit 40, an e-mail marked Richard Baum, 5/01/07 to William Howard. And it's an earlier thread from William Howard on the same date. Date do you recognize this document?

A. Yes. It's an e-mail from Bill Howard to me.

Q. And you responded to this e-mail?

A. Yes.

Q. When you say "appreciate how much you have contributed" what were those contributions at this time?

A. You know, the management of the State Police and Homeland Security, SEMO, the effort to understand what was going on there and to explain to us what was going on there, to make sure the
Governor would be prepared and I would be prepared and other people would be prepared in case there was a natural disaster or human disaster, you know, like what happened in Margaretville. There was a big shootout with the State Police, and a terrorist attack which obviously could happen in that time period. I don't know if at that time the Margaretville situation had happened yet. And, also, there was flooding in Delaware County. But, in general, he was good. When we had him in those situations he was good and responsive.

Q. On State Police issues did he discuss with you areas he felt needed to be addressed in the State Police?

A. Yes -- yes.

Q. And, the State police was responsible for providing the executive travel; is that correct?

A. Yes.

Q. And they were responsible for the helicopter and the ground travel that went with those things; is that correct?

A. Yes.

Q. And Mr. Howard had experience with that in the prior administration as well; is that correct?
A. That is my sense from reading what happened since this whole story has become public. But I don't recall knowing that or being conscious of that at the time.

Q. So, he didn't bring that as part of his prior experience to you as of this e-mail?

A. No, I don't believe so.

Q. And when you --

A. Wait. I think when we met we talked broadly about the management of the chamber and the differences between in how we were doing it and how the prior administration was doing it. And I said to him, you know, "Don't feel restricted to yourself. You are the only person here who has seen what was and what is. I remember saying to him, "Feel free to tell me if you see anything which could be done differently or managed differently outside of your area." And I think that's what that is referring to there.

Q. One of the things that had changed in coming in with the new administration was the form and the issue of the certification for use of the helicopter; is that correct?

A. Yes.
Q. And this was an area that Mr. Howard had had some experience with when he was with the Pataki administration; is that correct?
A. I didn't know what he had.
Q. You didn't know prior to the decision to keep him on that he had experience with the travel issue and the helicopter?
A. I don't recall that being part of my decision making. I don't recall thinking, oh, he has experience with executive travel; we should keep him on.
Q. Did you think he has experience with executive travel, so maybe we should talk to him when making changes in that process?
A. I don't remember thinking that or doing that.
Q. Do you remember anyone bringing that to your attention?
A. That we should speak to Bill Howard about it?
Q. Yes.
A. I don't recall that. I don't remember anyone saying to me: We should talk to Bill about how we do this.
Q. Did Marlene Turner ever mention to you that Bill has experience in this area; I have been discussing it with him?
A. I don't think so. I don't remember her saying that to me.

BY MR. TEITELBAUM:

Q. Getting back to 39 for a moment, Mr. Baum, you had said that among your responsibilities was managing flow of information to the Governor; is that correct?
A. Um-hmm, on policy matters, if we decided to do something.

Q. Is the matter that is contained in 39, the okaying of Senator Bruno's helicopter flight, is that a type of matter that would typically go to the Governor, the magnitude of it?
A. Typically, I don't know how I would characterize it. Obviously, it bubbled up. But at this point, you know, the Governor used the helicopter, too.

Q. The reason I'm asking, it strikes me -- and I want to know if you agree with this -- that raising the issue with the Governor, the approval of the Senator's use of the helicopter indicates
that the issue has some level of importance. Would you agree with that?

A. Well, okay. The context for us and the reason why it was discussed at all is that this was all after the Hevesi matter had gone on which -- it sounds remote from this sitting here now. But the whole controversy when he was running was removal. And the uproar over his replacement was a major texture in our lives. So, the major issue of use of executive travel was present. I don't know how to put it. I think my guess is that she is responding to the general sense that Senator Bruno had been using it frequently at that point and she was letting people know.

Q. Was the subject of Senator Bruno's use of the helicopter as part of the subject of executive travel a subject in which the Governor was in the loop?

A. The subject of --

Q. Executive travel and, specifically, Senator Bruno's use of the helicopter, was that a subject where the Governor was kept in the loop?

A. I don't believe so. I don't believe I did, but I can't say what was said to him when I was
not present. But I don't believe he was generally in the loop besides this sort of notification of usage.

Q. Did it strike you as unusual at the time you received Exhibit 39 that the Governor was asking if it was okay?

A. I don't remember what I thought when I received it. All I can tell at you is that the context was general issues about travel and that we would be peppered at that time and pressed about the use of government aircraft. Put it this way. We knew the use of government vehicles was an issue for us coming in, and it remained an issue because of the Hevesi matter and then questioning about use of it. And it was an issue in the prior administration, and will be an issue in 20 years. So, I knew there would be a checking, you know, on that sort of matter.

Q. Was the subject in particular of Senator Bruno's use of the helicopter something which was the subject on which the Governor was kept up to date at around this time, May 1st?

A. I don't believe so.

Q. Did that ever happen between May 1st and
July 1st when the Governor was brought into the loop on the subject of the Senator's use of the helicopter?

A. The only way I knew that he was in the loop from my experience is that he was told that there was a media request about the use of the helicopter.

Q. Is that the only piece of information that you would have that would indicate the Governor was in the loop?

A. Yes. That's the only thing I recall.

BY MS. TOOHER:

Q. You testified a moment ago --

A. I'm sure you are conscious of it; there was not a group, but there was a media request and I'm sure he was in the loop that -- I'm sure this will come up later. But Darren Dopp generated a document pursuant to the request that made him aware about the use of the helicopter that was brought to the Governor's attention because he wanted to issue a press release.

Q. You testified a moment ago that you were peppered about travel at around the May 1st time frame.
A. I wouldn't say about the May 1st time frame. Just since we have been in, there have been various questions about travel. It was a big political issue at the time.

Q. Wasn't there some questions about the Governor's use of the plane around this time frame to go out to a California trip?

A. There were questions about that. I don't remember the time frame, but there were questions about his trip to California.

Q. Was there any response in the chamber to those media comments? Was there any approach that the chamber was taking on the use of the plane and the helicopter?

A. At some point I asked to see a list as to how the Governor had used the helicopter and what it had been used for. And it seemed to me on one occasion he should reimburse the state.

Q. So, you were reviewing the use by the Governor of the helicopter?

A. Not generally, but at some point I said to Marlene Turner I'd like to see a list of where we have gone and what we have done while we were there.
Q. Do you recall approximately when that was?
A. No. Probably April or May, I believe.
Q. So, around the same time that you were getting the requests from Marlene about Senator Bruno's use of the helicopter you were asking her for information about the Governor's use of the helicopter?
A. I just don't remember if it was before or after. There was questions about inappropriate use, you know. There had been a request prior to this back in March early on about the Governor's use of the helicopter from the press. I think in the D.A.'s report it was mentioned. It was at some point I said, "I want to make sure we're using it appropriately."

Q. When you say "we want to make sure that we were using it appropriately" who is the "we" that you are referring to?
A. The chamber; that Governor's use is appropriate.

Q. Did there come a time when you wanted to know if Senator Bruno was using it appropriately?
A. No, because my feeling was that he was attesting that he was using it on official
business and that it was his business.

Q. What were you doing to review for the Governor's appropriate use of the helicopter?

A. To me, the only standard was it had to be used for official business. If Senator Bruno said it was used for official business, it was okay with me. It was our responsibility to make sure we were using it -- that we were asking the same question he was asked. I wanted to be sure we were using it for official business.

Q. What did you review to determine whether or not it was being used for official business?

A. Marlene either told me or gave me -- I don't remember -- a list of when it had been used and what we had done once we got there.

Q. So, Ms. Turner provided you with the information concerning where the Governor had gone and what he had done when he got there?

A. Yes.

Q. What sort of documentation was that?

A. I don't recall. I don't remember. She had told me over the phone. I suspect she told me over the phone, but I don't remember for sure.

Q. What prompted you to make that inquiry of
her?

A. There were, in general, requests about the Governor's use of the helicopter for I wanted to know what the underlying facts were.

Q. Did you ever discuss the appropriate use of the helicopter with anyone beyond Marlene Turner?

A. Yes.

Q. Who did you discuss that with?

A. There was I believe one trip that he should reimburse the state for, so I had to discuss that with David Nocente and Marlene and with the Governor.

Q. And, did you discuss it with Darren Dopp at all?

A. I don't recall discussing it with him. I don't particularly remember discussing it with him. That doesn't mean I didn't. In a way, I would be surprised if I wouldn't have told him something like that which would pertain on media requests about the issue.

Q. Which trip did the Governor reimburse for?

A. He talked about a trip to California. Originally, he was scheduled to drive to New York City to get a plane for California. And because
of various changes in his schedule because of the situation in Margaretville where the shootout occurred between the man and the State Police, his schedule changed drastically and he wasn't able to get out of Albany quickly enough to get to New York City to get the flight. So, he ended up using the helicopter to get there. It's actually arguable that it was fine. The train to your home station is okay. Your home station, his work station is New York City. But it seemed to me the flight was directly to Kennedy or La Guardia, wherever he left from which included a flight to catch a flight to a fundraiser. And, just to avoid any questions and to be completely appropriate he should reimburse the state.

Q. And, who was aware of the decision to reimburse the state?

A. Me, Marlene Turner, David Nocente, actually Bill Howard was because I saw e-mails where he was involved in calculating the cost. And, like I said, I suspected I told Darren but I don't remember telling him precisely.

Q. What was the date of the California trip?

A. I don't know. I could find out, but I don't
know.

2. And, in your discussions about the Governor reimbursing, did anyone ever mention the idea of anyone else reimbursing for use of the helicopter?

A. Not to my knowledge.

Q. Did Marlene Turner ever say to you anything about Senator Bruno reimbursing for the use of the helicopter?

A. Not that I recall, no.

Q. Did anyone ever make any comments about other people don't reimburse, so why is the Governor doing this?

A. I'm not sure what I would have put as the reason why I wanted to do this. As was discussed in the Cuomo report, as long as you have some official purpose and you can claim some official purpose, it's essentially okay. The law -- it's just a matter of the regulations as they existed then. And -- not my problem but my belief is that this trip had no purported official purpose. It was to get a plane to California to raise money. So, as long as -- My position, as I mentioned, had always been that as long as Senator Bruno or anyone else attested that there was an official
purpose, it was okay.

Q. What was your awareness as to the standards for reimbursement?

A. How much money?

Q. No, under what conditions you would reimburse.

A. I never -- well, my understanding was as long as you had some official purpose you actually did not have to reimburse.

Q. Where did you get that understanding from?

A. I don't know. It turned out to be basically my understanding what the A.G.'s report said, but I don't know.

Q. But you made a determination --

A. Probably from the counsel's office.

Q. You made a determination that the Governor would, in this particular case, have to reimburse for the California trip?

A. Yes, because I didn't see any official purpose for the trip.

Q. But you don't know where you got the understanding that there was a line to be drawn?

A. Well, for example, I knew that, as we were discussing on the e-mails, that Senator Bruno had
to attest -- that as long as he filled out the form that said there was an official purpose it was fine and that that form had somehow come out of the Counsel's office. So, my sense was that as long as there's an official purpose, that's fine.

Q. Did you ever discuss with anyone what "official purpose" meant?

A. No.

Q. Did you ever discuss with anyone whether there had to be a certain amount of official purpose?

A. I don't recall.

Q. When you asked Marlene Turner for the information what did you tell her you were looking for?

A. I don't recall. I told her I wanted to know what he was doing on the trips to make sure it's okay.

Q. But, you asked her for both the travel, where he went and what he did once he got there?

A. Correct.

Q. What were you looking for?

A. To make sure there was an official purpose.

Q. But, what were you looking at those
documents to try and determine?

A. What documents?

Q. For where he went when he was there, were there specific types of things that you were looking at?

A. I was looking to make sure there was a governmental purpose; that had he had done something governmental when he was there.

Q. So, if there was any governmental purpose was it your understanding that that was enough?

A. My understanding was that's enough. In fact, I remember every place it was all, virtually all governmental purposes and maybe there was like one political -- it could have been one stop stopping by a county Democratic dinner. But it was all, by and large, governmental purpose. And this one, largely because of the scheduling snafu surrounding the situation had been different, the opposite.

BY MR. TEITELBAUM:

Q. Did you ever speak to Richard Rifkin about what the standard was concerning the appropriate use of state aircraft with regard to mixed use, business and non-business --
A. I don't recall doing that.
Q. -- at any time?
A. Like I said, I just don't recall.

BY MS. SULLIVAN:
Q. Do you know if there was a political fundraising component of the trip that had official business on it as well, whether the Governor should reimburse for the entire trip?
A. No, that wasn't my understanding. My understanding was as long as there was a governmental use.
Q. Right. On the California trip, because of the political component, political fundraising component?
A. The fundraising was everything.
Q. So, there was no official --
A. Correct.

BY MS. TOOHER:
Q. In the time frame of mid May did the helicopter issue come up again?
A. In the time frame mid May --
Q. You mentioned Darren Dopp doing a statement.
A. Right, I'm sorry. Darren had told me at some point that he had received a request for
documents pertaining to air and land travel by Senator Bruno and Governor Spitzer. I don't remember having gotten it, I now know he sent me an e-mail saying there were documents going back, or something like that. As he stated to gather the documents he was worried that it would look like we had condoned improper behavior basically, especially in light of the Hevesi matter, that we had been complicit in Senator Bruno using it for essentially political purposes. So, his view was, as he would say, he wanted to get ahead of the story and call a halt to using the helicopter and say we are looking into it rather than having it come through a FOIL that would be ultimately fulfilled and having us implicated and tarnished over what he believed would be improper use of the helicopter.

Q. You said he wanted to get ahead of the story. What was the story, as you understood?

A. Eventually, we would have to fulfill the FOIL. We would have to give any documents over. And the first documents he got were more recent to him. So, rather than have the story come out, I guess the way he would, I assume put it, and the
way put it down -- I don't know what his exact
words were -- it would look like he did
inappropriate things we should have known about or
someone knew about it and let it go on. So, he
wanted to instead say that there was something
inappropriate going on and we're stopping it and
looking into it.

Q. When you say he was doing inappropriate
things --

A. Senator Bruno.

Q. And what were the inappropriate things?

A. Using the helicopter for political purposes,
using it for political meetings.

Q. Did you see anything that Mr. Dopp had
obtained at that time?

A. No.

Q. So, what did he explain to you as the basis
for these inappropriate things?

A. You know, he said he had gone to New York
City, and while in New York City he had --

Q. When you say "he had gone" --

A. I'm sorry. Senator Bruno had gone to New
York City and attended a Republican fundraiser and
attended a meeting at AIG. He thought both things
Q. Did he indicate if the senator had done anything else on those trips?

A. I don't recall. Actually, I don't even recall him using those specifics. I know that from looking at the e-mails that had the specifics that he was citing. I don't recall any other specifics, if there were any others.

Q. When Mr. Dopp first came to you about the potential issue of Senator Bruno using the plane he told you there was a FOIL request?

A. I don't know if he used the word FOIL. He said there was a request from the media. I wouldn't necessarily get into a FOIL or request.

Q. I think you said a moment ago that he was concerned that the FOIL request would come in and he wanted to get ahead of the story.

A. No. I'm sorry. He said a request. I don't know if it was a FOIL or a request without a technical FOIL. He had told me there was a request from the media and as he started to gather information he was concerned that it would look bad, look bad for Senator Bruno and, more importantly, look bad for us that we condoned it,
whatever went on.

Q. But weren’t you getting these types of requests all the time, requests for information on the use of the plane and use of the helicopter?

A. About the Governor. I don’t recall other requests about Senator Bruno.

Q. But you had received requests about use of the plane.

A. By the Governor. I don’t -- Put it this way. I don’t get involved in specific requests. I can tell you he had received a request about Senator Bruno’s use and was now gathering the materials. I don’t know if it was one request or several or he had done this before. But at this point he was gathering material.

Q. What did he relate to you about the materials specifically?

A. That it portrayed him as using the helicopter and then attending political events.

Q. Did he indicate what information he received, what type of documents?

A. No, not specifically.

Q. Did he indicate who he had received the documents from?
A. Well, one of the e-mails to me says Bill Howard had the records or something like that. So, clearly Bill Howard. But I don't remember any of the detailed description of how he got them or who he had spoken to.

MR REICH: Before we go forward, Rich, you need to be careful in your answers to separate between what you knew at the time and what you now know because of seeing the e-mails and in the context.

A. It's implicit in what I was saying. But it is important because at the time -- my information at the time was Darren told me he had received a request for information about air and land travel by the Governor and Senator Bruno and anyone else. He wasn't really looking into anyone else. And that as he gathered information and said he thought it was potentially embarrassing or, you know, it doesn't look great.

Q. I'm going to show you what has previously been marked as Commission Exhibit 30.

A. There's one minor clarification. I said AIG and I meant C.V. Starr.

(A discussion was held off the record.)
(Recess taken)

MS. TOOHER: We're back on the record after a short break. Mr. Baum, is there something you would like to place on the record that you would like to clarify.

INTERVIEWEE: I don't remember the precise question, but I felt you asked a question and I was thinking about it while we were talking. I should have answered it to be fully responsive. You asked if I ever had discussions about Senator Bruno's use of the helicopter in that earlier period when the new form had been generated. I wasn't involved in the generation of the form. I never really engaged in it. I assumed it was between counsel and Marlene Turner. When the form was first sent up it somehow implied -- the form that was sent up suggested that they would have to list the Senator's itinerary when he arrived and where he was going. Ken Riddette called me. He was my main liaison in the Senate; he's Secretary of the Finance Committee or something -- he's gone now. And Ken complained about that and said there's no way Senator Bruno is going to be listing his itinerary for Governor Spitzer. He
made what I thought was actually a valid point that one branch of government shouldn't feel required to tell another branch of government what it's doing in someplace or another just because they're using governmental resources. She thought it was right and a fair point. And in the interest of general comity in the beginning I agreed and told Marlene and I didn't think they should be forced to list their itineraries; that Attesting that they were doing governmental business was, to me, taking responsibility for what they were doing. I don't know if the form changed or -- I don't remember exactly what happened, but because of that we didn't ask for the itineraries.

Q. So, just to be clear, in early January the form was sent up to the Senate?

A. Yes.

Q. Was it sent anyplace else?

A. I don't know.

Q. And, you received a telephone call from Ken Riddette over at the Senate who indicated their interpretation of the form was that it required Senator Bruno to provide his ground itinerary when
they submitted the form?

A. Yes.

Q. And he indicated Senator Bruno was not going
to do that?

A. No, didn't want to. It wasn't an angry
correspondence, but it was just -- he said he felt
very strongly that he didn't want to do that.

Q. Could you explain to me in a little more
detail what his basis was for not providing the
ground itinerary?

A. It was the balance of power again, the
separation of powers point that I was making just
now; that one branch doesn't tell the other branch
what it's doing moment to moment, and the fact
they are using government resources isn't a reason
we can demand their movements and activities.

Q. And you agreed with this argument?

A. With the argument. I felt we were all at
the point of trying to get along and it was a fair
point. And I felt that as long as he was
attesting there was governmental duties --

Q. And, you indicated that you spoke with
Marlene Turner as a follow-up to this

conversation?
A. Yes.

Q. Exactly what did you relate to her?

A. I don't remember the words, but I related that I agreed we didn't have to make him give us the itineraries.

Q. So, you specifically told her that itineraries were not a necessary part of requesting use of the helicopter?

A. Yes.

Q. Did she have any response to that?

A. I don't recall specifically.

Q. Did you relay it to anyone else at that time?

A. I believe David Nocente.

Q. Did you discuss with David Nocente your decision before you relayed it to the Senate?

A. I don't remember. I think -- I'm not sure. It was kind of irrelevant. I never called the senate back and said: Don't worry about it. I told Marlene to tell them to deal with the issue.

Q. So, you didn't tell --

A. I didn't call Ken back and say: We decided this. Ken called Marlene back -- I wouldn't necessarily make the time to call as long as I
could have Marlene call whoever she was dealing
with and let them know that we decided to do it in
a way that shouldn't require a phone call between
me and Ken.

Q. I was a little unclear. I thought you had
relayed to Ken Riddette when he called you that --
A. No. He registered his opinion. I thought
about it and spoke to Marlene. We agreed to do it
in a way that the Senate wouldn't object to.

Q. So, you didn't discuss your decision with
anyone before you relayed it to the Senate?
A. I discussed it with Marlene and David
Nocente.

Q. And did you discuss it with Darren Dopp at
that time?
A. I don't recall doing so. It's possible, but
I don't recall that.

Q. Did there ever come a time when you changed
this position and determined there should be
ground itineraries provided?
A. No -- no.

Q. And, was this ever reduced to any sort of a
memo to Marlene or anyone else that the
itineraries would not be required?
Q. Do you know if Marlene ever advised anyone that the itineraries would not be required?
A. Not that I know of beyond the Senate. I'm going to say, because you asked if I ever discussed it with anyone else.
Q. I appreciate that. Thank you. Going back to Commission's Exhibit 30, which I believe you have in front of you, do you recognize this document?
A. Yes.
Q. Do you recognize this as the document that was provided to you by Darren Dopp --
A. Yes.
Q. -- in mid May?
A. Yes.
Q. And, what was your understanding of what this document was in mid May?
A. Well, as we discussed before we broke, it was his effort to, as I put it, get ahead of the story, to disclose if there was a problem and say that we're working to correct it, rather than wait for the problem to come to our attention through a FOIL through the press.
Q. And, what was your understanding of the "problem" set forth in Commission's Exhibit 30?
A. That Darren believed there was a problem that he was using the helicopter for --
Q. That Senator Bruno was using --
A. That Senator Bruno was using it for political purposes.
Q. And, did he meet with you on this statement?
A. I think we spoke over the phone.
Q. And he provided a copy of the statement to you?
A. I believe he e-mailed it to me.
Q. Did he e-mail anything else with this document?
A. I don't remember.
Q. Did he ever provide you any information about what Senator Bruno was doing at the time that prompted him to write this statement?
A. Just what's in here.
Q. So, he didn't?
A. No, I'm sorry. Implicit in the Sheraton Hotel thing was that there was a Republican fundraiser that night at the Sheraton Hotel.
Q. And, were you aware when you looked at this
statement whether Senator Bruno was doing anything
else in addition to these activities?

A. I have no knowledge.

Q. Did you ask Mr. Dopp if Senator Bruno was
doing anything else in addition to these
activities?

A. No, I didn't ask him.

Q. But you were aware that if he was doing
additional activities there would be nothing wrong
with his use of the helicopter?

A. To be clear, you are asking essentially what
my reaction is to this.

Q. Correct.

A. My view was, I mean if C.V. Starr -- It's a
big insurance interest in the state and it is, no
matter what anyone says, official business. You
know, Senator Bruno would say he was meeting with
them about insurance business.

Q. So, it was your understanding that what
Senator Bruno was doing likely involved official
business?

A. Yes. Just -- I have no independent
knowledge from what I received. The fact he was
going to a major insurance company and then going
to a Republican fundraiser that night didn't seem to me to violate any policy, you know, any rule, regulation.

Q. So, your reaction to this at the time that you received it was that you did not see a problem?

A. My reaction to it was that I didn't believe that this would end up being a violation of any official policy.

Q. So, did you relay that to Darren Dopp?

A. Yes.

Q. How did you relay that to Mr. Dopp?

A. I believe over the phone I said I don't know -- to the effect -- I don't remember the words -- I said something to the effect of I don't think that if this came to light it would be seen as any kind of official misconduct and I don't think we should put out a press release. And I thought it would be an irritating flash point with the Senate for us to put out something like this, and it didn't seem worth it to me.

(Commission Exhibit 41 was marked for identification.)

Q. I am showing you what has been marked as
commission Exhibit 41. It's an e-mail from Richard Baum, 5/17 at 1:54 p.m. and appears to be over the same statement by Darren Dopp. Can you identify this document?

A. It's an e-mail from Darren to me with that statement.

Q. Then, the top, as the thread continues --

A. I wrote back to him.

Q. Do you recall sending this e-mail?

A. I recall the discussion. I don't remember the exact -- I don't recall the words I wrote back. I remember the conversation ensuing from this was great relief.

Q. And the words you write to him are, "Wow! I'll be back in a bit. My only concern is that it invites scrutiny of E.S. but I think we are pretty airtight."

A. Yes.

Q. "Wow"?

A. I thought it would be an aggressive move that would create a big stir.

Q. I understand that.

A. You are asking me the question why I wrote it. That's why I wrote it. I thought it would be
Q. You testified a moment ago that your review of this statement led you to believe that Senator Bruno had done nothing wrong.

A. He did nothing wrong. It didn't make clear that anything had been done wrong.

Q. "My only concern is it invites scrutiny of E.S." Invites scrutiny in what way?

A. I'm sure I meant scrutiny of our own travel, but I think we're okay. I think we're airtight. Sort of obvious words.

Q. And what followed up as a consequence of this?

A. A conversation with Darren and the Governor where I and the Governor both felt it was a mistake to put something out like this. And we said: Just fulfill the FOIL in the appropriate way. Don't do anything proactive.

Q. Was the Governor provided a copy of Mr. Dopp's statement?

A. I don't know. I don't know if he was provided a copy.

Q. During your conversation with the Governor did you discuss the content of the statement?
A. Roughly; that the statement would -- yes roughly, I would say. I don't know if he had seen it previously or not.

Q. Do you recall whether or not this was forwarded by e-mail to the Governor?

A. I don't know.

Q. Did you relay to the Governor your concerns about Senator Bruno's activities, your concerns about the release of this on Senator Bruno's activities?

A. Oh, yes.

Q. What did you say?

A. My recollection is roughly, I said: I don't think the idea that this is any kind of official misconduct will hold up, and it will be a major irritant with us and the Senate, so I don't think we should do it.

Q. And did you discuss the nature of the activities and the use of the helicopter at that time?

A. No, I don't think so. It was confined to this press release and the specific information in it.

Q. What was relayed concerning this press
release to the Governor?

A. I can't give you the specifics. It was really that there was -- it was some sort of summary of what was in here. I don't remember the words.

Q. And, did you have a direct conversation with the Governor at this time?

A. No. I think it was Darren, me, and the Governor on the phone. We were all in different places.

Q. You were all in different places?

A. Yes.

Q. And, what was Darren Dopp's position?

A. He thought we should release it. I don't remember how strongly he advocated, but it was his idea.

Q. And did you tell Mr. Dopp your viewpoints on the press release beyond the irritant factor but the content of the press release?

A. Yes. I told him I didn't think this would hold up as any kind of misconduct. It would be slightly embarrassing the way all helicopter usage had been slightly embarrassing for twenty years. But it wouldn't be a big deal beyond being an
irritant if we tried to make it a big deal.

Q. Did you discuss that with anyone else?

A. I don't recall. I guess in a general sense, somehow David Nocente agreed with me. I don't know if he saw this, but he was at some point in the loop and he agreed that it wouldn't make sense to do anything proactive like this.

Q. Did you reach out to him during the discussion with Mr. Dopp?

A. I had a vague sense. I had a conversation with him, but I don't remember. I had a vague sense that David agreed with me that this was a mistake to do anything proactive on this matter. I don't remember if I reached out to him or if Darren had spoken to him. Somehow I remember he agreed that this was not really the right thing to do.

Q. And "this matter" you are referring to is the statement, the press release statement of Mr. Dopp?

A. Yes, their proactive effort, affirmative effort to release it.

Q. And, did Darren express any viewpoint?

A. I think he thought we should do it.
Q. And, at the end of your meeting or conversation was there a final resolution as to what was going to happen?

A. Yes. We weren't going to do it.

Q. Who made that determination?

A. The Governor and I felt that we shouldn't do it, and that was it. I don't think Darren -- there wasn't an argument. I don't want to misconstrue what these conversations were like. We talked about it, and the Governor felt negative about it, which is the most important factor in a conversation he is a part of. And so did I, and so we didn't do it.

BY MS. SULLIVAN:

Q. This information in the statement about Senator Bruno's legislative meetings, specifically that they were going to be held at C.V. Starr at 12:30 and at the Sheraton at 3:30, what is your understanding as to where Darren Dopp got that information from?

A. I don't know.

Q. Did you ask him?

A. I don't remember asking him. My sense was that he got it pursuant to documents responsive to
the press documents -- the press request for documents.

Q. It appears that this information would come from the senator's itinerary which you testified would not be released.

A. Well, my sense was that he had gotten -- my general sense was that he had started asking for documents pursuant to the document request from the State Police. I don't know who he was dealing with specifically, and he had received this information.

Q. So, you are aware at this time that he had received information from the State police about ground itinerary?

A. I am aware he received information. I don't know from who.

Q. Did you know it was from the State Police?

A. I don't recall knowing that specifically. I don't know. I just don't know.

BY MR. TEITELBAUM:

Q. When you saw Exhibit 30 and the reference to Senator Bruno's itinerary --

A. Yes.

Q. -- did it raise a question in your mind as
to where Mr. Dopp was getting his information?

A. I don't recall asking the question. I mean I knew he was gathering documents about the use of the helicopter and ground transport.

Q. And, at that time had you made the assumption that he was getting it from the State Police?

A. I don't recall that. I don't recall having any knowledge at that time. From what was going on since then --

Q. The statement in the second paragraph about the aircraft policy, the state plane and helicopter may be used only for official state business, it seems to me that is not what was your understanding; I am correct?

A. That's not accurate. That wasn't the policy. To be clear, on the form you have to attest that there will be official state business but not only.

Q. Not "only"?

A. That is my understanding.

Q. And during the conversation among yourself and the Governor and Mr. Dopp leading to this draft of a press release, when Mr. Dopp said that
he wanted to go forward with it you expressed the
view that you didn't think that in the end of
days, I guess, that there would be a finding of
inappropriate official conduct; is that correct?
A. Yes.
Q. And, you shared that with Mr. Dopp?
A. Yes.
Q. And what was Mr. Dopp's response to that,
other than he wanted to go forward? Did he say
anything in response?
A. I don't remember any direct response to that
point.
Q. Other than he wanted to go forward with it,
did he present a rationale for doing so in light
of what you told him your understanding of the
policy was?
A. No. Let's say -- I was trying to make this
point earlier. It wasn't -- I don't remember the
exact words, but it wasn't like an argument where
Darren was just arguing with us on finding ways to
do it. He was just -- he raised this, and
typically raised this as a possibility. He
brought this to my attention and to the Governor's
attention one way or another. And I had my
opinion and the Governor had his opinion and we said okay, just drop it. It wasn't a sort of advocacy kind of conversation.

Q. I understand. As your counsel commented earlier on, you may not know what's in Mr. Dopp's mind. It's certainly something Mr. Dopp's sense -- So, I'm asking you: Did he say anything which indicated what his thinking was on this, other than that he wanted to go forward with it? He must have said more than that.

A. His thinking was that this would be embarrassing to us when this came out that he had used the helicopter and engaged in what seemed to Darren transparently political purposes and that we would be embarrassed. That I recollect, he didn't gave a level of, okay, what are the regulations? What is the law? It was just when it comes out it will be embarrassing to us, especially in light of the current move about official transport and the attention to it. And I think he was overall concerned that we would be perceived as not having gotten the message or understood the lessons as to what had gone on in the past six or seven months.
Q. Is it fair to say that after the decision was made by the Governor to not go forward with this issue that the Governor -- in other words, did you have an understanding that the issue was essentially a dead issue?

A. Yes, it was.

Q. And, did you have any knowledge as to whether the Governor thought it was a dead issue?

A. I didn't discuss it with him. But based on the conversation, he should have believed it was a dead issue.

Q. You said in earlier testimony that one of the statements that was made by the Governor and with yourself was that what Mr. Dopp should do is fulfill the FOIL in an appropriate way. What do you mean by "in an appropriate way"?

A. Just do whatever you would normally do with a press inquiry, you know, gather the information and FOIL it appropriately.

Q. Did you know at this point in time, mid May, did you know that Dopp had begun gathering documents?

A. I believe so, yes. I don't know how specifically I knew it. I knew there has been an
inquiry. I knew he was working on the inquiry.

Q. Did you know that he was gathering documents from the State Police?

A. I don't recall knowing that in detail. I don't typically, or ever really, engage in specifics with regard to how a FOIL is being responded to.

BY MS. TOOHER:

Q. This discussion, the mid May discussion, did you have any conversations with Marlene Turner at that time concerning Senator Bruno's use of the plane or any change in light of this statement?

A. I don't recall any.

Q. And, had you had any prior conversations with anyone concerning Senator Bruno's use of the plane just prior to the statement?

A. I don't recall any. The original -- at some point I had a conversation with Darren about the inquiry about a media request on Bruno's plane use. That's all. That's all I recall.

Q. When you got the statement you were not aware that Darren was putting this together?

A. I now know there is an e-mail to me about -- that Darren said we're gathering materials or
something like that. But that didn't stick in my head and I didn't even remember it when I saw the e-mail.

Q. Did you have any discussions with the Governor about Darren now gathering documents?

A. Not that I recall.

(Commission's Exhibit 42 was marked for identification.)

Q. I am going to show you what has been marked as Commission Exhibit 42, which appears to be an e-mail from "Lawrence" to Richard Baum on 5/15 2007. Can you identify this document?

A. It's an e-mail from the Governor to me.

Q. And on the subject: "An idea about J.B. I want to discuss with you." Do you recall what that was?

A. No.

Q. J.B. would be --

A. Joe Bruno.

Q. And it's just prior to the statement that is provided to you from Mr. Dopp.

A. All I can tell you is that this was a contentious time where there is a pitched argument going on about legislation between the Governor
and Senator Bruno and Speaker Silver as well. In context, I wouldn't be surprised if he just said:
I have an idea about Joe Bruno. My guess is that it related somehow to that day-to-day back-and-forth by the media.

Q. Do you know if Mr. Dopp had reached out to the Governor in advance of your discussion about the statement?

A. Not that I know of.

(Commission's Exhibit 43 was marked for identification.)

Q. Showing you what has been marked as Commission's Exhibit 43, this is another e-mail from "Lawrence" dated now May 16, at 6:49 p.m., again to Richard Baum. Can you identify this document?

A. It's an e-mail from the Governor to me.

Q. Do you recall receiving this document?

A. Yes.

And, the first line of the e-mail, "I want to punch back at him." Do you know who "him" is?

A. Joe Bruno.

Q. And, "He's making personal attacks and I am really going to go after him at some point." Do
you know what the Governor was talking about?

A. We were in -- the subject of the public
debate that was going on was about campaign
finance reform, and it was pretty heated. And
instead of debating the merits, Bruno was
attacking Governor Spitzer's fundraising practices
and trying to make him out to be a hypocrite for
raising money in ways that were either unethical
or running contrary to what we were trying to ban
under the law that we had proposed. Bruno was
saying we were trying to stop campaign finance
reform.

Q. And, what was your understanding of "I want
to punch back at him"?

A. Well, I think my understand is what ensued
in the e-mail. We wanted to show that Senator
Bruno himself had fundraising practices to answer
for.

Q. And, then, the next day you received the
statement from Darren Dopp which seems to question
Senator Bruno's fundraising activities. Did you
discuss that as a way to "punch back" at the
senator?

A. No.
MR. REICH: I'm sorry. Which e-mail are we talking about?

MS. TOOHER: We're talking about 43.

MR. REICH: What was the question again?

MS. TOOHER: Would you read the question back, please.

(The requested portion was read.)

MR. REICH: I guess if we were in a deposition I would object to the form of the question. Go ahead.

A. What that meant, punching back, the way for me to answer it is to tell you the title that was on this e-mail. He wanted -- Senator Bruno was saying that, without getting into too much detail, Governor Spitzer was bundling contributions, raising money for LLCs, giving people access in return for contributions, all of which are in different ways banned by the law we were proposing. And he wanted to publicize the extent of the money he was raising from 1199 which is a union that is the biggest supporter of Senator Bruno and give out the money that I think is what most rational people feel is excessive; legal but excessive. And I wrote back to him that I didn't
really think it was basically on point to discuss the 1199 because that wasn't what Senator -- when I said things he has done that we can publicize, my point was Senator Bruno himself had done the things even in greater degree that he was criticizing Governor Spitzer for doing in violation of the law we were proposing. That's the discussion we had about "punching back." And the Governor essentially seemed to agree that that was the right point. And, no, I never discussed the subsequent day's issue as a way of punching back.

Q. The next day you get a statement concerning what appears to be fundraising improprieties by the Senator from Mr. Dopp; is that correct?

A. Yes.

Q. And, the prior day --

A. Just a minute. It's not fundraising improprieties; it's improprieties in the use of the state aircraft.

Q. One of the improprieties in use of the state aircraft I think you mentioned earlier one of which was going to the Sheraton Hotel where he knew a Republican fundraiser was being held?
A. Yes.

Q. I just was inquiring as to whether the issue of utilizing this type of activity in the campaign finance discussion was brought up in the context of discussing this statement.

A. I don't remember that being -- I don't remember that coming up. And from my perspective the long story was that statement --

Q. "That statement" being Commission 30?

A. Right. It wouldn't have been responsive to the charges Senator Bruno was making against Governor Spitzer about the LLCs and all of that stuff. It wouldn't have been on point the way that I describe here with the debate.

BY MS. SULLIVAN:

Q. Just one other point, a question about the statement by Darren Dopp. You said that Mr. Dopp thought that the story would be embarrassing to the Governor's Office. Was there any consideration given to denying the use of the plane to Senator Bruno?

A. Yes. I believe that is implicit here. They are proposing that we deny the use of the plane and put out the statement saying we are going to
look into it, look into the matter.

Q. So, as you went forward on subsequent trips was that considered?

A. No. I don't remember any discussion.

BY MS. TOOHER:

Q. You indicated earlier that after discussion of the statement, Commission's 30, that in your mind this was a dead issue.

A. Yes.

Q. Did you relay that specifically to Mr. Dopp?

A. I didn't say: This is a dead issue. We just made a decision together. We were on the phone. He didn't -- you know, he was done with it, from my perspective.

Q. Was the "dead issue" the statement or the subject covered by the statement?

A. You know, his direction after that phone call was just do a FOIL.

Q. Did you look into the issue of the helicopter and the airplane use after you had reviewed the statement from Mr. Dopp?

A. No. I don't remember ever -- Senator Bruno's use of the helicopter?

Q. Yes.
A. I don't recall ever looking into it.

Q. Do you recall -- did you ever talk to Marlene Turner following the statement about the use of the helicopter or the use of the state aircraft?

A. I don't remember ever talking to her. I don't believe so.

Q. Did you ever request information from her on the use of the helicopter or use of the plane?

A. I mentioned that I remember when Governor Spitzer asked for that information. About Senator Bruno, no, not that I remember.

Q. What information does Marlene Turner keep about the use of the plane or the helicopter, to your knowledge?

A. I don't know. I assume she keeps those forms. But beyond that, I don't have any knowledge. I have no idea.

(Commission Exhibit 44 was marked for identification.)

Q. I am going to show you what has been marked as Commission's Exhibit 44, an e-mail from Marlene Turner of May 23, 2007 at 1:09 p.m. The subject is the airplane folder. Can you identify this
A. It's an e-mail from Marlene to me.

Q. In the body of it, "Suzanne faxed me all the info." Do you know --

A. I'm not certain. I think this could have been the info I requested about the Governor's use of the helicopter.

Q. What is "the airplane folder"?

A. I don't know. I assume it's the information that she was putting together on the Governor's use of the helicopter.

Q. Did she provide the airplane folder to you?

A. I don't believe so. I don't remember receiving a folder. I should say -- I don't remember. I could have received a folder. I don't remember.

Q. Have you ever reviewed a folder of airplane information in the executive chamber during the May period?

A. I reviewed the Governor's usage, as we discussed. I don't remember if it was a folder or phone message that Marlene read to me or something like that.

Q. Did you look at documents?
A. I don't know. I just don't remember.
Q. Do you know --
A. I have no recollection of looking at like maybe documents like itineraries or anything like that. I might have looked at a list of dates, or maybe she read a list of dates to me over the phone or sent me an e-mail. I don't know. I'm assuming that is what this is referring to. But beyond that, I couldn't tell you.

(Commission's Exhibit 45 was marked for identification.)

Q. I am showing you a document that has been marked as Commission's Exhibit 45. And this is an e-mail from Darren Dopp to Richard Baum on May 23, 2007 subject: S.P. records. Can you identify this document?
A. It's an e-mail from Darren to me.
Q. Do you remember receiving this document?
A. No.
Q. You mentioned earlier that there was a communication from Darren concerning Bill Howard having certain records. Is this that communication?
A. Yes. I gave a prior estimation as part of
the document production. That's what it's referring to.

Q. "Bill H." Do you know who that refers to?
A. I assume it's Bill Howard.

Q. And the records that exist going way back, "itineraries." Do you know what that refers to?
A. I assume that was the use of the aircraft and the ground transport.

Q. And, up above, the subject is: S.P. records. Do you know what that would be referencing?
A. State Police records.

Q. So, this appears to be an e-mail from Darren referencing State Police records and itineraries showing where the individual was taken and who was in the car.
A. Um-hmm.

Q. Do you know who that is referencing?
A. I assume it's referencing any use of it because it says "the individual." But I think in this case it was referencing the document request regarding Senator Bruno's use, Governor Spitzer, and Speaker Silver's use.

Q. And, "Bill has the last two trips in his
possession." Do you know what that refers to?

A. I assume it means Bill physically has the documents pertaining to the last two trips in his possession.

Q. Do you know who was involved in the last two trips?

A. No. I assume it's Senator Bruno from reading this, but I don't know.

Q. And you testified earlier that after you had reviewed the statement with Darren Dopp that it was your understanding that the problematic issue, as Darren perceived it, that Senator Bruno's use of the plane was a dead issue, but Darren Dopp is apparently still sending you e-mails concerning Senator Bruno's travel. Do you know why he would be doing that?

A. Because he was fulfilling the FOIL -- or the document request. He was telling me -- what was the date -- this was May 30th; is that right?

Q. May 17th.

A. I think he's telling me what he had been told; okay, just fulfill the FOIL.

Q. And, did he keep you apprised of the FOIL responses as he continued working on the FOIL?
A. I don't believe so. I don't remember being notified in any way beyond now that I see this e-mail.

Q. Did he typically keep you apprised of FOIL responses?

A. Not typically. On a sensitive matter he would tell me that there was a request or what the fulfilling of the request would involve.

Q. And, the next line of the e-mail, "I think there's a new and different way to perceive R.E. media." Do you understand what that means?

A. Like I said, I didn't really remember the e-mail when I first saw it. And I have always assumed it involved the media issue I had at the time with Darren which was I was unhappy with the way the press was covering these meetings about public debates and legislation with the leaders in the different chambers. And I was, like I said, unhappy with the press and unhappy with the way Darren felt like we hadn't done a good enough job on making our positions clear. So, I've always assumed that's what he was referring to. I know in the Soares' report he said he was referring to the idea of turning all of this over to the
Inspector General or something like that. I remember that discussion. I don't remember that as a media strategy. I don't quite get it as a media strategy. So, I think he meant one thing and I assumed another -- kind of like ships passing in the night.

Q. Did you ever have a discussion with him concerning the State Police records and the media in late May?

A. No. I don't recall that doing that.

Q. And, if you were just reading the e-mail what would make you think that the "new and different way" to perceive in the media would have anything to do with a different subject matter other than the State Police records?

A. It's a different line, different paragraph. We frequently go back and forth on a lot of different things. Typically, we are discussing several different things at once. He would send an e-mail typically on two or three different things. Reading that, I'm not too crazy about the specific words. But I don't remember a media strategy about the State Police records.

Q. Were there other e-mails around this time
frame concerning the leaders meeting?

A. I'll bet there were. I don't remember specifically. But I sent frustrated e-mails to reporters and things like that.

Q. Is there anything you can point to in this e-mail that would indicate your recollection that ties that comment to the leaders meeting?

MR. REICH: Just let me be sure I understand the question. The questions is: Is there anything in this e-mail that does that?

MS. TOOHER: Correct.

MR. REICH: You can answer.

A. All I can tell you -- the only thing I can imagine it referring to is -- I don't know of a media strategy at that time beyond leaders meetings. The second paragraph also but, no, nothing specific about leaders meetings.

Q. But hadn't Darren presented you with a media strategy just the week before on an issue relating to the records on the use of the aircraft?

A. I had closed out that issue, I felt.

Q. I understand that. But "a new and different way" to proceed, couldn't it reasonably be interpreted to relate to the prior media strategy
contained in the statement?

A. No. As I said, it sounds like he meant one thing and I interpreted it in another way. I believe I interpreted it in light of my concerns, and he interpreted it in light of his concerns.

My concern was that different media strategy pertaining to that. And my concern was the media strategy pertaining to the leaders meetings. And I wasn't really thinking of a media strategy in terms of a helicopter at that point.

BY MR. TEITELBAUM:

Q. With respect to Exhibit 45, it says that -- the last sentence is "Will explain tomorrow." Did anything happen after this e-mail where an explanation was provided to you?

A. I don't remember ever having multiple discussions at the leaders meetings. Nothing down to -- I wouldn't say flights or arguments, but various discussions about them.

Q. Let me run this theory by you and ask you whether -- what your reaction is to it. One possible interpretation of Exhibit 45 is that previously with respect to the May 17th document it would involve the Governor and the executive
chamber in putting out a press release which you
and the Governor ultimately concluded would not be
done. And, here Mr. Dopp was possibly proposing
sending documents to the press in the absence of a
press release and have them run with the story.
Was Dopp proposing that?
A. I don't recall that. I think he said in the
D.A.'s report, in Soares' report that he was
proposing giving documents to the Inspector
General.
Q. I understand but. I understand where the
District Attorney might have come out on this.
But we are now in a relatively short time frame, a
difference of six or seven days. And I'm just
asking you whether Dopp was proposing what I have
just described. I am not asking you whether you
realized it then. I am asking you sitting here
now.
A. Look, I understand how you could read this.
And certainly -- what you are saying doesn't
contradict the reading. I just don't remember
that.
Q. And did you learn anything since this
Exhibit 45 was sent to you which would support the
theory that I have just described to you?

A. That he wanted to just hand it to the press?

Q. In order to get into the press the senator's use of state aircraft and in a critical way.

A. You mean in the investigations that have gone on or --

Q. Right. Between this period of time, mid May, and today, yes.

A. I don't know of any additional facts that were received. I don't know of any additional facts. The I.G. claimed -- and I know that there are -- subsequent to this I received an e-mail from Bill Howard and Darren saying now is the time to go with the story, or something like that, and it fits in. You know, it doesn't contradict what you're saying.

Q. The thing that strikes me about 45 is this level of detail. What I mean by that is when Dopp writes to you and says the records exist going way back, did you know at that point what records he was referring to?

A. I think -- as I remember the e-mail, I think I assumed that it was the records of -- transportation records.
Q. Had there been a discussion prior to 45
between yourself and Dopp and yourself and Howard
concerning the matter of State Police records?
A. Well, I think when we talked about the
release of the statement a few days prior to this,
implicit in that is that there were records. I
know that Darren had begun gathering information
and that's what stimulated that concern and that
precipice. Whether they were State Police
records, I just don't know in that detail.
Sitting here, I guess I don't know in what -- I
suppose that's where they came from because the
State Police -- I know they knew about the
transportation. But I don't know at what level I
understood that at that point.
Q. Was there anything that preceded this
Exhibit 45 which would indicate to Dopp that you
wanted to know about itineraries which would show
the individual was taken and who was in the car?
A. Anything that I would have said to him?
Q. Anything you said to him or anything that
you know of which would cause him to give you that
piece of information.
A. No, nothing.
Q. And the same thing with the -- the same
question with respect to the sentence, "Bill has
the last two trips in his possession." Do you
know of anything that occurred prior to Exhibit 45
being sent to you that would cause Mr. Dopp to
give you that piece of information?
A. I am not -- I don't recall anything. It
wouldn't be untypical on a sensitive matter for
him to tell me what's going to happen in regard to
a sensitive matter, a FOIL or a document request.
Q. Did it occur to you at the time that you
received 45 that Mr. Dopp was attempting to
resurrect the issue that had died?
A. To the extent I thought about it, I don't
remember thinking that.
Q. Did it occur to you subsequently, as you
look back?
A. As I look back -- as I look back the e-mails
I received subsequent to this seemed to be
indicating that.
Q. Do you know -- did you authorize the
resuscitation of the issue?
A. No.
Q. Do you have any information that would cause
you to believe that the Governor did?
A. No.

Q. In light of what you just said, is it fair for us to conclude that in Dopp trying to resuscitate the issue and go forward with it he was acting on his own?
A. Well, I don't know if I perceived it at the time as trying to "resuscitate" as opposed to giving the right information.

Q. I want to be clear because I know that there is a concern about what you knew then and what you learned later, and so forth. I am saying is it fair to conclude -- for this Commission to conclude that in light of what you told him and what the Governor told him on May 17th that what you learned he was doing afterwards, that he was acting on his own?
A. Acting on his own --

Q. In other words, without the Governor's authorization or without anybody else's authorization.
A. I don't know of anything that would lead me to believe that he was doing anything aside from what he had been told, which is just to fulfill
the FOIL request. And, that's different from
saying forget the issue. But nothing here or in
other subsequent e-mails led me to think he was
doing anything different from what we had decided
in the phone call which was, you know, be passive,
do the FOIL request.

Q. My question is: Did you ever learn
information that would cause you to perceive that,
in fact, Dopp was attempting to revive an issue
that had been --

A. Beyond those e-mails, no. I can't say that
he never brought it up again, that issue. I don't
remember any specific discussions, though. In a
general sense, as you saw in that e-mail, it was
that we should be practical about this. I don't
remember any discussion beyond that one.
Generally, Dave and I discussed it. But my
general sense is he wanted to be practical and I
thought it wasn't a big deal. That discussion was
on May 17th. I remember, as you sort of fleshed
out the memory. Did we ever talk about it again,
I don't remember a specific discussion. But we
could have had one. I don't remember anything
specific.
MR. REICH: Can we go off the record?

MS. TOOHER: Sure.

(Recess taken)

MR. REICH: You seem to be indicating, and I want to fix this. I think the question is to the extent that Dopp may have been trying to reopen the question of being proactive would that have been consistent or inconsistent with the direction he got from the Governor. I think that's what you are asking, at least that's how I understood it. That's the question, but ask it however you want it.

MR. TEITELBAUM: Okay.

BY MR. TEITELBAUM:

Q. Mr. Baum, we are collectively trying to make sure that we have a clear record here. So, let's go back to some of the questions. Was there any point in time when you perceived that Dopp was attempting to reactivate the matter that had been "killed" on the 17th?

A. I don't recall beyond the e-mails.

Q. To the extent that Dopp was attempting to reactivate the matter, was that inconsistent with the directive that he was given by yourself and
the Governor on the 17th?

A. Inconsistent because he had been told we wanted to just execute the FOIL request and that's it.

Q. And, I want to read to you a portion of the D.A.'s report dated September 21st which is on page 15.

MR. REICH: Do we have a copy to put in front of him?

MR. TEITELBAUM: Sure.

MR. SHEA: (Offering)

BY MR. TEITELBAUM:

Q. This is a photocopy of the District Attorney's report. And, starting on page 14, at the bottom there begins a discussion of the document that we have marked as Exhibit 45. Just take a moment and read from the reference to the May 23rd Dopp e-mail which is on the bottom of page 14 through the first paragraph on page 15, please.

(The interviewee complied.)

Q. Quite frankly, I'm confused by this paragraph and I would like your help in clarifying it. What is your understanding of the events that
are depicted in that paragraph? And is it an accurate depiction from your perspective? Is there another perspective that you have? Tell us.

A. As the paragraph suggests, I think suggested, my understanding is that Darren and Peter Pope had some conversation about referring it to the Inspector General. And Darren then brought Peter Pope's view to me and David Nocente, and then we said forget about it. That's what I think it means.

Q. Is that accurate?

A. I don't remember that but it didn't happen. A lot of discussions were going on in my office very quickly. In essence, I thought the issue was dead. I don't know what this is referring to. To me, this was a dead issue. To the extent this ever came to me, I guess I would have said: I'm not interested; I'm done. And I would have forgotten about it.

Q. Did you ever learn whether, in fact, there was a discussion about referring the use of state aircraft by Senator Bruno to the Inspector General? Did you ever hear of that discussion?

MR. REICH: Could we be clear about time
frames because that matters.

Q. Predislosure of this, prerelease of the FOIL.

A. Pre publication of the story in the Albany Times Union --

Q. July 1st.

A. Right. My general sense is that it came up that at some point we should refer this to the authorities. My guess is that my general recollection of this conversation -- my general sense is that he said to me that we should refer it to the authorities and that Dave and I both thought no.

Q. Was that a subject raised before your conversation with the Governor and Dopp on the 17th or after?

A. I think after. But as I said, as opposed to the conversation with the Governor, I remember (with the Governor) that conversation. This was not specific. I remember it was a general question that Darren thought that maybe we should refer it to the authorities. My guess would be after, because it does fit in, for what it's worth, with my general attitude toward the whole thing. I didn't think
it was a big deal; that as long as it's used for some governmental purpose it's okay. It makes sense from my perspective and my view of the whole matter at the time.

Q. I come back to this thought I have which is: Was Dopp picking on something that had been put to rest and closed?

A. I don't know.

Q. He reported to you. That's why I am asking you. You're the guy who he reported to.

A. We closed out the matter. To the extent it came up a few times subsequent to when we closed out the matter, it didn't stick in my head. It was -- I had closed out the matter. And my view on it was consistent with the publication. It wasn't a big deal. It was not potentially that embarrassing. And we didn't want to do anything on it.

Q. When the issue was reported on July 1st did you at that point conclude that Dopp had gone off and continued to pick on this matter contrary to the instructions he had received?

A. No, because I believe it had been turned over as a result of the FOIL request by the
newspaper.

MS. TOOHER: We were contemplating taking a break for lunch at this point.

(Luncheon recess: 12:45 p.m. - 2:00 p.m.)

AFTERNOON SESSION

BY MS. TOOHER:

Q. You wanted to clarify something from the morning?

A. Yes. Let's do it on the record. I just wanted to say when we were talking about -- I guess toward the end about my recollection of Darren bringing up the idea bringing this to the Inspector General. When I was in the interview with the District Attorney, you know -- I don't want to say they hit me with that, but they asked me that question, and I didn't remember a particular conversation about it. You know, to some extent it jogged my memory and the report jogged my memory in that it was something that was in the air. When I was asked about it by the D.A. I couldn't say, oh, yeah. Darren had come to me and said: Let's go the I.G., but I have a general or top line sense that the question came up:

Let's hand it off to somebody, and I was largely
negative about it. But I couldn't tell you the particulars of it.

Q. Darren refers in the D.A.'s report to a discussion with Peter Pope in the executive chamber, about handing off to the Inspector General's office.
A. Yes.

Q. Do you recall that conversation at all?
A. I don't recall it, not before, you know, July 1st. There were a host of discussions afterwards on the issue about all of this. Before, no. I don't recollect Peter's involvement. But, as I said, my recollection is just that it came up, the idea of passing off to someone and that, in general, this whole thing was some sort of opposing idea that there was any kind of legal trouble inherent in what Senator Bruno had done.

Q. I got the impression from the D.A.'s report that Darren had had a conversation with Peter Pope.
A. Um-hmm.

Q. And I also got the impression from the D.A.'s report that you were privy either to the
conversation or to the fact that Darren had had the conversation with Peter Pope.

A. Correct; that that's what's in the report. I am just saying I don't remember the conversation, the participants, involving Peter Pope or anyone else. I remember that the issue came up: Should we hand it over? And I didn't think it was a good idea and neither did David Nocente.

Q. Did you ever do anything within the chamber are you aware of, handing the matter off?

A. Do anything?

Q. About handing the matter off. Did you speak to anyone in any of the investigatory offices?

MR. REICH: Could you just put a date on it? Pre 7/01 or post 7/01?

Q. Pre 7/01.

A. Pre 7/01, I don't recall a specific conversation about this, as I said. I recall a general sense that it had come up.

Q. How did it come up? Who raised the issue?

A. I really just don't remember. That's the real answer. I just don't remember who raised the issue, what was the discussion. I knew that it
had come up, the possibility that -- the
questioning and from the D.A.'s report reminded me
that it had come up. But the specifics of Peter,
Darren and all that, I just don't remember a
meeting or a discussion about it.

Q. When you say there was a discussion about
it, after that discussion was Darren provided any
instruction on this issue?

A. In my recollection when it came up I and
David in some way were not in favor of giving this
over to anybody.

Q. And did you give him any direction going
forward in this area?

A. Beyond I don't want to do anything on this,
no, not that I recall.

Q. Were there any further discussions with the
Governor concerning the issue of Joe Bruno and
travel following your directions again to Darren
Dopp not to go forward with this?

A. I don't recall any with the Governor, no.

Q. Did you ever any communications with the
Governor on Senator Bruno's travel following this
determination not to go forward?

MR. REICH: Again, Meave, I'm sorry.
Pre 7/01?

MS. TOOHER: Yes. For future reference, unless I specifically refer to after July 1st, which we will get to, I am referring to pre July 1st.

A. I don't recall any.

Q. Did the Governor communicate with you about Senator Bruno and travel in e-mail after you had spoken with Darren Dopp?

A. About Senator Bruno's travel?

Q. Yes.

A. I don't recall any conversations about that or discussions or e-mail about that.

(Commission's Exhibit 46 was marked for identification.)

Q. I am going to show you what has been marked as Commission's Exhibit 46. It's a document captioned "Lawrence" and the date May 27, 2007 and the top time is 11:55 a.m. Can you identify this document?

A. It's an e-mail from the Governor to me.

Q. And did you receive this e-mail?

A. Yes. Judging from this, yes. I don't remember receiving it, but yes.
Q. And the thread of the e-mail seems to cover a number of different issues. In the second section up on the thread in a section from Lawrence, again, to yourself, Darren Dopp, and Christine Anderson, "I also want to discuss a post session strategy regarding Bruno and travel generally." What did you take that to mean?

A. At that time the session was not going so well, and we believed fairly unlikely to pass the legislation and the legislative program that we wanted to. And the plan was if they ended session without passing our agenda, the Governor would essentially denounce the Senate and Senator Bruno for quoting the term "do-nothings" and go around, travel around to their districts and call them out for their failure to act on various what we believed are pressing matters. And that's what happened. The session ended without anything really productive. We had a press conference in the Red Room and denounced the Senate and, in succeeding days, went around to the districts.

Q. Did you have any conversations about that subject with the Governor —

A. Yes.
Q. -- and the travel, generally?
A. Yes.
Q. And was Darren Dopp privy to those conversations?
A. I'm sure he was. I don't remember a specific moment but I'm sure he was. Darren and
his wife Christine was on this as well, I'm sure, because she is in charge of the day to day press
operations person.
Q. And Bruno and travel generally; why is it Senator Bruno in particular?
A. He is the leader of the Senate, the leading edge of the opposition. It was the strategic move we made. We stood up in the Red Room, as it's called, and said: Senator Bruno and the Republican Senate is unwilling to act. I don't know if it's a quote but, generally, going out to the districts.
Q. Is it possible that Darren Dopp could have interpreted this as support for his work in the travel arena with Senator Bruno?
A. I can't speak as to how he did interpret it or how he could.
Q. But is it possible?
A. Here's the thing. Anything is possible. And I understand what you're saying; that there's another kind of travel we are talking about also. I can tell you at this time we were all talking about traveling around to the districts and calling them out, which is a technique the Governor used after the Comptroller fight and after the breakdown on some issues and campaign finance. He went around to some districts and talked about the failures.

Q. Exhibit 45, which is four days earlier on May 23rd, Darren is talking about a travel issue which --

A. A different travel issue.

Q. -- a completely different travel issue. And he is copied on the May 27th e-mail which appears to be addressing Bruno and the travel issue.

A. I understand what you are saying. Obviously, you could look at this and think this and think that. I can tell you what I knew it was, and what was also going on at the time, or wasn't going on at the time.

Q. Did Darren Dopp ever raise that possibility with you; that he thought the Governor was
interested in pursuing the issue of Senator Bruno's travel and the helicopter at this time?

A. I don't recall that.

BY MR. TEITELBAUM:

Q. Did Dopp say anything to you at around the time of the e-mail in which there is a reference to "Bruno and travel generally" which would have indicated to you or be construed the meaning of "travel generally" the way you just testified?

A. I don't recall anything like that, no.

Q. Another question. If Dopp had construed this e-mail to give him permission to resurrect the travel issue, I take it that would have been continued to have been inconsistent with the instructions that the Governor had given you?

A. Yes. It would have been totally inconsistent.

BY MS. TOOHER:

Q. Did Darren Dopp communicate with you on travel issues beyond the helicopter issues, as far as you remember?

A. Meaning like what?

Q. Well, you are indicating a separate travel issue.
A. On this project or plan, sure. I don't remember a specific discussion, but I'm certain we talked about the prospect of going out to the districts.

Q. And did you have other communications from Darren on the helicopter and travel issues after Commission's Exhibit 46?

A. I know there were any e-mails after this. I don't remember any other conversations about it.

Q. Did the subject of Senator Bruno come up shortly after this communication, Commission's Exhibit 46?

A. By Senator Bruno -- I'm sure it came up in some way or another. He was the leader of the opposition to the Governor.

Q. Was there media coverage on Senator Bruno during this time frame?

A. Yes.

Q. Was there any specific media coverage that came to your attention in late May or early June?

A. Sometime around then I think there was a story about the federal investigations of him.

Q. When the story broke about the federal investigation what was your reaction?
A. I don't remember exactly. I guess my reaction was: It's not a good news story.

Q. It's not a good news story in what sense?

A. It's just, you know, a negative story about a potential federal action against him. But I didn't have any outstanding reaction to it.

Q. Did you discuss it with Darren Dopp?

A. I'm sure I did, but I don't remember a specific conversation about it.

Q. Do you remember the substance of those conversations?

A. I am going to guess that -- I don't remember a specific conversation. I think it's entirely possible I would have put it in the realm of office gossip; wow, it's a bad story, or whatever.

Q. Did Darren communicate with you via e-mail on the Bruno story on the federal investigation?

A. I now know he did. I have seen e-mails, but it didn't stand out to me.

(Commission Exhibit 47 was marked for identification.)

Q. I will show you what has been marked as Commission's Exhibit 47, a document that starts off: Darren Dopp, 6/03 2007 at 9:12 a.m. Are you
familiar with this document?

A. Yes.

Q. Can you identify it?

A. I have seen it previously. It's an e-mail from Darren Dopp to me.

Q. Did you receive this e-mail?

A. Yes.

Q. And, the lowest earliest entry in the communication thread: I guess we know why Bruno's folks have been so jumpy of late." From Darren Dopp to you and the Governor, subject: ATU. Do you know what that is referring to?

A. Assuming he is referring to the Times Union story about the federal investigations.

Q. And, what makes you say that?

A. Well, I remember the story was in the ATU and it was sometime in that time period.

Q. And your response to him?

A. "Yeah, no kidding."

Q. Then he responds to you?

A. Yes.

Q. What does he say?

A. "I think the travel story will fit nicely in the" --
Q. What was your understanding as to what he meant by "The travel story"?

A. I don't remember receiving it, but my understanding having seen the e-mail is that we should move, finally to move the -- get into the press the story about his belief that Senator Bruno has committed an impropriety regarding the use of helicopters.

Q. Did you have a discussion with him on that subject?

A. I don't remember one; I don't believe so.

Q. What was your reaction when he brought up the travel story yet again?

A. The reason I don't remember it because I had settled this issue, and I got another e-mail. And I just felt it was done. I had closed the matter out previously.

Q. At this juncture you have had two conversations with him that the matter is done. And he reports to you. Did you have any discussions with him about his continuing on this path?

A. Not that I remember, because I thought he wasn't -- there was no path he was continuing on.
He was told just to do the FOIL request and respond to that and not to do anything proactive with the press.

Q. From this e-mail it appears that this issue is still not done with Darren Dopp. Is that a reasonable interpretation?

A. Yes. He believes we should move the story.

Q. Did you have any conversations with anyone in the executive chamber concerning the continuation of the travel story at this time?

A. I don't believe I did. I don't remember any.

Q. And, did you take any steps to ensure that Darren wasn't pursuing this story?

A. No. He had been told not to. He had been told to fulfill a FOIL, and I had no reason to suspect anything otherwise, other than an e-mail on some warnings that I think we should do this. It was a matter that had been closed out, finished. There was no need to reengage and reopen the issue.

BY MR. TEITELBAUM:

Q. Given the fact that you say that you had told Dopp, I think more than once, that this story
is not to be pursued, did it raise a concern in
your mind at the time that Dopp was raising this
again?

A. I don't recall having a concern. It was not
something that was relevant to me, and there was
no reason to pursue it. And I'm not going to prey
on the issue and wonder about what it means.

Q. You had testified earlier that the issue of
the FOIL request was a sensitive issue because it
involved the person of high rank in government;
correct?

A. Yes.

Q. And is it also true that reference to a
travel story on 47 was a highly sensitive issue
which involved that same person, Senator Bruno?

A. Yes.

Q. Just given the fact that it was a highly
sensitive issue involving a high ranking
government person, is there a reason why you
didn't tamp this down once again?

A. In practice, in my relationship with Darren
not
reversing my prior direction was tamping down. I
would expect, unless I called him up and said:
Oh, you're right. Go for it, we're going to do it
It's not a military organization but I think it's clear that unless I reverse my prior direction, we're not supposed to do it.

Q. Was Dopp's efforts to resurrect this issue, presenting it to you multiple times, presenting it to you in different directions, was that his MO?

A. There is nothing in our relationship and in the way the chain was constructed, the way I run it, running these relationships, no one is prevented from expressing something. It's not the kind of place where you can't bring something back or talk about something. So, was there an MO?

Yeah, I could see him bringing things back periodically if he didn't agree with what I said. And it would be nothing -- it wouldn't surprise me.

Q. I would have thought that something of this significance would have, from his perspective, married the conversation, if he wanted to push it forward, given your prior instructions, was there an attempt on his part to talk to you about this or was it just left at the point of this e-mail, Exhibit 47?

A. I don't remember a conversation pertaining
to it. I didn't see -- no, I didn't want to reopen the matter. I didn't have a new opinion on it, so I didn't tell him to do anything different. Given it wasn't a military organization -- I told him what to do. Of course, unless I told him to change it, I assumed it wasn't going to change. I didn't mean to say no. I really -- no.

Q. I'm trying to get a sense as to whether this issue was for Mr. Dopp a passion. And because of your prior instructions to him but, most particularly, because he had apparently received the advice from Nocente that this was an issue that from Nocente's point of view as counsel to the Governor does not implicate legal wrongdoing on the part of the senator but, nonetheless, Dopp was raising this again. Can you explain that?

A. When you lay it out like that, clearly he came back to it a few times. I don't know how you -- I can't characterize it in that respect that it was "a passion" of his. I still have heard enough and have knowledge of the conversations to say that. You know, clearly, he brought it up a few times and he is always looking for --

Q. He is looking for a way to pursue it?
A. Clearly. And he spoke to David Nocente --

you know, I don't what to add beyond that.

Q. Did you believe that given Dopp's mentioning

this several times, notwithstanding the

instructions and notwithstanding the advice from

David Nocente, that he was out to get Senator

Bruno?

A. Look -- was he "out to get Senator Bruno --

^  

Q. With a negative story.

A. You are asking my interpretation of the

facts laid out here?

Q. Yes.

A. Look, he clearly was interested in a story

that was going to be negative for Senator Bruno.

In my only lengthy conversation I recollect it was

in terms of what we had to do to get ahead of this

story. Clearly, he then came back with a few

different ways to move it out; not getting ahead

of the story, just to get the story out. So,

sure. You're trying to get this story out. I

understand that. Did he say to me, "I want to do

this to get it out"? You know, I don't believe

so. I don't think -- If you're looking for a --

if you are asking was there a conversation where
he said: You have got to do this to nail the guy
and I'll take care of him, or something like that,
I don't remember a conversation like that.

Q. I'm asking you for your perspective on the
actions that he took, not what he said.

A. Yes. Clearly, he was trying to advance the
story into the public. He was trying to get away
from an internal FOIL that was processing and get
it out to the press in a really negative way. So,
obviously he was trying to move it into the public
realm quickly on the heels of something else
that's bad.

BY MS. TOOHER:

Q. Did anyone else communicate with you via
e-mail on Senator Bruno's story at this time?

A. I now know that there's another e-mail from
Bill Howard. It was passed across the table.
It's a similar thing, clearly promoting the idea
of advancing the story publicly. But I had the
same attitude to it, I believe, which is: This is
a done issue as far as I'm concerned and not
something that I want to pursue. I didn't mean to
get ahead of it.

MS. TOOHER: No, that's okay.
(Commission's Exhibit 48 was marked for identification.)

Q. I will show you Commission's Exhibit 48. And this is an e-mail dated June 3rd at 11:13 a.m. from William Howard to you.

A. Yes.

Q. Was this the e-mail you were just referring to?

A. Yes.

Q. Then could you describe it.

A. Similar issue, but I don't recall ever speaking to Bill Howard about the possibility of releasing the story. But it seems clear from this that Darren had spoken to him and communicated the conversation I had with Darren. And he's clearly writing that he thinks the timing is right. Move it, because he thinks it will be a negative story coming on the heels of what looks like a negative story that morning in the Times Union.

Q. Mr. Howard's e-mail, "the impending travel stuff," -- "impending" seems to indicates that this is about to happen.

A. I think he knew, clearly, he was processing -- Clearly, Darren was doing the FOIL through him,
we now know. So he knew the FOIL was being compiled, put together. You know, he is also saying, it looks like, let's do it now as opposed to my direction which is just to do the FOIL the way you would normally do it and get it out when it's appropriate to get it out.

Q. This e-mail is just to you, though. It's not to you and Darren Dopp?

A. Yes.

Q. And, it appears from the e-mail that he believes you are aware of the "impending travel stuff"?

A. All I can say is that Darren clearly had spoken to him.

Q. Did he have some basis for thinking you knew about the "impending travel stuff"?

A. I don't remember any basis to it, except I assumed -- I probably assumed when I saw this that Darren had spoken to him.

Q. He said, "I think timing right for that move." So, it appears that it's a move that has been defined, if you will.

A. I assume he is referring to the conversation that Darren had about making this public.
Q. The conversation Darren had had with whom?
A. Back on the 17th, I guess, about releasing this publicly.
Q. So, William Howard wasn't privy to that conversation; is that correct?
A. He was not, no. He wasn't part of the conversation.
Q. Do you have any reason to believe that William Howard knew that that was dead, the concept of going forward with the media statement?
A. Judging -- I assume Darren told him that. I have no idea. I don't know what Darren told him beyond this e-mail indicates that he knew of the prospect of releasing it publicly.
Q. So, you had not had any conversations with William Howard about "killing" that idea?
A. I don't recall any.
Q. Did you have any conversations following this e-mail with him?
A. I don't believe I did. I don't recall any conversations with Darren.
Q. So, you took no steps to ensure that Bill Howard and Darren Dopp were on the same wave length on the issue of the travel story?
A. Well, Bill Howard would be less significant to the release because Bill Howard had no capacity. He wasn't in direct contact with the media. As far as I can tell from this, he was compiling information. As I said, it would be completely rational for me having said not to do something to assume it wouldn't happen unless I said otherwise.

Q. But, at this point you have now received a second e-mail in one day indicating that something you did not wish to happen was still being considered by members --

A. They thought it was the right thing.

MR. REICH: Wait until she finishes the question.

Q. -- by individuals in the executive chamber; is that correct?

A. Yes.

Q. Would you normally take action in response to this sort of what appears to be misdirection?

A. They were just saying -- no, I don't think so, honestly. They were saying -- their opinion is that we should do this.

Q. Had you had any prior conversations with
William Howard concerning the release of the story
to the media?
A. I don't believe I did. I don't remember
any.

Q. So, did you see any need, even now, as you
look at these e-mails?
A. Do I wish there is there was another e-mail
that says, "Bill, stupid idea. Don't do that"?
That would make things clearer here. But I would
still have to say there is no reason for me to
expect that something is going to happen that I
don't want to happen because of these two e-mails.
The fact that they both say: Timing right, good
move, or good timing for travel story, doesn't
mean they're doing it or that they're planning on
doing it. It means they're giving me their
opinion.

Q. The comment on the e-mail, "particularly in
the tax area," do you know what that refers to?
A. I believe I do. But that's just based on --
I understand what the tax issue is regarding
travel.

Q. What is that issue?
A. That -- I know about it because there's also
an issue with the Attorney General's Office, and they was an issue during the campaign that when you use official vehicles for private purposes you have to claim it as income. And when Governor Spitzer was the Attorney General he had say, okay, 20 percent of the car is driving me home, going to a party or something like that, and he had to claim it and compute it as income.

Q. And, "There's a problem." Why would that be a problem?

A. If you don't pay taxes that's income you didn't claim or pay taxes on it if you didn't claim it, if Senator Bruno didn't claim it.

Q. Did you ever explore that area, the potential tax problems for Senator Bruno?

A. No. I have no recollection of doing that.

Q. Do you know if anyone pursued the potential problems for Bruno in the tax arena?

A. Not that I know of.

Q. It seems that could present a serious problem for Senator Bruno; would that be correct?

A. If he used it for private purposes and didn't claim it as computed income, sure, it's considered a problem. You have to pay back taxes.
Q. Was there a reason you didn't pursue the tax issue?

A. I think I received this e-mail and looked at it quickly. It was something I decided I wasn't going to pay much attention to it. Should I have then said: Let's check on him, I'm not sure I would have because I feel it's his -- we didn't ask for itineraries. That's between him and the Tax Department or IRS or whatever he reports it to. And I probably wouldn't have tried to delve into what he's doing. I have no capacity to because I didn't have the itineraries to see what he had done with the vehicles.

Q. This is post-session, June 3, 2007; isn't it?

A. I don't believe so.

Q. When did the session end?

A. On the 23rd, I believe.

Q. So, in an earlier e-mail the Governor said he wanted to "punch back" at Senator Bruno.

A. Yes.

Q. Did you make note of this tax idea as a concept to punch back at Senator Bruno?

A. No.
Q. Would this have been a potential area to punch back at Senator Bruno?
A. I have no idea if that would turn into anything or not, but I didn't pursue it.

BY MR. TEITELBAUM:

Q. Once again, in 48 the reference to the "impending travel stuff" at least implies to me that William Howard had some understanding that you had some understanding of what he and Darren Dopp were doing with respect to putting together of documents.

A. I assume Darren spoke to him after he spoke to me.

Q. What was the level of knowledge that you had as of June 3rd as to what Dopp and Howard were doing as opposed to the documents by the State Police?

A. My knowledge was basically what was in the prior e-mail that Bill Howard was collecting the documents pursuant to FOIL; that there were existing itineraries or something like that.

Q. Nothing more?
A. I don't believe so.

BY MS. TOOHER:
Q. You mentioned itineraries. Did there come a time when you became aware that the executive chamber was in possession of itineraries of Senator Bruno?

A. Yes.

Q. And, when was that?

A. Right before the FOIL was produced or turned over to the Albany Times Union Darren told me he was going to be turning it over. And I said, you know, what is it? And he had it's travel records and itineraries.

Q. When you say right before he was responding to the FOIL, had you seen the FOIL request at that point --

A. No.

Q. -- the FOIL request? Did you ever see the FOIL request?

A. No.

Q. And when he said he was responding to the FOIL request what was your understanding as to what that FOIL request was?

A. I don't believe I ever had a detailed understanding of what the specifics of it were; the times, the dates, or anything like that. But
my sense is it was for the records for the use of
the helicopter and ground transportation.

Q. And, did you have any understanding as to
whose records they were?

A. I guess I assumed, or was told they were the
State Police's.

Q. Were you shown any documents at that time?

A. I don't believe I was.

Q. You were told that it included itineraries,
as you just testified?

A. Yes.

Q. Did you ask Darren where he had obtained the
itineraries?

A. I don't recall. I don't know.

Q. I'm sorry?

A. I don't know.

Q. It was your understanding that Senator
Bruno's itineraries were not in the possession of
the executive chamber, though; is that correct?

A. Correct.

Q. And, you testified earlier that Ken Riddette
from the Senate had told you that Senator Bruno
wasn't turning over his itineraries; is that
correct?
A. Correct.

Q. Did you mention that discussion at all to Darren when you were discussing the documents that are now being produced?

A. I don't believe I did. I don't remember telling him in that discussion.

Q. Did it cross your mind at all that he was now in possession of the itineraries that the Senate had her earlier indicated they would not turn over?

A. No. Typically, in the sort of sense of things, Darren Dopp would say, you know: We have got a request. And when he was about to turn it over on a sensitive matter, instead of turning it over, he would say it's going to be X, X and X it might come out on the gist of the matter. So, I don't know. If I'm reading the Times Union one morning I would say, "What happened? Where did it come from? No one told me." It was never -- it would never be in our relationship to say: Okay, let's look at the FOIL and see what you gave, that kind of thing.

Q. If Darren had approached you with something that was clearly a questionable document, a
document that you knew should not be released to the press, a confidential report from the State Police concerning an ongoing criminal investigation but he said: This is what I'm turning over, what would be your response?

A. "Don't do that," or, "Talk to the counsel's office."

Q. So, when he brought you documents that you had already been told by the Senate they were not willing to produce did you have any reaction at all?

A. No. I didn't connect the conversation with Ken Riddette back to that. But it was different. They weren't going to give to us document for us to monitor their movements in the executive chamber. FOIL, though, required you to release documents that exist in government. I didn't know the State Police was keeping any kind of itineraries. But if there's a document and it's within the purview of FOIL the request, it would have to be released whether or not the Senate wants us to have it. If it exists in government and requires release they have to release it.

Q. When you say, "it exists in government"
under FOIL, what is your understanding as to what FOIL requires released from the executive chamber?

MR. REICH: You are asking for his lay person's opinion; correct?

MS. TOOHER: Yes.

Q. When it requires release from the executive chamber.

A. Do you mean of documents in the executive chamber?

Q. Yes.

A. I don't know precisely whether it means -- my sense is that it requires -- I can't even speculate. It requires release of certain documents. I think it requires release of documents from the chamber to outside entities on the matters requested by FOIL, for example. But FOIL requires a range of things. I don't know precisely.

Q. Does it require, to your knowledge, the executive chamber to release the documents of other agencies which are not in its possession?

A. To my layperson's understanding is that under FOIL it doesn't matter whether the agency releases it or the chamber releases it. But I
don't know for sure.

Q. Would FOIL require the executive chamber, to your understanding, to release documents from the Legislature?

A. We don't possess documents of the legislature. You mean like these documents?

Q. Yes.

A. I don't know.

Q. Was it your understanding that the chamber possessed itineraries of Senator Bruno?

A. No. I'm told this came from the State Police by the Albany Times Union.

Q. But that was from the State Police; they were not executive chamber documents?

A. Correct.

Q. Did you ever ask Darren where he got the itineraries from?

A. I don't recall, but I think it's a fair assumption that they came -- I figure they came from the State Police.

Q. What is that based upon?

A. That that's who does executive travel.

Q. Did you have any knowledge of the State Police having itineraries?
A. Not until then.
Q. Until when?
A. I got an e-mail that says Bill Howard says they have itineraries going back or something like that.
Q. Did you ever ask to see the itineraries?
A. No.
Q. At any point from the time you received Bill Howard's e-mail saying -- or e-mail saying they have the itineraries until now Darren is showing you the documents he is going to release --
A. Not showing me documents, but go on.
Q. He is just telling you?
A. Yes.
Q. -- did you ever ask to see the itineraries?
A. No. Not that I recall, no. I don't believe so.
Q. Did you ever discuss with anyone in the executive chamber the existence of these itineraries?
A. I don't recall ever discussing it with anyone.
Q. Did you ever discuss with anybody the propriety of Darren Dopp obtaining these
A. I don't recall a discussion, no. There is one fairly minor clarification. I believe this discussion I had with Darren was in his office, and the response to FOIL was on his desk. I didn't inspect it, but when you said was I in the presence of a document, I was in the presence of a document. I physically saw it; that there were documents there.

Q. Were there voluminous documents?
A. There was a pile of papers. I don't know.

Q. Do you remember was it a pile three inches thick or a pile --
A. I don't recall.

Q. Do he lift it up and say: These are the documents?
A. No.

Q. How did you know which documents were those -- I mean you're the one who brought up the subject.
A. I just didn't want to not tell the full -- I just remember being in his office and saying: These are the documents to turn over.

BY MS. SULLIVAN:
Q. Was there any thought to having your officer from the chamber review the documents before they were released?

A. I guess that the FOIL officer had been in the chain, the mix, the conversation on any documents.

Q. So, you wouldn't have left it up to Darren Dopp's discretion as to which documents were released?

A. I assume all FOILS went through the FOIL officer. I would never be a person to decide what is produceable and what isn't, if I read the FOIL law or read a summary of the FOIL law.

BY MS. TOOHER:

Q. Did you ever mention to Darren Dopp that he should check with the FOIL officer on this request?

A. No. I assumed every FOIL request went --

Q. That is when the request is in writing; is that correct?

A. I assume any request that comes in is either going to be reviewed by her, and she will be in the decision tree of what is produced. And she
would see documents and decide what is responsive and what isn't responsive.

Q. Does she review oral requests that the chamber receives?

A. I don't know. I just don't know.

Q. Is there a process in the chamber for oral FOIL requests?

A. Not that I know of.

Q. Did you ever ask Darren if he had consulted with the FOIL officer?

A. No.

Q. And, did Darren ever tell you that he had received a written request?

A. I have known for a long time that he had gotten a request. But written, not written, no. I don't recall a conversation about that in particular.

BY MR. TEITELBAUM:

Q. Did you find out whether the documents were presented to the FOIL officer?

A. My sense is now from the report, the D.A.'s report that they weren't.

Q. Other than from those reports was there any discussion that you are aware of concerning the
fact that the FOIL officer had not been presented with these documents within the executive chamber?

A. Not that I know of. The assumption was she's the FOIL officer.

Q. I am talking about after July 1, you know.

A. Did I understand whether it had gone through her?

Q. Your testimony is that you assumed that it had been presented to her like every other FOIL request; right?

A. Correct.

Q. You say from the reports that have been issued that apparently the FOIL officer had not been presented with the documents. My question is was there a discussion within the executive chamber that you are aware of concerning that fact?

A. After July 1st?

Q. Correct.

MR. REICH: Could you just, for my benefit, answer the question yes or no? And we will go from there, depending on what the answer is.

A. No, not until the FOIL report came out.
And, yes, we shared it with David Nocente the codified FOIL in the chamber. One of the recommendation of the Attorney General's report was that the FOIL rules in the chamber be sort of written out and explained that everything has to go through a very regimented chain of command before it was released. And that was done after the Cuomo report.

Q. Was this a conversation with Mr. Nocente that you took part in?

A. After the Cuomo report?

Q. Yes.

A. Apparently, he took the A.G.'s report and generated a new set of -- we'll call it rules, regulations, and circulated them. Honestly, this entire FOIL question is a lawyer's questions, nothing I deal with beyond the level of what we've been talking about, a heads-up of what is coming my way.

Q. Did you have a conversation with Mr. Nocente about this subject after the Cuomo report came out?

MR. REICH: Answer the question yes or no, and we'll see where we go from there.
MR. TEITELBAUM: No place.

A. I don't recall any.

Q. The document that was prepared in connection with Mr. Nocente's apparent idea that there needed to be a writing laying out what the procedures are, should be within the executive chamber to deal with flow of documents, did you ever see that document?

A. I'm sure I did.

Q. And, from your perspective is there anything in that document that was different from the procedures that you understood pertained to the executive chamber in connection with how to handle a FOIL request prior to that document coming out?

A. I believe those are the processes that should have been followed and was the obvious process to follow.

Q. They were in place but they weren't in writing; is that the idea?

A. I don't know whether David wrote anything out when he came in. I have no idea. I understand your question. Yes. To me, they were obviously the processes which you follow. There is a FOIL officer, so obviously -- and she is a
lawyer; I'm not a lawyer. So, I'm not going to -- there is a FOIL which is a legal requirement that you go through a FOIL. There's a FOIL officer; that's what she's there for. I'm sure there was an e-mail in the beginning saying Maria Treisman is our FOIL officer. Give a clear signal to her when there's a FOIL.

Q. I'm a little unclear, Mr. Baum. Is there a document that was prepared which laid out these protocols?

A. After the Cuomo report?

Q. Yes.

A. I believe so.

Q. Do you have a copy of it?

A. I'm sure it's in my e-mail.

MR. TEITELBAUM: We would like to see a copy of it.

MR. REICH: I don't have access to it, to the official --

MR. TEITELBAUM: Does anyone have a copy?

Q. Do you know approximately when the document was sent around?

A. I believe after the Cuomo report. I believe
there was something sent around; I haven't got the
time period.

MR. REICH: Can we take just a
two-minute break?

(Recess taken)

MS. TOOHER: Can we pull out the
itineraries?

BY MS. TOOHER:

Q. I am going to show you what has previously
been marked as Commission's 1, 2, 3 and 4 and ask
you if you have ever seen these documents.

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

MR. REICH: Can you just give me one
second?

A. I have not seen them before July 1st.

Q. Before July 1st. Have you seen them after
July 1st.

A. I am not sure, honestly. I understand what
they are, but I don't believe if I have seen these
documents ever.

Q. Okay. What is your understanding as to what
they are?

A. Compilations that were created from
information from the State Police.
Q. Compilations on what?
A. Information concerning Senator Bruno's transportation.
Q. And what is your understanding of how these compilations came into being?
A. My understanding is someone, either Darren or Bill Howard or somebody, compiled them.
Q. I'm sorry?
A. That Darren Dopp or Bill Howard compiled this information.
Q. That they put the information together themselves?
A. Darren or Bill Howard or someone in the State Police, I don't know.

MR. REICH: Do you mind just listening to the basis for the testimony he just gave?

MS. TOOHER: Certainly.

INTERVIEWEE: Having read the newspaper reports and the reports that have come out since this matter came to light.
Q. Have you had any discussions concerning these documents?
A. Not specifically, no. I don't recall a specific discussion on these documents.
Q. Let me show you what has previously been marked as Commission Exhibit 5 and ask you if you have ever seen this document before --
A. No, not -- I don't recall.
Q. -- either before or after July 1st?
A. No. I don't believe I have.
Q. Do you know what this document is?
A. It look like itinerary.
Q. For --
A. For Senator Bruno.
Q. Have you ever had occasion to see itineraries from Senator Bruno in your capacity with the executive chamber?
A. No.
Q. On or about July 1st there was an article in the Albany Times Union concerning Senator Bruno. Are you familiar with this article?
A. Yes.
Q. And in the context of this article did you ever see the itineraries that I have shown you, Commission's 1 through 5?
A. No. I don't believe I have.
Q. And, did you read the Albany Times Union article when it came out?
A. Yes.

Q. Did you have any discussions with anyone in the chamber about the article when it came out?
A. Yes.

Q. And who did you have discussions with?
A. I spoke to Darren that morning, mostly because I was getting on a plane from my vacation to Florida, and I just wanted to touch base with him before -- I figured I would be reading the article and there would be news coverage by the various news organizations. And I just wanted to touch base with him.

Q. What was the sum and substance of that conversation?
A. I assumed other news organizations would call and say: Okay. There's an article suggesting something bad. The article suggested actually all but criminality. I think you read it. And I wanted to talk about how we would respond following the media inquiries.

Q. When you say "the article all but suggested criminality" how so?
A. I don't mean to overstate it. It cited the law. This suggested he had broken the law, you
know. It spelled out a lot of stuff. It suggested that it was a violation of some statute that the reporter cited. I don't know if it's a criminal statute, so I shouldn't have said that.

Q. And, did you have any reaction to that?
A. It was a much more negative story than I expected.

Q. And did you express that to Darren?
A. I don't remember expressing that at all.

Q. Did you express anything concerning your prior discussions on the area of Senator Bruno's travel at that point?
A. No. I don't recall having a discussion like that.

Q. Did you mention anything about your prior determination that there was nothing wrong in the article?
A. No, I don't believe I did. I remember thinking that I still basically believe that he had done anything illegal, but the article was certainly framed that there was something wrong in what he had done.

Q. Did you ask Darren if he had anything to do with framing that issue?
A. No, I don't think I did. My two kids and my wife were in the airport getting a plane at 7:30 in the morning, so it wasn't like that.

Q. Did you ever communicate with Darren in any other way on the article at that point?

A. I don't remember. I believe we spoke with him in an e-mail but I don't remember.

(Commission's Exhibit 49 was marked for identification.)

Q. Did you communicate with anyone besides Darren on the morning of July 1st concerning the article?

A. I may have spoken to the Governor but I'm not sure.

Q. In your conversations with the Governor do you recall mentioning anything about the article?

A. I don't recall. I don't know.

Q. I am going to show you what has been marked as Commission's Exhibit 49. I'll ask you to take a moment to review that document.

(The witness complied.)

A. Okay.

Q. It's a one-page document. The first line, "Richard Baum July 1, 2007, 8:18." At the bottom
of the document is the earliest entry, 6:19 a.m. on 7/01. It's an e-mail from Darren Dopp to Richard Baum and Lawrence. Do you recall receiving this e-mail?

A. Yes.

Q. When asked about the EnRon revolution Uncle Charles, a leading authority on accounting ethics said, "well, it's not good." What did you understand that to mean?

A. There was a joke that preceded this about understatements. Someone was told: What do you think of EnRon? And he said: It's not good. And it's the understatement of the year. It was a running like -- no relevance to this.

Q. We were curious. And, your response to that, "Wow! He's got a problem," what did you think the problem was?

A. It was a very negative news story and everybody was calling and asking about it and asking someone to look into it.

Q. And, a little further up in the thread, at 7:56 a.m. you are responding again to Darren Dopp, "And tomorrow ground him and refer to the I.G." What did you intend there?
A. The article called for action. There is no way to have that article out there and say it's no big deal or something like that. And, we couldn't continue -- and my idea was that given that article, we couldn't say keep using the aircraft. We had to have somebody, an independent body, look into it.

Q. But you had already made a determination legally that there was not a basis for a referral to the I.G. on this issue; is that correct?

A. Yes, based on my understanding of what this amounted to.

Q. Was your understanding changed by this article?

A. Fundamentally, no. But the reality is that there is an article in the paper that essentially demanded someone look into this citing actions and citing virtually no excuse, no proper excuse or explanation from Senator Bruno and it cited the law. So, I felt that there was no way we couldn't. We had to have some -- okay. We're going to tell someone to look into it.

Q. At this point in time had anything changed in your viewpoint as to Senator Bruno's actions?
A. Changed how?

Q. In terms of the propriety of those action.

A. I still felt that as long as you had some official business you were okay, one was okay with the law. But the article did emanate -- framing it in a different way, and I realize -- we are doing to have to -- the article rightly perceived it in a different frame, a different way. And I realized we were going to have to -- I'm not a lawyer. And, being the article correctly perceived it would create a general clamor to get to the bottom of whether there's anything wrong here. The answer was not going to be: Rich Baum says it's okay. Clearly, someone else had to give an answer.

Q. Did you have any discussions with anyone in the chamber concerning whether or not Senator Bruno's actions were appropriate in light of the article?

A. Yes. I believe I spoke to Dave either that day or a day or two afterwards.

Q. What was that conversation about?

MR. REICH: Answer generally what the conversation was about and see where we go from
there.

A. Just generally, we both felt there was nothing improper. It was generally like, you know, is there anything improper here? Did the article change anything?

Q. The top line in the e-mail, the line about death threats and the e-mail, "ATU had been taught in classes for years to come. Can you explain that?

A. It was just a model of poor press response to me. And John McArdle tried to suppress it, tried to turn it back on the reporters saying we need police protection because we were having death threats because of the Albany Times Union coverage. It just seemed laughable to me.

Q. In what sense?

A. The idea that the Albany Times Union coverage is stimulating death threats just doesn't seem -- doesn't ring true to me.

BY MR. TEITELBAUM:

Q. It was not only you who had come to the conclusion that there was nothing improper in what the senator was doing, but David Nocente also; correct?
A. I believe so, yeah.

Q. He told you that?

A. In a general sense, yes.

Q. You had a conversation with him after the article appeared. Can you just describe generally -- he reiterated that to you apparently?

A. Not as a legal decision; just as, you know, we both kind of spoke out, you know, as long as you're doing some official use.

Q. He is counsel to the Governor, so you don't think he was bringing to bear that issue in his legal skills?

A. Sure.

Q. So, when the suggestion is from -- well, when the suggestion is he has a problem -- I'm reading 49 now, what do you think? Put out a statement/reviewing and deciding what action to take, that doesn't seem to square with somebody who has come to the conclusion that there is nothing wrong here.

A. I spoke to David after this, I believe, the early morning on Sunday. So, the conversation would have happened during the week, probably.

Q. After this?
A. Yes.

Q. Well, you already had a conversation with David back in May?

A. Yes.

Q. Right. And, you testimony is that from your perspective standing orders were: Don't go forward with an article condemning Bruno for use of the state aircraft because he, from your perspective and Nocente's perspective, he has done nothing wrong; correct?

A. Yes.

Q. Tell me how this statement squares with the conclusion that formed the basis for those instructions.

A. Because there was an article that morning that made a powerful case, despite my opinion and David Nocente's opinion, that something wrong had been done. With an article like that it's almost inconceivable that we wouldn't seek some outside look at and investigate -- and "message" is too strong a word -- refer to someone for an independent evaluation. And, remember also Darren's original view was never crazy or outlandish that we're implicated, too. So, the
idea that David Nocente and Rich Baum say don't worry about it just wasn't realistic. Someone would have to take a look at it.

Q. There is a suggestion in 49, "Ground him." It is apparent -- that sounds punitive to me.

A. It was a colloquialism, a quickie laugh, "ground him" that way.

Q. Well, it would be grounding him in that you wouldn't permit him have access to state aircraft; correct?

A. Correct.

Q. And that was -- and you agree with it. Notwithstanding at that point neither you nor Nocente had changed your mind with regard to the fact that the Governor said the senator was doing nothing improper; is that correct?

A. That morning I didn't evaluate how does my original opinion comport with the article that the Times Union wrote. I'm just saying that with that article out there that we are also implicated in wrongdoing would be like saying okay, keep using the helicopter. At this point it wasn't realistic. We have to say -- to use my judgment as the governor's advisor making sure that we look
right and do right. You can't let an article like that come out and say, okay, keep using the chopper in the same way and no one is going to look into it.

Q. But the matter had already been considered; hadn't it?

A. The matters had been discussed, sure.

Q. Was releasing that fact it had not been communicated to the press?

A. I don't know. We had never -- we had never done like formal opinions. It was just our internal view. That I know of, no one had taken the materials that Darren Dopp had turned over the Times Union and examined them and said: Okay. Do we still think this is all proper? So, at this point we were relying on documents that hadn't really been examined that way that were being published in the newspaper made out to be pretty bad, you know, in the way they were presented. It's a compilation. I think it was very realistic in this situation, despite what we think, to look at it, reevaluate it.

Q. That is because, I take it, there were political realities that you had to address?
A. I don't know that I would be that cynical.

Political realities --

Q. I'm not trying to be cynical about it; I'm just --

A. No, no. Just a reality in terms of he's the Governor. It's public property. There's a front page article in the Albany Times Union saying it's being misused in violation of a law. You can't shrug it off and say, oh, it's okay; don't worry about it. It's not just a political reality like (aptured) office polls. It's that the public expects you to take something like seriously and have someone look at it.

Q. Had research been done by the executive chamber on whether or not there is a violation of the penal law, is that right, on what Senator Bruno was doing; isn't that true?

A. I don't know.

Q. Do you know whether the Senate undertaking caused that research to be done?

A. I don't know.

Q. Was there a visit to the Manhattan D.A.'s office concerning use of the aircraft by Bruno?

A. Before the release?
Q. Or after that.

A. I don't know any formal -- I know that after the article came out there was some -- I know we were going to be circumspect about it. I know that David spoke to several agencies. I don't know whether he initiated it or they initiated it. And I don't know --

Q. Do you know what the purpose was for David Nocente talking to these agencies?

MR. REICH: Start with a yes or no.

A. Yes. The purpose was to see if anyone was going to be forwarding this material to look into. But I don't know who initiated that or what the substance of the discussions was.

Q. You forwarded the material that had been given to the Albany Times Union --

A. Correct.

Q. -- to see if those materials would indicate that a crime had been committed?

A. Correct.

Q. Do you know if that was done; in other words, if the materials had been forwarded to someone?

A. I think it was, but I don't know which ones.
Q. Do you know what the result of that was?
A. Nothing that I know of.
Q. Was there any reaction from the prosecutorial agencies to the materials?
A. I know there was a formal report on the use of the helicopter. I believe that the D.A. said something. That's all I know. The Manhattan D.A.?
Q. Yes. Do you know what the D.A. said?
MR. REICH: Can we talk about which D.A. you are talking about?
Q. I'm talking about the Manhattan D.A. In answering my questions concerning this subject you talked about the Governor, how he would be -- how the Governor would be perceived by the public. Before, you referred to "He's got a problem." Is that the Governor --
A. No.
Q. -- or Senator Bruno?
A. Senator Bruno.
Q. I take it, he was permitted to continue to use the aircraft because those in the executive chamber who were responsible for considering this matter concluded that there was nothing wrong with
his using the aircraft; correct?
A. As long as he had attested -- filled out the
form and attested, yes.

(Commission Exhibit 50 was marked for
identification.)

BY MS. TOOHER:
Q. I am going to show you what has been marked
as Commission's Exhibit 50 and ask you to take a
look at it. It's an e-mail thread that is
virtually identical to Commission's 49 except for
the top entry. And, quite frankly, not being
savvy enough in the blackberry department, I just
assumed perhaps you were responding back and forth
faster than -- so that you have might have
responded, or Darren Dopp might have responded
before he got your response and that's why you
ended up with two separate threads. But in any
event, the top entry is, "The only twist is the
S.P. thing. I think it's worth noting that
there's never been a threat assessment."
A. Is that from me or him?
Q. That's from Darren Dopp to you.
A. To me, okay.
Q. Again, this is obviously a reference to the
Times Union article and the discussion in that area. What is "the S.P. thing"?

A. I don't know. It's obviously referring to something in the article. Oh, you know what? I'll bet he means -- perhaps he's referring to what I was afraid to in the prior one, the death threats and that he needs State Police protection for death threats.

Q. He says, "I think it's worth noting that there's never been a threat assessment." The time on this is 7:57 a.m. and actually comes before your 8:18 a.m. line about death threats in the ATU.

A. I don't if it's responsive -- Obviously, it's not responsive to that. But the only thing I can think of here that he is referring to as "the S.P. thing" is that it's being claimed that he needs State Police protection because of the death threats. And that's why he says, "I think it's worth noting there has never been a threat assessment," which is the typical -- if someone, a member of the Assembly says, you know: Someone is threatening my life, well, the State Police will ask if he needs protection, a threat assessment.
Q. How is he aware that there has never been a threat assessment?

A. I don't know.

Q. Were you aware at that juncture that there had never been a threat assessment?

A. I don't believe so. I don't know. I don't remember. I'm not aware of that.

Q. Was that issue about a threat assessment and Senator Bruno discussed with you at any time?

A. I don't recall ever discussing it.

Q. Were you ever privy to conversations where the issue of a death threat against Senator Bruno and the transportation issue were discussed?

A. I don't remember anything like that.

Q. Did Darren Dopp ever mention to you the issue of security and Senator Bruno's use of the helicopter during this time frame of July 1st?

A. On that day, you mean?

Q. Before or shortly after.

A. Aside from everything we've talked about up to now, I don't believe so.

BY MR. TEITELBAUM:

Q. Did anybody indicate to you, Mr. Baum, that he or she viewed the security threat to Senator
Bruno to be a low one at or around the time of this Exhibit 50?

A. I don't remember a discussion about that.

Q. You didn't have a discussion about that?

A. No, I don't believe so. I think I just -- I don't remember a discussion like that for a threat assessment.

Q. You just gave us some testimony about what a threat assessment is. How do you know what a threat assessment is?

A. There was a juncture in the matter of Hevesi, whether his wife -- he claimed his wife needed it and whether these people had a threat assessment. He claimed there was -- that it had been evaluated but the State Police claimed there was a low threat assessment.

BY MS. TOOHER:

Q. And, I assume conversations about this article and the impacts on the chamber went on for some time?

A. Sure, yes.

Q. You mentioned in both 49 and 50 a referral to the I.G. Was anything ever done on that front?

A. I don't know. David would have handled it.
I don't know.

Q. David would have handled --
A. Whether it be given to anyone, whether anyone is asking for it.

Q. And, was there ever any discussion amongst Dopp, yourself, and other members potentially of the executive chamber about issuing a statement concerning the referral of the matter?
A. Probably -- probably. I don't remember. I was on vacation in Florida. I believe there may have been some discussion, but I don't remember.

Q. Did you ever have an opportunity to review any documents concerning referral of the matter?
A. I don't remember. I may have. I may have been involved in --

MR. REICH: Wait until there is a question.

MR. TEITELBAUM: Do you want to supplement your response?

INTERVIEWEE: It's just what I answered before, no. I just know David oversaw the interaction. I think I had some discussions about it generally, the idea of referring it, as per the e-mail.
(Commission Exhibit 51 was marked for identification.)

BY MS. TOOHER:

Q. Let me show you what has been marked as Commission's Exhibit 51, an e-mail from Richard Baum to Darren Dopp dated July 2, 2007 at 11:19 a.m. The caption subject: Statement today. At the bottom of this document it says, "Attachment, Bruno referral document deleted by Richard Baum."

Can you identify this document?

A. An e-mail from me to Darren.

Q. Do you recall sending this e-mail?

A. I don't really.

Q. Do you know what the Bruno referral document attachment is?

A. I don't.

Q. When did you delete that document?

A. I don't know.

Q. And, apparently, Darren Dopp copied the original e-mail for your review to you, to David Nocente, Richard Rifkin, and Peter Pope. Do you recall the statement that was sent to you on or about September 2nd for your review?

A. I just don't. I don't recall the content of
the statement.

Q. Did you have discussions with Richard
Rifkin, Peter Pope, and David Nocente about a
Bruno referral document on or about July 2nd?
A. I don't remember any discussion about it.

Q. Do you normally delete the attachments to
your e-mails?
A. No. I mean I guess I could. Sometimes it
might make sense. The blackberry slows down. It
gets clogged with attachments, so I'll delete
things just so it doesn't get slowed down.

MR. TEITELBAUM: Let's take a break; okay?
(Recess taken)
(Commission Exhibit 52 was marked for
identification.)

BY MS. TOOHER:

Q. I think where we left off, you indicated
that the Bruno referral document in your e-mail,
Exhibit 51, that you don't recall what that
document was. I am showing you what has now been
marked as Commission Exhibit 52; again, an e-mail
from Darren Dopp on 7/02/07 at 4:14 p.m. to you.
Do you recognize this document?
A. I don't really remember it, but I remember
-- yes, seeing it now, I remember the basic import
of it. I don't remember the document. I know
there was a statement contemplated.

Q. Is this the document that was an attachment
to your earlier e-mail, 51?

A. I just don't -- I don't know. I just don't
know.

Q. Commission's 52, do you know what this is?

A. It's a response clearly that the Governor
had directed Darren to draw up. I am responding
to Senator Bruno's attack on Governor Spitzer.

Q. And this just refers to a number of
issues --

A. Correct.

Q. -- but it does not refer to a particular
referral of Senator Bruno or his activities?

A. It mentions the use of aircraft.

Q. Correct. But, your e-mail, Exhibit 51, is
specifically a Bruno referral document.

A. Correct.

Q. So, you don't know if this is it?

A. No, I'm sorry. I just don't know.

BY MR. TEITELBAUM:

Q. Did there come a time when you moved to the
conclusion that Mr. Dopp had done something wrong in connection with this matter?

A. Well, certainly when the A.G.'s report came out. Before then, I had been largely -- recused may be a little too strong a word -- but largely purposely left out of the internal back-and-forth with the Attorney General's Office in document production. So, my knowledge was pretty limited.

Q. Your reaching a conclusion that Mr. Dopp had done something wrong was based entirely on what was said by the Attorney General, or did you make an independent judgment as well?

A. I made a judgment before then. But certainly my attitude on aspects of it were filled in by the Attorney General's report.

Q. What did you conclude Mr. Dopp had done wrong?

A. I see two things. Number one, in dealing with a political opponent and any kind of police powers or State Police, in this specific instance it is very, very important to do everything in the most legalistic way, to go through the appropriate channels, to go through legal channels and systems that have been set up. And his direct involvement
in it and the failure to execute and fulfill the FOIL through those channels was an error in judgment because it undermines the sense that the State Police are different from everyone else and that police powers are held up as impartial and can't be perceived to be used as a way to get at political opponents.

And, two, I think regarding FOIL and political opponents and also state police you should only do exactly what the FOIL law requires for these documents. And I don't know if compilation of documents is permitted or contemplated in the FOIL law, but that just going the extra mile before turning over documents similarly undermines the view that the police and our involvement with the police should be only in the most legalistic and appropriate way.

Q. How did Mr. Dopp misuse the State Police as you just described it from your perspective?

A. I think pulling together the trail of documents that you showed me, and sort of the recreation of itineraries I think is suggesting that we will make the extra effort with the State Police to discredit a political opponent.
Q. Have you concluded that Mr. Howard had done something wrong?

A. I don't know to the extent who did more of these things. But clearly, Darren Dopp and Bill Howard are both part of putting those documents together.

Q. How about Preston Felton? Did you conclude that he had done something wrong?

A. I just don't know the answer. I don't know enough about it to know what knowledge he had of the creation of documents.

BY MS. TOOHER:

Q. On or about July 5th there was a response to the Times Union article in the New York Post issued by Fred Dicker. Are you aware of that article?

A. I'm aware of a lot of articles. I would have to see it, I was thinking.

(Commission's Exhibit 53 was marked for identification.)

Q. I am handing you what has been marked as Commission's Exhibit 53, a July 5, 2007 article, "Police to track GOP foe's movements." Take a moment to review it.
MR. REICH: The pages to focus on -- Is there a specific part of this that you want to ask him about?

Q. Have you seen this article before, as you look at it?

A. Yes.

Q. And, there is -- in the second column there is a quote attributed to Mr. Dopp: "'I long thought it was highly inappropriate and it probably was, because recalling that incident the State Police made some changes and, yes, keeping basic records; i.e. logs,' Dopp said."

A. Yes.

Q. Are you familiar with that statement by Darren Dopp?

A. Yes.

Q. And, have you ever communicated any reaction on that statement to anyone else in the chamber?

A. Yes. I was upset about it and told the Governor.

Q. Why were you upset about it?

A. I didn't think -- it was essentially inaccurate. It contradicted the other accurate comments that we had made. Because of the
ambiguity of the wording it sounded like changes
had been made. It seemed possibly changes had
been made since this Governor had taken office.

But that we had been sitting accurately (phonetic)
among you and we had made no changes. We only
instituted operating procedures since we had
arrived. Because it said, recalling that
incident: They made some changes. And it sounded
like in some imminent way for some reason that's
why they made the changes.

Q. And the statement attributed to Mr. Dopp,
"Yes, keeping basic records; i.e., logs" -- there
are quotes around this statement. Do you know
where that statement comes from?

A. I am assuming that it's his quote of a
conversation or e-mail with Darren Dopp.

Q. Do you know whether it was a conversation or
an e-mail?

A. I believe it was an e-mail.

BY MR. TEITELBAUM:

Q. Concerning 53, it says here on the bottom of
the first column, "Spitzer spokesman Darren Dopp
told the Post that the records on Bruno began to
be assembled because there was an incident late
last year in which Mike Long called and complained about Joe bringing armed troopers to" -- in brackets -- {Long's} fundraising event." Is it the truth that, as far as you now know, the documents began to be assembled because of the complaint by Long?

A. I don't believe that is accurate. I don't think it's supported by the two investigations that have been done.

Q. Are you aware that, in fact, Mr. Spitzer said this? Not Spitzer, Dopp -- I'm sorry.

A. Yes. I remember this article.

Q. Is it your understanding that, in fact, Dopp told the press what I have just quoted?

A. Only from this.

Q. Did anybody, to your knowledge, question Dopp about his putting out to the public that statement within the executive chamber?

A. Yes. I don't know.

Q. If that was misinformation, would that also be something that Mr. Dopp did that was wrong?

A. Yes.

Q. Do you have any idea why Mr. Dopp would be less than truthful, if he was, in characterizing
the reason that documents began to be assembled?

A. No. This whole -- It made no sense to me.

Q. Was it your belief that the documents began
to be assembled because of the FOIL request?

A. To the extent I knew anything, I just knew
that they had gathered documents pursuant to the
law.

Q. Does Dopp's explanation as contained in 53
cause you to question whether the documents were
being assembled in response to a FOIL request?

A. Whether the executive chamber was assembling
documents?

Q. My question is: Does the statement
attributable to Mr. Dopp in (Exhibit) 53
concerning Long as being the reason for the
assembling of documents cause you now to question
whether, in fact, documents were being assembled
in response to a FOIL request?

MR. REICH: Do you understand the
question?

INTERVIEWEE: I don't understand the
question.

MR. REICH: If you don't understand the
question let him rephrase it.
MR. TEITELBAUM: If you don't understand the question I will rephrase it.

INTERVIEWEE: My question is this isn't about assembling documents. This is about the State Police practices really. Am I correct? The State Police made some changes and also records; i.e., logs.

Q. It says here, "Spitzer's spokesman Darren Dopp told the Post that the records on Bruno began to be assembled because R.A." -- Do you see that at the bottom of the first page?

A. Okay, I see that. It's ambiguous what he's talking about.

Q. Let me cut to the chase here. If documents were being assembled in response to a FOIL request and Mr. Dopp was being truthful, that's what he would have said; correct?

A. Yes.

Q. But he didn't say that; correct?

MR. REICH: Can I just -- That's what Fred Dicker reports Dopp said.

Q. I am not saying Dopp said it. I am saying as contained in 53. Everything that I am saying is as contained in 53, if this is, in fact, what
he said.

A. There were things Darren said in that time period that obviously don't comport. I just have to say that this quote, I read this as pertaining to the State Police's gathering of the documents, not to the chamber's gathering of the documents. Your point I agree with. There are things that he said that clearly if our understanding now was what he had done, there is no reason he wouldn't have just said the truth if that was the truth --

Q. I understand that.

A. -- for what it's worth. I think the "assembling" here is referring to the state police.

Q. You read it as the State Police units all by themselves and not pursuant to a request?

A. I read it as -- recalling the incident -- it's parallel. I hate to quibble with you. But Bruno began to assemble because there was an incident late last year which led one caller to complain. And in the next paragraph: Recalling that incident the State Police made some changes in asking to keep basic logs and records.

Q. It then says, "Long insisted that he never
A. Yes. I think the whole story is useless to me and made no sense to me and still makes no sense to me. And this has gone on longer than it should have. And, clearly, it would have been much better to tell the truth if it was the truth that it's responding to a request. And, so I understand that point, yes, it does make you doubt the whole thing that this story which has no real role here. I don't even know where he got it from. It doesn't make a lot of sense.

Q. Does this occur to you having read this, and what you just said about Dopp's statements during this period make you question that in fact Dopp caused the gathering of documents in order to get Bruno?

A. Clearly, when you look at our whole day here together with all of the information, he was trying to move the story out in the public that was damaging to Senator Bruno. You can't dispute that really.

(Commission's Exhibit 54 was marked for identification.)

(Recess taken)
BY MS. TOOHER:

Q. You have in front of you a document that has been marked as Commission Exhibit 54.
A. Um-hmm.

Q. This is an e-mail from Darren Dopp from FUD[redacted]. Do you know who FUD[redacted] is?
A. Fred Dicker.

Q. That's the same Fred Dicker who writes for the New York Post?
A. Yes.

Q. Have you seen this e-mail before?
A. I think I saw part of it in the Post in that story; right?

Q. Yes. Were you aware that this e-mail was the basis for the quotes in the Post?
A. I am aware there was an e-mail because I remember that there was -- an attachment to the story was an e-mail -- I don't know what you call it, but an e-mail from Darren Dopp with that quote in it. As I commented, I was irritated about it. I remember it clearly.

Q. But you have never seen the e-mail in toto before?
A. I don't believe I have.
Q. Can I ask you some questions about the information in the e-mail?

INTERVIEWEE: If I can just take a second to read it, okay.

(Pause taken)

INTERVIEWEE: Okay.

Q. In the first sentence Fred is calling this surveillance a "stretch." Do you know what he is referring to there?

A. That was a charge by Senator Bruno and Fred Dicker didn't consider it a surveillance.

Q. And the second paragraph, "You need to know the following. Joe's request for S.P. coverage was quite out of the ordinary. It went directly to the local barracks."

A. Um-hmm.

Q. Is that statement true?

A. Not that I know of. I don't know it to be -- No, I don't know. I'm sorry. I don't know it to be true or untrue.

Q. Were you ever advised that Joe Bruno was making requests for the State Police out of the ordinary?

A. I don't believe so.
Q. Were you ever advised that he was making his requests for ground transportation directly to the local barracks?

A. I don't believe so.

Q. In your discussions prior to July 1 concerning Senator Bruno and his use of the helicopter and State Police, did Darren Dopp ever advise you that he was acting outside of protocol or going directly to the local barracks?

A. I don't believe so. I knew generally that he was -- that he wanted to have a driver in Manhattan when he was there and I thought it was fine. I'm not sure how or when it came up, but it didn't seem like a big deal to me. He's the Majority Leader of the Senate. If he wants a driver from the State Police, it's okay.

Q. So, if Darren was telling that to Fred Dicker and it was not true, would that be wrong?

A. Sure.

Q. And the security issues, i.e., the death threats came up only this week. Do you know that to be an accurate statement?

A. I don't have any knowledge beyond -- of that whole death threat issue. I have no knowledge
beyond whatever I've read in the newspaper and now what I read here.

Q. And, "I'm told that the logs were kept in part to protect the S.P. who were driving him."
And we get to the portion that was quoted in the newspaper. The logs, the documents that were in the Times Union are the documents that they are referring to in the first sentence in this e-mail?

A. Yes.

Q. Is it your knowledge that those logs were created as a consequence of the Mike Long incident?

A. That's not my understanding. But all I know is what you have read in the public reports.

Q. Are you aware of any changes that the State Police made concerning the Mike Long report?

A. No, nothing beyond Darren's claim in the Post.

Q. Did Darren ever relay that information to you that the State Police had made changes in response to a complaint from Mike Long?

A. I think that day or the day before, right after this thing came out, he told me that story.

Q. Told you --
A. You know, that there was this incident with Mike Long kind of thing. I remember telling him basically the developments.

Q. But, did he tell you that the State Police made changes as a consequence?

A. No. I think he told me about the blowup with Mike Long over the State Police, providing State Police presence at sometimes a political event.

Q. What was your understanding of what Darren was telling you about the Long event?

A. That the issue had come up before why he has this kind of event detail.

Q. Did you have conversations or communications with the Governor concerning this article?

A. Yes.

Q. What was the nature of those communications?

A. I told him that I thought Darren's quote was foolish.

Q. When you say "foolish" what do you mean by that?

A. Inaccurate, not appropriate. The implication -- we have been saying -- it was my clear understanding that we had not changed procedures since we've been there. And Darren was
saying that and the Governor was saying that, and that was my understanding of the truth. Yet, the quote made it sound like there had been changes in the State Police procedure since the new Governor had taken over.

Q. Did you reduce that to writing at all?
A. Yes. We had an exchange with the Governor about it.

(Commission's Exhibit 55 was marked for identification.)

Q. You have in front of you what has been marked as Commission's Exhibit 55, an e-mail from Richard Baum to Lawrence dated 7/06 2007, at 9:02 a.m. Is this the communication you were referring to?
A. Yes.

Q. And, you are discussing the July 5th Post article?
A. Yes.

Q. And you describe in the second paragraph a response to that article. Item 2, "All that happened here is the S.P. used documents sent by Bruno's office. No other info was generated or was asked for." On July 6, 2007 do you know that
to be true?

A. Yes, um-hmm.

Q. So, you were unaware at that point of the information from the State Police?

A. My understanding was that we had only taken -- we had only passed on documents from Senator Bruno's office.

Q. So, you were unaware on July 6th that those documents were compilations that had been created by the State Police?

A. Yes, exactly.

Q. You did not know on July 6th?

A. I did not know. Sorry.

Q. When did you learn that?

A. At some point in this while the internal investigation, while the work with the Attorney General was going on. I think David Nocente told me that.

Q. What were you told?

MR. REICH: Meave, I've got to say that I just can't him answer that question.

BY MR. TEITELBAUM:

Q. Here's the question. Did Mr. Nocente give you advice, legal advice?
A. Yes.

Q. He was giving you legal advice when he was explaining to you the subject of the recreation of documents or the creation of documents?

A. In general, David was acting as my -- identified himself as my representative at that time.

Q. In connection with what matter was he representing you?

A. The Attorney General's office.

BY MS. TOOHER:

Q. No other info was generated or was asked for?

A. Um-hmm.

Q. Is it your understanding that Darren Dopp was asking for information in response to a request from the media?

A. Yes.

Q. So, the statement, "no other info was generated or was asked for," is not accurate; isn't that correct?

A. No, it's not accurate.

MR. REICH: Can we just clarify? When we say "it's not accurate" you need to clarify
what Rich understood at that time. I want to clarify that Rich at that time understood it to be accurate.

INTERVIEWEE: I'm not counseling the Governor what to say. I'm telling him what I think is accurate. And that is what I thought was accurate at that moment.

BY MS. TOOHER:

Q. At that moment you understood that documents had been requested, asked for, pursuant to a media request?

A. Yes. "No other info was generated or was asked for" -- when you focus on the "asked for" the implication of what I meant by the sentence was that the State Police used the documents sent by Bruno's office. "No other info was generated or asked for." I think I'm referring -- and countering the quote in there that says --

MR. TEITELBAUM: That being the Dicker article?

INTERVIEWEE: The Dicker article, yes. That says they were keeping basic records; i.e., logs.

BY MS. TOOHER:
Q. In the fourth paragraph down, the e-mail from Darren to Dicker that is reprinted in the Post, "It's a problem. Need to figure out how to explain it away." Can you explain what you mean there?

A. It's poorly written, poor language. And what I meant is that the article -- the quote didn't seem accurate to me. I didn't believe it was accurate and also conflicted with prior comments, so we had to figure out how to explain that.

Q. Isn't that the explanation contained in item two?

A. I believe what I was talking about there, my focus honestly was not that issue. The focus was the implication, as I recall, that we had made changes in standard operating procedure since we arrived. And the exact language in the quote was left ambiguous.

(Commission Exhibit 56 was marked for identification.)

Q. Just one second.

A. Sure.

Q. This is, again, regarding your article in
the Post. (Indicating Exhibit 56) This is July 6, 2007, the same day.

A. Yes.

Q. And, in the first paragraph you indicate, "I don't know what he was thinking. It's basically the Mike Long claim and, depending on how you read it, an admission that S.P. was doing more than we have been saying. Read closely, he seems to be talking about the previous administration which I think is the answer. They made a big deal of it."

A. I was suggesting my concern that it looks like we had made a change when I don't believe we had, because the e-mail says at the end of last year there was this blow-up with Mike Long. And it suggested that with that in mind, the State Police made a change.

Q. And you say, "Depending upon how you read it, it's an admission that the State Police was doing more than we have been saying." On July 6th at the time you write this had the "State Police been doing more than we have been publicly saying"?

A. Yes.

Q. And, you were aware that the State Police
was doing more than you had been publicly saying as of July 6th?

A. No.

Q. So, what would be the admission here?

A. As I said, it's not worded perfectly. But the article would be suggesting the State Police were doing more than we have been saying.

Q. At the State police was, in fact, doing more than you had been saying.

A. In the State Police -- right, because we were staying we were just turning over documents with Bruno's office when, in fact, yes. The answer is yes.

MR. REICH: Can you just close off that line by asking him whether he knew that at the time of this e-mail?

Q. Did you know that at the time of this e-mail?

A. No. I'm frankly not fully up to date on precisely what we were saying. I was in Florida on vacation, so I'm not -- and all this was a long time ago. I don't remember what the -- There were several official statements from the office which I don't know precisely what was in them, what
words were used at the various times. So, I'm a little -- remembering isn't perfect on what precisely he was saying, what we had been doing and what the State Police were doing. But my sense is that --

Q. This is based on the Post article and what is in the Post?

A. Right. I'm just saying -- what I'm saying when you're asking: Was this contradictory to what we have been saying, I don't know exactly what we had been saying.

Q. You see, "Read closely, he seems to be talking about the previous administration, which I think is the answer." And that, again, is referring to the Posts article in Exhibit 53 concerning Dopp e-mail.

A. Yes.

Q. So, is this the answer for how to explain the Dicker e-mail?

A. Yes. That would be -- well, that's my explanation for how to explain what's really going on here in this thing; that the Long -- whatever it was -- which does seem that there was something about Mike Long; I don't know what is was --
occurred in the last administration. And any
changes made were made in the last administration
and not in the current administration.

Q. Were you aware of any changes that had been
made in the prior administration?

A. In response to the Long thing?

Q. Yes, the Long --

A. I think when I spoke to Darren subsequent to
that article he told me that what he meant there
was the prior administration.

Q. Was that prior to your 9:10 a.m. e-mail?

A. I assume so. I don't know.

Q. In the course of the follow-up and
subsequent Attorney General investigation did you
give a statement to the Attorney General's Office?

A. An affidavit -- I signed a statement.

(Commission Exhibit 57 was marked for
identification.)

Q. Showing you Commission's Exhibit 57, is this
the statement?

A. This is the statement I signed.

Q. Just very quickly, I understood that the
second paragraph of the statement, "I understood
that Darren Dopp was working with the press on a
story about the alleged misuse of state aircraft by Senator Bruno," that's a correct statement?
   A. Yes.

Q. Were you aware that Darren Dopp was working on an internal review of Senator Bruno's misuse of the state aircraft?
   A. No.

Q. Were you aware at any time prior to July 22, 2007 that Darren Dopp was working on an internal review or audit of Senator Bruno's misuse of state aircraft?
   A. I don't remember being told that or knowing that. I don't recall that.

Q. "I did not direct the State Police to conduct any surveillance of Senator Bruno and did not direct anyone else to do so." Were you aware of the State Police conducting any surveillance on Senator Bruno?
   A. No.

   "In addition, you did not direct the State Police to create, recreate, or maintain any records relating to Senator Bruno and did not direct anyone else to do so." Were you aware that Darren Dopp knew that documents were being
recreated?

A. No.

Q. Were you aware that Bill Howard knew documents were being recreated?

A. No. I should clarify. At this point when I signed it?

Q. Yes.

A. I had been told that Darren Dopp had been -- I assume you were talking about later.

Q. I am talking about at the time you signed the statement, July 22nd.

A. Was I aware that Darren Dopp -- I Frankly don't know what I was aware of at that point. As I mentioned, basically, I was excluded from most of this matter. I had certain -- had been brought into the room for one or two moments. I don't know how complete my knowledge was at that point about what Darren had or had not done or Bill Howard. I can tell you prior to July 1st that I didn't know of that.

So, you were not aware that these documents were recreations prior to July 1st. And while you may have gained some knowledge prior to making this statement it was not direct knowledge at any
time?

A. Correct.

BY MR. TEITELBAUM:

Q. Mr. Baum, when you say you understood Darren Dopp was working with the press on a story about the alleged misuse of state aircraft for Senator Bruno, wasn't Dopp working with the press on a story about the alleged misuse of state aircraft for Senator Bruno contrary to the instructions that you had given Dopp that this issue was dead?

A. No. What I mean here is that -- I should have worded it slightly differently. I knew he was working on fulfilling a FOIL request. The subject matter that the reporter was looking at was potentially misuse of state aircraft by Senator Bruno.

Q. So, when you used the words "Darren Dopp was working with the press on a story about the alleged misuse of state aircraft by Senator Bruno" you mean complying with a FOIL requests?

A. Correct.

Q. How did you know in connection with the complying with the FOIL request that it was in connection with a story about the alleged misuse
of state aircraft by Senator Bruno?

A. That is what Darren Dopp told me; that the reporter that made the request was looking at potential misuse of state aircraft.

Q. When did he tell you that?

A. I don't remember.

Q. Was it before the 17th of May?

A. I don't know.

Q. Was it during the month of May?

A. I don't recall that.

Q. Was it during the month of June?

A. Probably. I don't recall whether it was May or June, but implicit in the reporter asking for air and ground transport of any political figure he is looking into alleged misuse and they're looking to see if it has been misused. But it would be implicit in the request.

Q. Was this statement reviewed by David Nocente?

A. Yes.

Q. And was David Nocente aware that your understanding was that Dopp was working on a FOIL request?

A. I believe so.
Q. Was Nocente aware that the language that is
the first sentence of paragraph two of your
statement was to communicate to the reader that
Darren Dopp was working with the press on a story
about the alleged misuse of state aircraft was
meant to mean working on a FOIL request?
   A. I don't know.
Q. Was David Nocente the only person who
reviewed this document before you signed it?
   A. No.
Q. Who else reviewed it?
   A. Sean Maloney; I believe Peter Pope.
Q. Two attorneys?
   A. Yes.
Q. Did you tell those two attorneys that what
you meant by the first line second paragraph was
that Dopp was working on a FOIL request?
   MR. REICH: Let me make a suggestion.
Without saying what you told them, you can answer
what you think their understanding was. But don't
repeat the words. Say what you thought their
understanding was.
   A. Their understanding was that we were talking
about his fulfilling the FOIL request by a
reporter who was look at the alleged misuse of the state aircraft.

BY MS. TOOHER:

Q. And did there come a time when you had e-mail communications with the chamber about the underlying facts and circumstances of the whole Attorney General's report and your role in that?

A. With the Governor, yes.

Q. What was the sum and substance of those communications?

A. About my role -- are you talking specifically about my decision whether I should testify or not?

Q. The decision as to your position at the chamber and your role.

A. Yes. I communicated with the Governor about that.

Q. What was the sum and substance of those communications?

A. In the fray after the report was released there were natural questions about whether I should stay and whether there should be greater, I guess, what I would call accountability and an open question whether I should stay or not and
what would be good for him or make a decision on
the merits.

Q. And what did your letter cover?
A. Whether I should stay.

Q. What was the basis for that determination?
A. A variety of things; not one particular
thing.

Q. Were there certain factors you felt the
Governor should consider in that determination?
A. Yes.

Q. Can you share those factors with us?
A. I mean in personnel issues or personal
issues have to do with this --

Q. That relate to this matter. Those issues
that relate to this matter, can you share with us?
A. I had become controversial in the weeks
after the report was released, not because anyone
really had any evidence that I had done any of the
actions that anyone had considered improper, but
because of my failure to testify under oath to the
Attorney General's Office. On the front page of
the New York Times and in most papers around the
state, you know, articles written about me. It
was an open -- for that time period I became
somewhat of a lightning rod or liability. The
same was true for Darren Dopp, but he was no
longer working there anymore. But I was taking it
every day coming to work. To hold me accountable
for that was unfair considering it was not my view
that I shouldn't testify.

Q. To hold you accountable for what?
A. The failure to testify. To allow the
failure to testify, to lead to my termination or
removal from my current position didn't seem
appropriate or fair.

Q. Did you relay why you didn't think it was
appropriate or fair?
A. Yes, because I had wanted to testify.

Q. And, did you discuss your testimony here
today with anyone else beyond your attorney before
coming here?
A. Do you mean like all of these things, the
details?

Q. Your testimony here today; not the subject
matter which I'm sure you have discussed --
A. Right.

Q. -- but your testimony here today, have you
discussed that with anyone beyond your attorney?
A. No.

Q. Did you discuss it with anyone else in the executive chamber?

A. Beyond them, no.

Q. And did you review any documents with anyone from the executive chamber prior to coming here?

A. No.

Q. And, are you paying for Mr. Reich's services?

MR. REICH: You'll have to explain to me the relevance of that. Tell me the relevance.

MR. TEITELBAUM: I will tell you the relevance but I am not going to tell you the relevance now. There is a representation that has been made by the executive chamber. Let's go off the record.

(A discussion held off the record)

MR. REICH: I'm sorry. I'm ranting as a matter of principle because I don't care about the answer.

MR. TEITELBAUM: I understand.

MS. TOOHER: Thank you very much for testifying here today. I really appreciate your coming in. I did want to make clear you are here
voluntarily and not pursuant to any compulsion.

(The interview was concluded at 4:45 p.m.)
STATE OF NEW YORK 

SS: 

COUNTY OF ALBANY 

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand.

[Beth S. Goldman]

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