STATE OF NEW YORK
COMMISSION ON PUBLIC INTEGRITY
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In the matter of

An Investigation into the Alleged
Misuse of Resources of the Division
of State Police
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Commission on Public Integrity
Alfred E. Smith Building
80 South Swan Street, Suite 1147
Albany, New York 12210-8004

Tuesday, October 9, 2007
11:00 a.m.

STENOGRAPHIC RECORD of an Investigative
Interview under oath conducted in the
above-encaptioned matter.

INTERVIEWEE: WILLIAM F. HOWARD

APPEARANCES: For the Commission:

HERBERT TEITELBAUM, ESQ.
Executive Director

MEAVE M. TOOHER, ESQ.
Investigative Counsel

JOAN P. SULLIVAN, ESQ.
Investigative Counsel

PRESENT: ROBERT SHEA, Investigator

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

WILLIAM HOWARD,
called as a witness before the Commission, and
being duly sworn/affirmed by the notary public,
was examined and testified as follows:

EXAMINATION BY MS. TOOHER:

Q. Do you want to state your name for the
record.
A. William F. Howard.

Q. You are here voluntarily today; is that
correct, Mr. Howard?
A. I am here voluntarily today.

Q. You are represented by counsel in this
proceeding; is that correct?
A. Yes. I talked to my counsel, Fred Newman,
this morning. He had a medical emergency last
night involving his wife. He is at the hospital
and regretted that he couldn't be here today with
me, but we have decided to move on with the
testimony.

Q. And, you did discuss with Mr. Newman that
you are prepared to go forward today?
A. I did.

Q. And, that you would be going forward without
counsel?

A. Yes.

MS. TOOHER: We have confirmed with Newman that he discussed Mr. Howard's testimony today and they have agreed that he would go forward.

THE WITNESS: Yes.

Q. Mr. Howard, where are you currently employed?

A. I am currently working at the Office of Homeland Security, the New York City Office of Homeland Security as the Coordinator of Emergency Response and Preparedness for OHS.

Q. How long have you been in that position?

A. I moved over to that position -- I believe it was July 24th. Actually, that's probably not the right date. I think it was a week or so after July 24th. So, by the end of July I had moved over there.

Q. And what are your responsibilities in that position?

A. Basically, building on what I did when I was with Governor Pataki, and then to the Spitzer administration. I am really responsibly for
coordinating Homeland Security efforts as well as
disaster response efforts. So I am the person
that is usually deployed to our command center
working somewhat around the clock dealing with
either manmade or terrorist-type actions that
could affect the State of New York.

Q. You indicated you moved there in late July.
A. Right.

Q. Where were you prior to that time?
A. Prior, immediately prior to that time I was
working for the State University of New York at
Albany and was assigned as the Executive Director
of this new Homeland Security Institute that we
were seeking to put together. I assumed that is
where I would be going at the end of the Pataki
administration. Through an agreement with the
Governor's Office they decided to keep me in the
Governor's Office in Governor Spitzer's
administration for six months. And, during that
time I did the best I could to try to balance the
responsibilities of the assumed position with the
Governor's Office position. So, I was attending
meetings at SUNY on a work product that I was
doing for SUNY. I was also assisting the
Q. And, what were your responsibilities for the executive chamber?
A. It was serving in the title of Assistant Secretary for Homeland Security and had the responsibilities of the State Emergency Management office, State Police, Division of Military and Naval Affairs, the Office of Homeland Security, the Office of Cyber Security, and was serving in a position, really, of coordinating those efforts as related to what we call all hazards response. So, either manmade or natural disaster type response as well as preparedness issues for the state.
Q. You served in two positions; is that correct?
A. It is a little unusual. What it was intended to be was a loan arrangement between SUNY and the second floor with the Governor's administration. So, I really was kind of divided betwixt and between two position. I was reporting to SUNY on a weekly basis and also had some deliverables I was working on for them. I had two federal grants we were processing for homeland security. I had this major initiative with what I
developed with the State Emergency Management Office, which is this New York Alert System is really something we were working on even prior to Virginia Tech, which is a system of reaching the public but also focusing on students so that whether it's cell phone bursting or blackberry accounts of those sorts of interactions, there would be an immediate way of notifying students in the case of an emergency. We kind of announced it. We announced it at the Long Island Hurricane Conference at the end of May, but we were waiting to get some final bugs out of the system before announcing as a major SUNY initiative. I thing the end of October was the plan.

Q. You were working on these initiatives with the SUNY system and simultaneously serving in the position of Assistant Secretary of Homeland Security?

A. Correct.

Q. And, how long did you continue in this dual arrangement, I will call it?

A. Really from the beginning of January; January 1st through the time that the Governor announced that I was leaving the administration
and was going into the state agency position. I think that's where I got that date of July 24th from. That was in the press statement that was put out in the midst of all the -- the Attorney General's reports had come out. The Governor had a press conference and indicated that I was going to be leaving the second floor and Darren Dopp was going to be leaving the second floor. And I spent about a week or so not knowing what was going on before I ended up at the Office of Homeland Security. So, I think the technical start date for Homeland Security was August 1st.

Q. What was your understanding as to why you were leaving the second floor?

A. I was surprised, quite honestly. I didn't think that in any of this affair that has been so widely reported in the media that I did anything wrong. I thought what I was doing was related to my official duties. I think at any point based on anyone that you could talk to about what Bill Howard's public service career for the last 23 years, it would be one where people talk about the work ethic, talk about the personal ethics. And if I thought at any point in this process that
anything I was doing was wrong, I would have stopped it from happening. And I didn't think that asking for the information from the State Police was anything that was inappropriate. But by feeling on July 24th when I somewhat got hit between the eyes by the press conference and the press release was that this whole furor had erupted and the Governor had made the decision, which is his prerogative -- I was employee for 23 years of service -- to make changes on the second floor. It killed me to leave that building that day. In fact, as I was leaving going into my car I actually turned one last time and gave it a nice salute. But, the circumstances, I think, were something that was in response to the Attorney General's report and in response to the media accounts that were starting to circulate.

Q. What were you told in terms of your change in position and who told it to you?

A. Okay. I received a call from my attorney at home the night before. I think the press conference was a Monday, if I am not mistaken. I might be mistaken but I think it was a Monday. And I believe the call came in on a Sunday night
late indicating that the Governor was going to have a press conference the next morning. I had had no contact with people in the executive chamber for sometime; I can't tell you accurately how long that time was. But there was no contact between me and the second floor for some time period. And my attorney indicated that I was going to be taken off the floor; that there probably was going to be a significant salary reduction, but that they had received word -- I don't know who he got the word from -- but my services were valued by the administration and the hope was to either find a place for me at the State Emergency Management Office or Office of Homeland Security. I think I provided tremendous value to the administration, I think not only in the transition period in terms of providing advice on how to set up the government but I think that folks throughout the course of my employment there indicated to me -- and I am not a person who tries to toot own horn -- probably just the opposite. But there were people who told me they slept better at night knowing I was dealing with the issues I was dealing with. And, I think that had
I not ended up in a state agency I still would have worked in the world that I get so much patriotic feeling from, this Homeland Security/Disaster Response.

Q. When you say your attorney called you, was that Mr. Newman?
A. Yes, Fred Newman.

Q. When did you first engage Mr. Newman?
A. I think July 20th was the date.

Q. Were you ever given a reason as to why you were being moved?
A. No. I mean the only reason that I have is what was in the press conference. And from that moment on, other than some give-and-take back and forth between trying to work out the details going to Homeland Security or SEMO, I can't recall any articulation as to why I was leaving the second floor, other than what was in the press conference and in the press release.

Q. Prior to serving with the current administration you were employed with Governor Pataki; is that correct?
A. I was.

Q. What was your position just before the
1 Pataki administration ended?
2     A. Just before it ended my actual technical
3 position was First Deputy Secretary to the
4 Governor. But I was serving from 2003 on as
5 Acting Chief of Staff to the Governor based on
6 John Cahill who was the Secretary to the Governor
7 at the time, his redeployment, if you will, down
8 to run the Lower Manhattan Development
9 Corporation. Because John was going to the City
10 and was going to be working pretty intensively on
11 this the Lower Manhattan efforts, we needed
12 someone up here. So, John and I coordinate
13 through the course of the day. I don't think I
14 ever represented myself as chief of staff or
15 acting chief of staff when I did things publicly.
16 But the effect was that I was serving as the
17 Acting Chief of Staff in his absence.
18     Q. In that role did you have any experience
19 with executive travel?
20     A. I did.
21     Q. What was your experience?
22     A. I don't recall at what point I actually took
23 it over, but at some point John Cahill was
24 basically handling as Secretary the executive
travel issues. I think easily within two years of the end of the administration I was actually signing off on the executive travel which would include the requests from the Governor for helicopter usage as well as not all, but many senior staff literal flow travel requests. And I don't really know why I got some and I didn't get others, but I got most of the senior staff as well as my own staff, the secretaries and the program associates that were working for me. And I also would sign off on the requests for travel for the legislators and others that might want to use the helicopter or aircraft.

Q. Did you have experience in dealing with Senator Bruno's travel?
A. I did.

Q. Can you relate that experience?
A. It was actually far more routine than what would be described in the media, I suppose. There was one incident of conflict between the senator and myself that I did report back to the District Attorney when I was being interviewed by them. I did deny the use of the helicopter for a trip to the City.
Q. Do you know approximately when this was?
A. Yeah. And I think I was mistaken in my testimony because in the testimony I think I said it was June because that's what I recalled. But based on the issues that are out there with the former commission, I believe it was probably December because my understanding was that it was in response to my denial of the helicopter that the Senator then went to Mr. Abbruzzese and was able to get an aircraft to the City. And, I believe that time frame was December and not June.
Q. December of what year?
A. 2005. And the senator called, me in response to the decision almost immediately when the helicopter was not available. I think we have four executive ships and there were two that were generally used for executive travel. One was being used by the Governor that day and the other was down for maintenance. So, I think it was in the middle of some difficult relations between the Governor and the Senator. And when the helicopter got denied I think bad intent was assumed. The reality was that the helicopter was down.
The Senator had some sort of access to
State Police. And I have never been able to figure out who that was. My thought was that it was probably at a very low level, maybe between the secretaries from Bruno's office and the secretary from State Police, but I don't know that to be the case. But, at any rate, what was reported say back to by the senator is he had it on good authority to contact the State Police that there was, in fact, a helicopter available and this was just ridiculous that the helicopter was being pulled. He indicated to me that this was a privilege associated with his position and went on to say if this was the Governor that he would understand, but if I'm taking an executive helicopter and using it for the Lieutenant Governor, that's just not right. And I indicated that I had checked before I made the denial and, in fact, there was one executive ship being used by the Governor and another one down for maintenance. And the one he thought was available was actually a medi vac helicopter. And I was under specific instructions from John Cahill going back at least a year, I think, that we would never allow executive travel on a medi vac helicopter.
We'd never take one out of service for that purpose. I think he was skeptical but accepted the explanation. He indicated that he was going to check on it and if this wasn't the case, he was going to be calling me back and we were going to have a different conversation. I never got a call back. And it's the only time he ever called me on any issue that was unrelated to legislation or some other issue. I didn't take animus from it. I have respect for the Senator. I thought it was an interesting exchange in the history of my exchanges over the last 23 years, but I didn't have any kind of residual feeling after it was over.

Q. So, in December 2005, you are denial of use of the aircraft to Senator Bruno was based on lack of availability of a craft?
A. Correct.

Q. Did you ever have any other occasion to deny the Senator use of aircraft?
A. He claimed in that conversation that there had been other occasions, but I don't recall ever having denied him a helicopter. I didn't remember it then and I don't remember it now. I think
there were others who might have had the duty prior to me. I think there was a period of time between John Cahill and myself when Caroline Ahl who was our Deputy Secretary for Administration, I think she had done the helicopter duties for some brief period of time, because I don't think I literally took it over from John Cahill. There may have been denials during that period but I wasn't aware of any.

Q. You just spoke of the helicopter.
A. Um-hmm.

Q. During the Pataki administration what were those duties per se?
A. There would be requests for the helicopter that would come in a variety of forms. Sometimes it would be a phone conversation from our own folks.

Q. To be clear, we are talking about Senator Bruno's requests at this point.
A. If I could, let me just go back to the Governor's, because that was the primary responsibilities, really, the Governor's travel. You would either get an e-mail from our scheduling office on behalf of Governor Pataki or a phone
call if there was short notice and they might have been changing the schedules around that day, so you might have gotten a phone call on that. Or, you might have gotten something more formal that came over as something that had been prepared days in advance. It was the same sheet that was produced at least four or five times now before the modifications by Governor Spitzer that would just attest that was for public -- official business. And their would be a sign-up sheet on the bottom where I would put either my initials or put my full signature on that form. And that would approve the flight. And what I would do as part of the duties would be to review the Governor's schedule if I could. And I think the only time I couldn't do that is if it was something that was coming over orally. But if it was something in writing, either an e-mail or something that was prepared in advance from the scheduling office, I would literally look at the schedule. I would apply that "smell" test, basically, as to whether or not this looked like it was official business or looked like it was more of a political type trip. And after the fact
I would deny. I denied Pataki the helicopter several times based on the fact that I didn't like the way the schedule looked. And I always tried to balance it --

Q. When you say you "didn't like the way the schedule looked" can you explain that?

A. Yes. If the schedule was heavy on politics and light on business we would tend to question that. I would tend to question that. And in some instances where he might have had an official business schedules in the City, let's say, but the next day was seeking to come back to Albany, I would make sure that the meeting that was in Albany was a legitimate meeting and it wasn't just a five-minute meeting with somebody taking place from the standpoint of justifying the helicopter for official business purposes. I get myself in a little bit of difficulty from time to time as we worked through the issues but I took the duties seriously. I hoped that the folks that did it before me took it as seriously. I would look at that schedule and at the end of the year or so, or before the end of the year I would sit down and go through and look at that schedule again and make
the decisions about what was imputed tax income and what was purely for business. And we would actually analyze the schedule to make sure that meetings were appropriate and not just five-minute meetings to make it look like it was an official business type situation.

Q. Did you have an understanding as to what was the standard for allowing or denying the craft?
A. I had an understanding, but I can't say that I actually ever looked at the Ethics opinion. And I have done that now, but I hadn't done it at the time.

Q. When you say you looked at the Ethics opinion, what are you referring to?
A. I think I am talking about the '95 opinion that has been referenced in some of the documents. And I certainly looked at the new opinion that has been reached and I followed the discussion about use of the helicopters and use of aviation access. So, at the time, I think I had a general understanding of what those policies were. And I think in looking back it's probably consistent with where the Commission went.

Q. What was your understanding as to what the
standard was at that time?

A. The standard was that there would be -- the use of the aviation assets was required to be used for official business. And I think my interpretation at the time which may not have been accurate to the way the opinion was actual written, was that it had to be primarily official business and that the political side of it would be somewhat incidental. And I think the standard that I applied in reviewing this was based on that sort of understanding that this was primarily, you know, for official business. And in the course of particularly the Governor's schedules there happened to be some political stuff that was interspersed within that that primarily official business standard would reign. So, I now know that wasn't necessarily the opinion of the Ethics Commission, but that is the standard I was applying in reviewing these situations. With the Senator's situation probably less detailed in the analysis. We would get the request, and I think based on the experience that I had in December of 2005 with the denial of the helicopter was immediately met the next day with a New York Post
article that appeared in the paper.

I think I was always a little skittish about dealing with the Senator and the helicopter assets because of that experience. I'm not a person that wants to be in the newspaper for things that I've done, for the good things I've. But being in the newspaper as part of a controversy is not something I have tried to do in the course of my 20-some years.

Q. I understand. With the Senator's requests what was the information that you would receive?

A. I can't recall ever getting an e-mail response dealing with the Senator's request for transportation. I think I always got the formal form that was prepared and usually a couple of days in advance and usually for a Thursday trip to New York City. It was almost weekly that there would be a Thursday trip to New York City.

Q. So, you would receive from the Senator's office --

A. I would receive from our scheduling office a copy of what had gone from the senator's office to them. There was other than the one call from the senator to myself I don't think there was ever any
direct contact between my office, Bill Howard's office, and the senator's office. So, it always came to me through another office in the executive chamber.

Q. What would you get from that office, what documentation?
A. The old version of the flight request form before the January to February modifications of this year.

Q. And is that all that you would receive from the senator?
A. There was never a schedule or anything that was clipped to that statement. It was always a one-page document. And that was that one line where it was -- it's not as strong a language as they have under the Spitzer administration, but there was an statement that needed to be made that it was for official business. And there would be some notation that it was for official business. No signature or anything from the Senate, but some one-line statement that it was for official business.

Q. And what factors would you consider in making a determination on the senator's request?
A. I mean I had no schedule to base the type of judgments that I was basing the Pataki calculation on. And I would say -- I also very infrequently but I would also get requests from state agencies where -- these were the commissioners; particularly like Chauncey Parker from DCJS when they were doing a major state run on DNA or some other major legislative initiative, we also approved the flights for the commissioners who were a part of that effort because it was an efficient way of getting around the state. So, I paid a lot of attention to the commissioners' schedules when they were flying. I paid a lot of attention to Pataki's schedule when he was flying and less attention to Bruno's schedule because I simply didn't have the information available. And I think my fingers were somewhat singed from the last experience with Senator Bruno.

Q. So, you would approve the senator's requests based solely on the flight request form?

A. Yep. But I should say also based on the attestation, if you will, that this was for official business purposes.

Q. Did you ever have any discussions with
anyone at the State Police concerning the senator's use of the plane?

A. The issue -- I don't know that I would categorize it as "the use of the plane" as much as just the issue of the access to the air asset.

Q. What were those discussions?

A. Probably wide ranging over the years. I don't know that there ever was a conversation that talked about abuse of the aircraft or potential abuse of the aircraft or how the aircraft was particularly used. I have testified before that there were questions raised about State Police escorts into events or State Police ground transportation issues and what these really were or what they weren't. So, I would say that most of the focus on my conversation over the years -- and usually only with the superintendents -- would involve the ground transportation or accompany the senator into various events, so those aspects of the trips and not so much, you know, the technical air aspect.

Q. What were are the issues in ground transportation?

A. I don't recall the first time that I ever
heard that the State Police was providing ground transportation. But I remember being surprised to learn that the State Police was providing ground transportation to the senator and to his staff. There was the issue that was described in the first report and also in the newspapers about the State Police actually accompanying him into fund-raising events and into other events in the City. And my belief was that based on complaints that were made about the State Police escorting him into these political events, that that practice had stopped. Now, I thought -- and I might have been mistaken in this -- but I thought in the conversations that I had had, I believed with Wayne Bennett who was the Superintendent at the time, I believed that the actual ground transportation aspects had stopped. It is now apparent that they hadn't. And it may have been confusion on my part; it is may have been confusion on Wayne Bennett's part. It looks like what was actually modified after the complaints was not the pickup from the heliport and bringing to the event but, rather, the actual State Police going into the events with the senator. That
seems like that was a practice that stopped that was about the time I thought I was having the conversations with the State police to stop the pickups. When I found out -- I think it was January or February at a meeting in the Governor's office but not with the Governor -- a meeting with Marlene Turner, his Chief of Staff, and a fellow by the name of Walt Tipple who is with the State Police. I made the comment in the meeting when we were talking about the flight request forms, taking about how the helicopter worked, how many times we did imputed income, on all these wide-ranging issues that were within my duties in terms of advising them on transition issues. And I made a statement where I said that -- I said: Be advised that Senator Bruno is going to be asking you to use the helicopter. So, just be aware that that is a request that's going to come in. They were surprised. They didn't know that was actually something that was done. I said that in of the old days the State police actually had a process of picking him up and the heliport and bringing him to the events but I've stopped that. And at the moment I said that, I thoroughly
believed that that practice that stopped. And I now know from reading far too many reports that that actually didn't stop and they continued to do it. But it sounds to me like what they did, either through interpretation or miscommunication, they actually stopped going into the events with the senator and waited in the car.

Q. So, your understanding just going back to the State police practice on ground transportation was that some time late in the Pataki administration you became aware that they were providing pickup service and they were escorting the senator into events --

A. Right.

Q. -- in New York City?

A. Political events.

Q. Were they escorting him into other business related events?

A. I don't know the answer to that. The complaints or criticisms that were coming were based on him going into political events.

Q. And, you had a conversation, you believe, with Superintendent Bennett --

A. Yes.
Q. -- indicating that you wanted -- I am just going to use the word "that" at this point to stop?
A. Right.

Q. Your understanding was it included all transportation as well as entering the political events with him?
A. Right, yes.

Q. At some point you became aware that he is still being provided ground transportation?
A. And I would date that to February of this year, late January to February of this year.

Q. Did you have any understanding as to how Senator Bruno was getting from the heliport to wherever he was going when he got to New York City?
A. My understanding, which would be back last year, was that there had been a relationship that developed -- and I kind of alluded to this earlier -- a relationship that developed at the very least between the senator's office and the State Police. But I believe Troop New York City, State Police, so that they were making their own arrangements at some point for the pickups. And I have read the
paper over the weekend and looked at the material that was provided by the State Police. I thought it was interesting that in Bruno's own schedules they indicated that these were State Police drivers. And that was at least I think three occasions in their own provided schedules to State Police that they viewed the State Police as State Police drivers in those forms.

Q. If I could stop you for one moment -- On the schedules that you are talking about, had you been provided those schedules in making your decision on the helicopter?

A. I had not been provided with those schedules. And I think there is an issue in the Attorney General's report that I'm kind of tabbed with this idea that I had said that I had never seen a schedule in advance of, you know, a trip or something along those lines. And that's taken back by the A.G.'s office as a criticism that, clearly, Howard had seen the schedule because the schedule had been e-mailed to him on such-and-such a date. My reference point in the testimony was relating to being asked for a flight. Those often came in advance. The issue was in my experience I
never saw an actual request for ground
transportation. That was something that was
somehow handled outside of the main system of just
approving the flight request. So -- and to this
day I don't think I ever saw a request for that
ground transportation -- never saw one, but
certainly never saw one in advance of a trip
planned for the City. And that was what my
comment back to the Attorney General's folks was
that I had never seen one of those in advance.

Q. You had never seen what I am going to call a
ground itinerary?

A. To my best recollection I never saw a ground
itinerary in advance of a trip or even after a
trip that I recall.

Q. During the Pataki administration?

A. During the Pataki administration. And, of
course, my experience with helicopters went away
during the Spitzer administration also. I had no
responsibility whatsoever dealing with helicopters
once the change of administrations. But during
Pataki I never saw is a itinerary, safe to say
either before or after a trip. And my approval
was based on the fact that I got that flight
request form and it had a sign-off sheet and they
attested to the fact, if you will, that this was
for official business purposes.

Q. During the Pataki administration were you
aware that those records existed in the State
Police, the ones you saw in the paper this
weekend?

A. Right. I was not. I think I had a
conversation with Darren Dopp at one point that's
related in both reports where he indicates in an
e-mail to Rich Baum that: Howard says the records
go way back. But I wasn't referring to -- I just
want to be clear. I wasn't referring to the issue
of those records, the ones that were in the paper
over the weekend, but rather the issue of flight
requests and the fact that the FAA would have to
have records preserved on the actual flights. So,
no. I had not been aware that those itineraries
existed. I assumed the State Police had something
to drive the senator around with that would guide
them in their way, because I couldn't believe it
would be so informal to basically be a taxi
service where someone was indicating where they
needed to go. I assumed there would be some sort
of form guiding their travels during the course of
the day.

Q. I just want to show you for purposes of
clarification at this point what has been marked
as Commission's Exhibit 5. And there has been
previous testimony that this was an itinerary of
Senator Bruno for May 17 and 18, 2007. When you
say "those records" are you referring to the
itinerary set forth in Commission's Exhibit 5?

A. I had never seen these types of records in
approving the flights for Senator Bruno during the
Pataki administration.

Q. When you say "these types of records" you
mean the types of records set forth in
Commission's Exhibit 5?

A. Yes. Until this was faxed to my office,
whenever it was faxed to my office by the State
Police in late May of 2007, I had never seen this
sort of schedule before for Senator Bruno at any
point.

Q. Did you have a conversation with either
Superintendent Bennett or Superintendent Felton
directing them to have the senator request ground
transportation directly through the
superintendent's office at any time during the Pataki administration?

A. No. I have no recollection of ever directing them to do that. My understanding after the fact that I don't know how I had come to the understanding, whether it was reading it or was that Preston Felton had indicated as the First Deputy Superintendent at the time, that he had insisted that this is the way it was going to go from now on. He wanted the senator's office to come directly to him. But I don't recall ever directing that at all.

Q. Do you ever recall having a conversation with Superintendents Felton about the transportation of Senator Bruno and how that was occurring?

A. Yes.

Q. What was the nature of that conversation?

A. I can't recall in detail, but I think that is where I got the understanding that there was a direct relationship, you know, between the senator's office and Troop New York City.

Q. Did you ever request that that relationship be modified in any way?
A. I mean I was under the impression that it had stopped. And I think that conversation came with Superintendent Bennett. And I think that that probably comes together in terms of the time frame because I think that you have got Wayne Bennett as the superintendent where I'm having that conversation that I thought would lead to this transportation stopping. But, at the same time, you have got Felton as the First Deputy serving Wayne Bennett. And I think the conversation I had with Preston about that was probably before he became Acting Superintendent. So, those two conversations were all kind of consequent to each other.

BY MR. TEITELBAUM:

Q. Mr. Howard, during the Pataki administration when you would get these forms where there was a statement by somebody who is going to use the State aircraft that it was being used for official purposes, I take it from your testimony -- correct me if I am wrong -- that neither you nor, to your knowledge, anybody else looked behind that representation; is that accurate?

A. I think that's accurate, yes.
Q. Why was that? Why didn't you do that, check to see if the representation was correct?

A. I think we erred on the side of not creating potential issues. We trusted that the statement that was being made that this was for official business purposes would be sufficient. I think from my standpoint I saw the air asset that I was regulating, if you will, as something that as much information as I had available to me to make the decision and I didn't have that information available from the senator's office and, admittedly, didn't seek it out either. But I had that information from the Governor and from the agency commissioners and other officials who sought to use the helicopter, so I thought I was performing my duties by being very diligent about the Governor's use and the administration's use.

And probably, in retrospect, I thought I was avoiding a lot of potential negative issues related to the relationship between the Governor and Senator Bruno by trusting that the statement they made on the form that this was official business and would be sufficient.

Q. You referred to not having information from
Senator Bruno but having information from the Governor and the people in the executive branch. What information are you referring to?

A. With the commissioners I would usually engage them directly. I could have -- I might have had something that was printed but I can recall there weren't that many commissioners that flew. Glen Goord, who was the Commission of DOCS, Chauncey Parker who flew with somewhat more regularity than any other commissioner, I recall having a lot of conversation with Chauncey getting him to justify to me why the fixed wing airplane or helicopter was absolutely necessary for a trip. So, there was a lot of give-and-take. And I thought I did a good job trying to investigate the issues as to why the commissioners needed to have access to an aircraft.

With the Governor I had a very, very detailed schedule available to me. It's not the same type of schedule that I would have had available to me even in the position I was in with Governor Spitzer. But with Governor Pataki I had a very detailed schedule that told virtually every minute of his day in terms of where he was going.
from both personal, political, and professional standpoint. So, I could look at that schedule and get a really good idea as to the time frames and who he was meeting with and get a good picture and appropriate view of the helicopter or the air assets for that purpose.

Q. Did you discuss with anybody in the Pataki administration that you were not getting from the senator the kinds of information that you were getting from Governor Pataki?

A. I don't recall ever having that conversation. And I wasn't getting it directly, so I don't know thinking back. I didn't really miss it at the time in looking back at it. I knew that the primary contact was between our scheduling office and his scheduling office. And I don't know that I didn't assume that there were other conversations that were taking place. But honestly, in retrospect, I thought it was sufficient that someone was signing off that this was for official business purposes. And I thought that I had more control and more responsibility over the Governor's use the administration's use of the aircraft.
Q. Than you had over the legislature?
A. Than I had over the legislature.

BY MS. SULLIVAN:

Q. So, you didn't feel handicapped by not having the senator's schedule?
A. I don't recall that as a feeling. As I sit here today I don't recall that as a feeling. I was skeptical of every Thursday a trip to New York City. I had heard stories through the grapevine over the years. And I believed that as long as he was certifying that this was for official business that if there were consequences to come from the abuse, then they would come separate from anything I could do in signing that form. If there had been something that was of a detailed nature like these schedules I am seeing here, or even the Governor's schedule that have showed, I would have looked at it and evaluated it and I probably would have been in the newspaper a lot more for denying aircraft. I didn't see it as part of my responsibilities.

BY MS. TOOHER:

Q. You testified earlier, though -- we will move into the Spitzer administration -- that you
had a meeting with Marlene Turner and Walter Tepple --

A. I think it's T-e-p-p-l-e.

Q. From the State Police --

A. He was with State Police.

Q. -- early in the Spitzer administration.

A. I'm thinking probably late January into February.

Q. And, that this covered the use of the aircraft in executive travel?

A. Very impressionistically, I would say I think it wasn't like literally tied to documents. It was at the stage where do document exist. I mean this is the second transition I have gone through and I really did want to be helpful to the new -- I really wanted to be helpful to the new folks. I'm being asked a whole bunch of questions about everything. This was really square one in terms of: Is there a policy? Do we have something in writing? Who are the people that are involved in this? What are the means by which things are approved? And I think it was all related to how do we get our arms around the issue of travel. I think people were very spooked
spooked by it. They wanted to make sure they did it exactly the right way. And they were looking not so much for my technical expertise -- or legal expertise, I should say -- not so much from a legal standpoint because I'm not a lawyer, but from my standpoint of having been in the administration. How did you guys do this? How did you guys make these decisions? What are some of the issues? What are some of the land mines, some of the things we need to be aware of. So, all of that was part of the discussion. And, then, by the way, there's this other thing that's going to be out there that may surprise you. That is, the Senator and Speaker and, occasionally it commissioners will ask for either use of the helicopter and airplane. That was my heads-up to them that: Be aware that this is an issue. It's kind of a hot potato from time to time and it's coming your way. And I think the first request came two days later.

Q. What was the issue as you saw it in presenting it to Ms. Turner and Mr. Tepple?

A. There's how I saw it and there's what I presented. What I presented didn't really -- was
not really indicative of what I was thinking at
the time. It was more of a heads-up. This is an
issue. You are going to get requests. You'd
better figure out what you want to do because it's
going to come at the last minute and you kind of
want to know how you're going to handle this in
advance of that. That's where I saw my value was,
trying to help people anticipate the things that
based on my 12 years of Pataki we kind of know are
going to come your way and just giving them the
heads-up that if you can think about it a little
in advance and make a decision. What was going on
in the back of my head and didn't express is that
this is a flash point issue. It's a flash point
issue of they all worked very well, very smoothly
when the airplane gets approved. When the
helicopter gets denied for whatever reason,
depending on where your relationships are with the
legislature all sorts of bad intend may came from
that and you could wind up in the newspaper on an
issue that you would never anticipate was going to
be picked up with the New York Post. So, it was
kind of my heads-up to them without saying all of
that.
Q. But, at this point, you didn't relay that information to them?
A. Right.
Q. Did you ever relay to that information to them?
A. No.
Q. When you say you told them this issue was coming down the pike, so to speak, did you give them any further guidance as to what they might want to look at or what types of documents they would be getting?
A. Yes. I said that we should have a better policy and that we should really struggle toward a policy that really tries to do this right. And this was -- I don't mean to get emotional about it, but it was kind of my second chance because there were so many things I thought we had done well under Pataki, and then there were things I thought we hadn't done as well. From my standpoint of where I sat in trying to help folks set up the government and not thinking that I was going to be able to serve in that government for that long, my goal was to try to help identify what those issues were that they didn't do as well
as they should have so that they could avoid making those mistakes. And I saw that -- I don't know how they saw me. But I saw that as what my primary value to the administration was as a student of history. It also comes back, you know. And there are issues that are not going to be unique to Pataki. They're going to come back on Governor Spitzer, and I wanted these people to succeed. Whatever happened to me, I wanted this government to succeed. So, this was my way of saying you really should have a policy that's better than the policy we had and we'll kind of work out the policy that gets us there. There wasn't a lot of discussion in that particular meeting because we had the fellow from the State Police there. So, it wasn't a wide ranging policy discussion. I think there was a phone conversation later on. And somewhere -- and I think it has been produced to the Commission -- there is a note in my handwriting that has some observations about trying to put together, you know, a form that requires the certification of official business. And what I meant by that was going beyond the form that Pataki had responded
Q. Do you know approximately when that note came into being?
A. It was around the time of that meeting.
Q. So, around February or early in the administration?
A. I would say early -- probably February because it wasn't something that I had at that meeting which I think did predate the other discussion.
Q. I would like to discuss what you did after the meeting. During the meeting did you offer any concrete suggestions as far as the ground transportation or use of the helicopter or not?
A. No. I was kind of embarrassed by the ground transportation issue. It wasn't really discussed. What I said was that I'm kind of taking pride in that "we stopped that; that's not going on anymore," some statement to that effect. And I looked over at Walt Tepple who was there and I saw the look of surprise on his face which communicated to me that this has not been stopped; it's still going on. And I really don't want to embarrass the State Police in front of the chief.
of staff, so I didn't raise that issue any further in that meeting. We had a discussion of a lot of issues related to where the helicopters are positioned, how long it takes to get to New York City. How did you work out the imputed income situation. I remember having a conversation where I didn't know exactly how the calculation from a tax standpoint had been done; they were done by other folks. But I knew it was similar to the way in which you would handle a vehicle that was an official vehicle that was assigned. And you would have the personal miles that you had to report and you had to take that as imputed income. So, I remember specifically talking about the issue of imputed income in comparison to a prepared statement.

Q. Did you discuss the modification of the form at that meeting?

A. I think I did. I think I said something generally to the effect of having a stronger form that would require either a schedule or greater attestation would be helpful. But that was a minimal part of the meeting. It was more about the Governor.
So, you don't recall having any further detailed conversations concerning ground transportation at that meeting?

A. I'm pretty sure it was no. I don't even think it's question of recollection. I think there was no other conversation at that meeting. It wasn't something I was looking to really focus on.

Q. And, then, you indicated there was some follow up on the travel issues --

A. Right.

Q. -- after the meeting?

A. I think that was a phone conversation.

Q. Who was that conversation with?

A. Dave Nocente, who is counsel to the Governor, and Marlene Turner, and maybe Sean Maloney -- but I might be wrong on that -- who is the First Deputy. I may be wrong on Sean, because it was a phone conversation, not a meeting.

Q. When you say phone conversation, are we now talking a conference call? Are all three of you on the phone?

A. Yes.

Q. What was the sum and substance of that
1 conversation?
2     A. More of the same. Nothing about ground
3 transportation at all to my recollection. All
4 about the Governor’s travel and some discussion
5 about improving the form and coming up with a new
6 version of the form that would be tighter for
7 everybody, not just for Senator Bruno but for
8 everybody. It would be a specific statement of
9 certification or attestation that would be
10 required to be put on the form with some legal
11 reference that would be added.
12 MR. TEITELBAUM:
13     Q. May I ask a question? When you were at the
14 meeting in the Governor’s office with Ms. Turner
15 and the representative from State Police, is your
16 recollection of that meeting pretty clear?
17     A. Yes.
18     Q. Do you remember, was it in the morning or in
19 the afternoon?
20     A. I can't recall specifically morning or
21 afternoon.
22     Q. It was just the three of you in the
23 Governor’s Office?
24     A. Yes. The Governor wasn't there.
Q. You were sitting around a table?
A. No. I was sitting in Marlene's office. I was sitting on the couch and she was behind her desk. Actually, she was sitting on a chair in front of me. There was a coffee table between us and I was sitting on the couch.

Q. Was Ms. Turner taking notes or just chit-chatting?
A. It was more informal chit-chat.

Q. Did you take notes?
A. I did not.

Q. Did you ever a pattern of taking notes when up attended meetings when you were on the second floor?
A. It really varied, and I think this meeting I don't think was really scheduled. I think it was something that as you are walking down the hall and get dragged into it. So, I didn't take notes at the meeting. And I don't think even had a pad handy.

Q. But Walter Tepple at this meeting did take notes?
A. Yes.

Q. When you would be sitting in meetings with
Marlene Turner, for example, would she be taking notes?

A. I'm trying to think if I was ever in another meeting with her. I don't think I ever was. I think everything else was phone conversations. I think this was the only time that I can actually say that I was in a meeting with her.

Q. What did you do with your notes after you took them?

A. Generally, maybe review them, maybe summarize them in some way, and usually dispose of them.

Q. Summarize them in what fashion?

A. If it's something that I wanted to keep, I would keep it and might take the loose notes and put it into more formal form for my recollection and put it in my file. But, more often than not, I would dispose of them by the end of the day or in a couple of days.

Q. The handwritten notes you would take in a meeting frequently would be disposed of after you prepared a more -- a summary of what was contained in the note?
A. Yes. Unfortunately, in looking at my notes they were not all that helpful to me after the fact. By and large, I was not getting as much from the notes as I did from the meeting. So, by and large, I usually disposed of the notes after the meeting. They were somewhat useless to me and I disposed of them more often than not.

Q. And you put the -- I will call them synopses of your notes in a file in your office?

A. If it was something I would save -- and I'd say that was probably rare. But if I did that, I would have them in my office in a file. If it was about Indian land claims, for example, which I attended some meetings on, I would put my notes in that file. And, then, people had it for future reference.

Q. Did you have notes on the state aircraft issue as that issue evolved --

A. No.

Q. -- just to help you remember?

A. No. I think, you know, there were two notes that were given over into, you know, as part of the request for information and documents, and those are the only two notes that I had in any
file when I emptied my file out.

Q. You looked at your file yourself or did someone ask you to do that?

A. Dave Nocente asked me to bring my file out and I did that and checked out items and then returned those items to me.

BY MS. TOOHER:

Q. You mentioned that you discussed improving the form in your discussions with Nocente and Turner.

A. Um-hmm.

Q. How did that come about, the change in the form?

A. After the initial conversation I wasn't party to the conversations again. And the next -- after those two conversations, the one in the Governor's Office and then the second conference call conversation, some period of time went by. I don't accurately recall the call. Weeks, maybe. I don't think it was days; I think it was weeks. And, somehow I got a hard copy of kind of -- kind of an FYI, this is the revised form that is going to be used. Not because I was responsible for doing that anymore, but more as a closeout, I
think, on the conversation. And I don't recall paying a lot of attention to the form when I saw it to see the changes that were made. I understood that they had kind of buttressed the certification piece. But the piece that I got when that comes over to me, I don't think that actually was the one that ended up being used. I think the one I had was even a little the stronger than the one they ultimately adopted.

Q. Did you suggest the attestation? Did you suggest making this a stronger form?

A. I discussed, you know, that the form could be made stronger and you could maybe do something with the attestation. I don't recall ever suggesting that there should be a schedule or something like that attached to it. I don't think that ever came up.

BY MS. SULLIVAN:

Q. Did you convey to Marlene Turner your part of the experience with the Senator and denying the plane and his reaction to it?

A. I don't think I did. I think I did with Dave Nocente, but I don't think I did with Marlene Turner at that time.
Q. Did you explain to Marlene when you looked at the Governor's flights and evaluating whether it passed the "smell test" as you said, that you didn't have the same documentation in terms of the schedule for the Senator?

A. No. I didn't get into that kind of comparative analysis at all.

BY MS. TOOHER:

Q. When you discussed it with David Nocente what did you relate to him?

A. I think, generally, just the issue of having documents jammed up with the Senate over the issue of the helicopter and it had gotten reported in the newspaper, and a fairly light reference as opposed to something that was specifically related to buttressing up the form. I think it was more an experience that I had had rather than anything that was given to them as guidance, you know, just an experience that was related.

Q. Did you ever relate to David Nocente your concerns on Senator Bruno's use of the helicopter?

A. I can't recall specifically saying that. I'm sure that there was a conversation, but I can't recall the specifics of it.
Q. But you believe you had a conversation?
A. I believe there was a conversation. I just can't remember the details of it. Generally, I think there was a conversation that related to issues of accountability. But I think more -- less about Bruno and more about the Governor's accountability, because I think that is what so many of the conversations were about, trying to craft something not so much from Bruno's standpoint but more from the Governor's standpoint to make sure he was doing it the right way.

Could I offer something up? Just tell me if I'm going on too long here. There were kind of three phases to my aviation experience with the Spitzer administration. It starts out in January and February with a discussion of old Pataki bills for charter flights that were already starting to appear in the New York Post. There was a discussion on a couple of flights that were taken at the end of the administration which were charter flights and an issue of were those charter flights appropriate because there was an argument that the Governor needed to take the charter flights because he had that recent health problem.
and the charter air travel was better for his
health. So, we walked into the new administration
and, much to my surprise, there are a number of
unpaid charter bills that are still sticking
around. And I think that probably my first
interaction with folks in senior staff really
relates to the Pataki charter bills and trying to
resolve the old bills that had been sitting
around. And they kind of assigned me the task.
Darren Dopp actually gave me the task of trying to
navigate and negotiate with the old Pataki folks
to get them to pay the bills. Because based on
the press that occurred in the Post and issues
relating to how these things were structured they
didn't want to submit these bills to the Office of
the State Comptroller. And, actually, at the
Spitzer request I had actually talked with the
chopper folks to find out that under the radar
these bills were submitted and are they as bad as
I think they are. And the answer that came back
is, yes, they going to reject these. Send them
back to the chamber. These need to be resolved
through some other means. So, I had gone to folks
in the old Pataki administration and got them to
actually make payment for these bills. I think the check was actually on 5/15. I think that's when all the old charter bills from Pataki are taken care of.

Around the middle of that negotiation we have this other issue that comes up with Governor Spitzer's travel and one trip which relates to a political trip he made out to California where he chartered a plane and the charter flight had come back to Newark but needed to get back to Albany for the funeral of Trooper Brinkerhoff who had been killed in the Margaretville standoff. The staff wanted to make sure because that was at the end of a political trip that this was paid for by the Governor either personally or through some other means. And I was tasked with working with the State Police to try to figure out the cost of that helicopter flight from Newark to Albany and what would be an appropriate billing for the Governor to resolve that. They wanted to do things the right way, and that was the Governor.

Q. Did that also come from Darren Dopp?
A. This also came from Darren Dopp. I think the reason for mentioning it is not to distract
from the issue but to just show there was kind of
gliding into the issue of aviation that
occurred because of really three things; The first
thing being the old Pataki bills that needed to
resolve, hopefully without anyone's embarrassment
and done as appropriate as we possibly could.
And, the issue of Governor Spitzer's travel, now
that is handled and how to calculate the cost.
And there's a lot of traffic back and forth,
either through e-mails and phone calls to figure
out what is the appropriate amount of
reimbursement for the Governor to make. And he
makes that reimbursement, I think, on June 4th, if
I remember right. That's when he writes the check
which is given to the State Police.

And, the last issue is this whole issue
of travel and the forms and getting the schedules
from the State Police related to Senator Bruno's
tavel. Thanks for letting me put that in.

Q. The travel and forms and schedules issue,
when did that percolate back up, if you will?

A. It really comes at the end of the
negotiation of the Pataki bills. So, to the best
of my recollection and looking at everything
that's out there, I think it's around May 17th
where I get this call from Darren or e-mail from
Darren. I'm not sure how it comes. But,
basically, we're trying to get this leaders'
meeting together. The Senate is telling us they
can't do it because they have this big fundraiser
in the City they are flying to tonight. It must
have been verbal because I remember the
incredulous voice that said, "They're not flying
to this fundraiser; are they?" And, "I don't
know."
Q. That's you saying that?
A. That's Darren saying that to me; "They're
not flying to this fundraiser; are they?" And I
said I don't know. And he asked the question,
"Could I find out"? -- you know, out whether or
not he was flying. And that's really the first
time that I'm asked to do anything relating to
Bruno's travel and get documents relating to
travel.
Q. You believe this is May 17th?
A. I believe this is May 17th.
Q. Do you have any prior instances where you
reach out concerning Senator Bruno's travel?
A. Not to my knowledge.

Q. Did you ever reach out to Superintendent Felton about Senator Bruno's travel?

A. Other than the conversations that we have talked about in terms of the ground transportation issues I don't recall anything prior to that day.

Q. I am going to show you what has previously been marked as Commission's Exhibit 27. It appears to be an e-mail from Preston Felton to you dated March 14th, 4:14 responding to an earlier query from you. "What is the J.B. departure time tomorrow?"

A. I'm obviously wrong in my recollection. I didn't have this e-mail as part of my review. I apologize for that. The best I could, I thought the earliest e-mail reference was the 17th, so I apologize for that. I don't recall as we sit here today asking this early for this information.

Q. Do you know why you would be asking for this information in mid March?

A. I don't.

Q. Are you aware of an article by Fred Dicker in mid March concerning the travel issue?

A. I am not.
Q. And, are you aware of requests by Mr. Dicker around this same time frame?

A. I am. The first time that I saw any reference to that in my knowledge was the footnote on I think the Attorney General's report where it talked about a request for information that was made to the State Police. And I remember being surprised when I read that. I didn't realize there had been a request for information going back that early.

Q. So, you don't know why you sent this e-mail?

A. Honestly, this surprises me. I didn't think in all of my review that there was anything dated this early in the process.

Q. When you say "review" can you explain what you mean by that?

A. I went through everything I had, which was not a lot. I took everything that was off my computer that I had to give to Dave Nocente in the chamber and copies of items that I thought were significant to this issue and reviewed those e-mails and documents.

Q. Did you review them with anyone?

A. No. My attorney had seen them when we had
Q. Did you discuss those documents with anyone in the chamber?
A. Other than Dave Nocente, and there was a time earlier in the process with Peter Pope and Sean Maloney where they had agreed to represent me from an attorney/client standpoint earlier in the process where we had discussed e-mails.

Q. When you say "early in the process" what do you mean?
A. Soon after I went down and testified to the Attorney General. So I think the testimony to the Attorney General was on July 11th. And it was, I think, by either the Friday or the Saturday following that, that I had conversations with Peter and with Sean and, at some point, I thought -- and my recollection might be off on this. But I think on Sunday or so there is a decision saying that since these issues were arising out of the course of the employment that there would be an understanding that they would represent me from an attorney/client standpoint. I might be wrong on
BY MR. TEITELBAUM:

Q. What was your understanding of what was meant by they are representing you from an attorney/client standpoint?

A. I treated them as though they were my attorneys from that moment; that I believed that this was all — there is nothing in this that I didn't see as part of my official duties. And I still see it that way. And I thought at that moment that what I was being told is that they were representing me in an attorney/client relationship in talking with the Attorney General's Office or whatever else was necessary. I mean this has gotten far more afield than I ever could imagine. But at that moment I treated them as though they were my attorneys. And I believe Darren did as well.

Q. Were you conveying them information that was of a confidential nature from your perspective?

A. Yes.

Q. Do you know whether that information had ever been conveyed to others within the executive chamber?
A. That, I don't know.

Q. Were you told by either of those lawyers that there might come a time where your interests and their interests would perhaps diverge?

A. Yes.

Q. And did they tell you would happen at that point?

A. Yes.

Q. Did that point come?

A. I'm sorry?

Q. Did that point ever arrive?

A. Yes. And I think that's the day when I contacted Fred Newman. I believe that's July --

Q. 20th?

A. Yes. I think that is the papers that I have.

Q. Did they explain to you what the divergence of interest was?

A. Yes -- the issue of the divergence?

Q. No, what the interest was that caused the divergence. Let me withdraw that. What were the circumstances that created the divergence of interest between yourself and these two lawyers?

Did they explain it to you?
A. No. I would say they explained that they were representing the interests of the executive chamber and -- that there may come a time when they were representing the interests of the chamber not the interests of Bill Howard. And if that time comes, then at that point we would recommend that you get your own legal representation. But, the specifics of what those issues were wasn't discussed.

Q. That come at or around the 20th?
A. I think there's a conversation at the beginning of this, and then there's a conversation taking place around the 20th that is very explicit; that we think you should obtain your own attorney and recommended the same to others.

BY MS. TOOHER:
Q. You indicated that you had a file or folder with e-mails and documents that you had copied.
A. Um-hmm.
Q. And that you had discussed these with your attorney.
A. Yes.
Q. Are you aware that there was a subpoena in this matter seeking certain information from you,
Q. And did you allow your attorney to review those documents in determining whether or not they were responsive to that subpoena?

A. Yes.

Q. He was able to actually view the documents?

A. Yes. He indicated that everything we had had been turned over.

Q. Do you know what that knowledge was based upon?

A. I don't know.

BY MR. TEITELBAUM:

Q. When you say "turned over," Mr. Howard, do you mean to this Commission?

A. Yes, to the Ethics Commission.

BY MS. TOOHER:

Q. Do you know who had turned those documents over to us?

A. I do not.

Q. When you were first with the Spitzer administration you indicated that you had this sort of dual role and it was your understanding that you were in sort of a temporary status with
the chamber. Would that be a fair description?

A. I had always viewed my career as being temporary but less secure than where I had been with Pataki for sure and believed that any given week this could come to an end and I would just go over to SUNY and focus on the SUNY issues.

Q. Did there ever come a time that there was a determination that you were a more permanent member of the executive chamber?

A. I never buy into the permanency of the executive chamber. And that's what I liked about serving in these capacities quite honestly is being accountable every single day. I truly do. But I got to the point where I had a discussion with Rich Baum who I think it was at my urging that we had it, basically to say: Are you getting value out of me? I really felt drawn between two things. I loved being in the Governor's Office. But, on the other hand, I'm now in the Governor's office in a far different capacity although I still think I am providing value to them. But I have also got the SUNY responsibilities that I am trying to be very diligent about and I'm straining to kind of balance these issues. So, I really
wanted to find out from Rich whether or not he thought it was working. There wasn't a lot of feedback coming my way. And the question was: Are you getting something out of my being here or should I just separate and go someplace else? And the word back was: We really like having you around. We're getting a lot out of this. Your're being very helpful in how we're setting up this government. And I thought everything was great.

At that point then -- and he doesn't really know this. But I think at that point the SUNY relationship is one that we said, well, let's do this for six month and see where it goes, see what it's like at the end of the six months and we will review it at that point.

Q. Do you know when this conversation took place?

A. I would say early May.

Q. Did you ever receive anything in writing from Mr. Baum confirming this conversation?

A. Basically, an e-mail exchange saying: Glad it all worked out and happy to have you as part of it. Something along those lines, nothing formalized at all.
Q. I am going to show you what has previously been marked as Commission Exhibit 48.

A. Yes. This is the e-mail that I remember.

Q. And, in this e-mail Mr. Baum expresses to you, "Glad it all worked out" and "appreciate how much you have contributed."

A. Um-hmm.

Q. What was your understanding as to what your contributions were?

A. Everything from I think piece of mind in terms of during a difficult period of transition that there was continuity with stuff that was really important in homeland security and disaster response. We had had -- I mean don't hold me to this one. But we had a number of events maybe two or three natural disaster events that I had managed and the Governor was very pleased particularly with the way the Oswego snowstorm was handled. And we had flooding down in Westchester County, so we had had some experience. And I think there was some peace of mind that came from knowing that I was working those issues. And I think, honestly, I think I did them better than anybody else that has ever worked on the second
floor. And my understanding when I looked is that this was good. This was good news. I am making an impact. I wasn't sure whether people really see me as a valued person here. There are difficult relations, you know. I'm a former Republican in the Pataki administration at a very high level. That's almost unprecedented to have someone go from that level to continue working. I was very proud that I was a person that was allowed to do that. And it became important to me that I understood that that was something that they valued as much as I did. And I think that they did from what I saw.

Q. Did you discuss with Mr. Baum any of the airplane issues, the travel issues?

A. No. I mean I had very, very limited access to Rich Baum. And he was very busy doing the stuff that he was doing, so it was very sporadic, maybe in the hallway kind of contact and, you know, some of this stuff. This may have been -- at this point I don't know. But this may have been the first e-mail that he ever actually sent me. But I don't recall a lot of exchanges at all with Rich. And most of my contact was with other
folks on staff: David Nocente, Darren Dopp, Marlene Turner with some frequency, and Mike Balboni who came in as the Deputy Secretary for Public Safety who was my immediate report.

Q. Darren Dopp, what was your relationship with him in terms of your work relationship?

A. I didn't know him before. I had heard good things about him before. Approachable, dedicated, all good stuff, you know, pretty low key. I'm pretty low key myself. And what I found out is he was also a history buff. So, at odd times, sometimes late at night, sometimes early in the morning, we would literally sit around and talk about issues of New York State history. I know he was a history buff; he knew I was a history buff. And it got more and more to the point where I found out his son was a Civil War buff. And I was a longtime collector of Civil War memorabilia. So, every now and then I would come in and surprise him, give him a little mini ball or some little relic that I picked up on one of the battlefields. And it would make his son stay. And, when we had the big exhibit in the Capitol that I put together for the July 4th celebration
he brought his son in for that. I presented him with a couple of other little relics out of the collection. That's how our social relationship was developing. It was based on the mutual interest.

Q. What was your work relationship? What was your understanding of Darren Dopp's duties?

A. And I said this, but no one laughed with the A.G. Growing up with Zenia Mucha in the world of communications, it's the chief policy maker for the administration. And I viewed, accurately or not. I viewed all of the press secretaries not as press secretaries but as the key senior policy members of the administration. And I have treated -- I certainly treated Zenia that way. I treated Mike McEwen that way when he was our director, and David (name) and Lisa Stahl that way. And I treated Darren that way in terms of being, in my view, the senior policy maker for the administration, not just the director of communications.

Q. What you saw of Darren's role, would you consider him to be the senior policy maker in the chamber?
A. I would, yes.

Q. What led you to that conclusion?

A. He typically did not go to press conferences, which I think was interesting for a press secretary not to go to press conferences. I'm not saying that as a criticism. I think his duties went beyond going to press conferences. I think he was setting a tone and a pace for the administration. I can't recall other specifics. But my impression was that he was involved in all of the major issues for the administration at a very high policy level with access to all the folks in the administration that would also make those decisions. And he was more than you would typically expect to be a press secretary to any political person.

Q. Did he have access to the Governor?

A. Yes.

Q. Did you consider his access to the Governor to be on a par with other staff members?

A. I would have, yes. I would say I never saw evidence of that, but I would have assumed that that was the case.

Q. What was that based on?
A. Just my impression of what that position would be really more than anything. I mean I can't say that I saw the two of them together, quite honestly. But you see that position and it obviously means you have a relationship and close connection with the Governor.

BY MR. TEITELBAUM:

Q. May I ask a question? What major policy decisions were made by Mr. Dopp while you were around?

A. I can't specifically say any, quite honestly. I know when we were working on scheduling issues, you know, the Fourth of July celebration that I was a part of, events like that that require coordinating the Governor's schedule, coordinating time to make these events happen, he really didn't seem to have to check with anybody. He seemed very independently able to put these things on the agenda. I'm not at that level in this administration; I recognize that. But my perception was that he was fulfilling for the Governor similar to what Zenia had fulfilled for Governor Pataki. And I may have been wrong on that.
Q. I may be unclear on that. I thought you said you viewed him as the major policy person within the administration.

A. Right.

Q. It just appears to me to be somewhat unusual for you to be characterizing him that way and be unable to come up with a major policy that he developed.

A. Well, I wasn't around in the development of a policy. I would be in his office and we would be talking about history or something like that. And then folks would come in, you know, Dave Nocente or Peter Pope, or Sean Maloney, and I would get booted out. I assumed they were talking about policy and talking about initiatives, the things that we are doing and our part in that. But I'm not privileged enough like in the old days to sit in on those and I'm not going to the senior staff meetings either. But impressionistically, I view was that he was serving in that role. Admittedly, I may have been wrong on that. But that was my impression at the time.

Q. Did anybody tell you that?

A. No.
MR. TEITELBAUM: Okay.

BY MS. TOOHER:

Q. What types of issues did you work on with Darren?

A. I mean the first issue was really the Pataki bills, you know, which is a pretty slim slice of what's important, I suppose. But he seemed pretty impressed that I seemed to be able to handle it. It was an issue that, with everything else going on, I don't think people really wanted to deal with it. He obviously had a high opinion of me, I think, in the way he treated me and interacted with me. I think he knew my reputation and respected that. Directly, I worked with him on some of our emergency response issues and gave him a heads-up on some of the things we were doing, predeploying some of our National Guard assets in anticipation of snow storms, dealing with some of the local political issues where someone might be a little critical of the response and needed to be dealt with. So, I'd give him a heads-up then; that somebody so-and-so or Senator so-and-so or Assemblyman so-and-so has an issue and we're looking to work it out. My view was like almost
insurance or insulation. If I tell him or tell the administration about those types of issues that will help insulate them if the Governor happens to be in a place where that Senator or that Assemblyman is based. So, I think dealing with the Pataki goals, some of the emergency response issues, I think that whether we are doing the press conference over at the state emergency command bunker Darren pretty much let me set that up for the Governor which is somewhat unprecedented. So, when the Governor comes into the bunker I basically was there to make sure everything looked right, that we had the screens behind him that looked informative so that the news image that was there was a good, positive image of someone in control of the situation, so working with him on issues like that.

Q. When you worked on the Pataki travel issue did that tie into the Bruno travel issues at all?

A. I don't think so; not at the time. I think it gets into that, my recollection was that it got into it in mid March where I thought it kind of evolved. So, I'm still surprised of anything that comes earlier than that in my recollection.
Q. When you say mid March, is it mid May?
A. May, I'm sorry.
Q. I know you have mid March in front of you.
So, mid May is your understanding of when it gets
into the Bruno situation?
A. Yes.
Q. And does the Pataki bills and the
information and work you are doing on that tie
into the Bruno issues at all?
A. I don't see it that way in my mind. I see
this kind of evolution that runs from how do we
develop the policy starting out. We have these
Pataki bills. How do they relate to the policy?
How do we get them resolved? What were these
really about? Were they business? Were they
political? What were they? And, then, I see this
evolving into a question that comes again, to my
best recollection, on May 17th where there is
supposedly this meeting and they are trying to
organize and can't get it together because Bruno
can't be there night because of the
fundraiser. I don't know if that meeting is
somewhat incidental and I've just forgotten. But
in my own mind as I've gone over this, that's the
way I see the progression of the issues and that it goes in that way and ends with the Bruno travel issues; that they were separate and distinct but all related to aviation issues.

Q. On the 17th, which is the date that you give, you indicate that this Bruno travel issue starts to evolve.

A. Yes.

Q. How does that happen?

A. Again, the recollection is that I am asked the question about we are trying to get this meeting together, the leaders meeting together --

Q. This is Darren Dopp asking the question?

A. Yes, Darren Dopp asking the question. We're trying to get this leaders meeting together and the Senator is telling us he can't do it because they've got the Senate fundraiser tonight. And, "They're not flying to this event; are they?" I said, "I don't know." I said I would check, and then I think I get the Bruno faxed schedule back to me which, again, I think my recollection is that that's the first time I ever actually saw anything provided by Senator Bruno for his own schedule for travel.
Q. How does that happen? Who do you speak to in terms of exploring this issue?
A. Preston Felton, the Acting Superintendent of State Police.
Q. And, do you reach out to Preston Felton?
A. What do you do?
Q. My dealings by and large with the State Police would probably always be limited to three people: The Deputy, the First Deputy Superintendent, and just because of the homeland security, Bart Johnson who heads up our intelligence center and is now Superintendent for Field Command but wasn't at that time.

BY MS. SULLIVAN:
Q. Can I just interrupt one minute? Why is Darren Dopp calling you and asking you to check to see whether Joe Bruno has a fundraiser that night?
A. Not to check and see if there's a fundraiser.
Q. To see if he is flying that night.
A. Correct.
Q. Why would he be turning to you?
A. I wouldn't have seen it as inappropriate at all in terms of what my responsibilities were in
terms of having the State Police in my chain of
command to the State Police.

Q. Wouldn't Darren Dopp reach out to Marlene
Turner who was in charge of Bruno's flights?

A. He could have, but it didn't strike me as
odd that he reached out to me at all. I mean I
think my reputation for both administration was
the person that dealt with State Police issues,
homeland security issues, all of those issues.

And it might even have been know that I had
previous history with the helicopter flights. But
I mean even today it doesn't strike me as an odd
thing that he would have reached out to me and
asked me that question, no more that it would have
struck me as odd if he asked me some other
question: How many state police do we have? How
many State Police do we have deployed at the State
Fair? I would have seen it as relating to my
duties and the reporting relationship.

Q. So, it was because of your relationship with
the State Police that he spoke to you directly?

A. I couldn't speak for Darren but that would
be my guess as to why he would have reached out to
me. There were people in both administrations
both from State Police and from the standpoint of
the chamber would have thought Bill Howard is the
person they should have talked to. And they would
have done the same for the Division of Military
and Naval Affairs and for any of those agencies
that I covered. I covered those agencies very,
very well took those duties very, very seriously
and was identified with those agencies more so
than people in both administrations as a person
who was very engaged with the agencies and how
they operate.

BY MR. TEITELBAUM:

Q. Let me take you back to Commission's 27, the
March 14th e-mail from Acting Superintendent
Felton. I just want to follow up to your response
to Ms. Sullivan's inquiry. You are asking about
the "J.B. chopper departure time tomorrow." It
just didn't come out of blue; did it?

A. I don't have a recollection of doing this
e-mail. I am honestly don't.

Q. I understand. But do you have any reason,
other than the fact that you can't remember it,
to challenge genuineness of it?

A. No, I'm not saying that. I am not
challenging the genuineness of it.

Q. Given your position vis-a-vis the State Police and your position vis-a-vis the executive chamber, an inquiry of this sort wouldn't come out of the blue; is that fair to say? It wasn't idle curiosity; was it?

A. No. I wouldn't have cared on my own, quite honestly.

Q. So, somebody must have asked you to find out.

A. I have no recollection of that, but I would not have done it on my own volition unless someone asked the question of the J.B. travel chopper departure time. I wouldn't have asked that.

Q. And, given the fact that on May 17th, according to your recollection, the Bruno travel issue began to percolate up, isn't it fair to say that on March 14th, in fact, the Bruno travel issue was percolating?

A. I don't know, sir. I'm not sure that I would say it that way because I don't know how incidental this was. I mean I picked one day in my life just to get a benchmark on the kinds of duties I had. I picked one day a typical day and
I went from 5:10 in the morning to 12:52 and I got 128 e-mails. And what I said is that those e-mails are not like FYI e-mails. Those are all relating to the function of state government. All require some analysis, some decision, and some recognition that every single one of those decisions is something that I could be held accountable for. So, my best recollection was that the Bruno issue began in mid May. I don't have a recollection going back this far. I don't know how incidental this was at this time. But if you're asking when did the Bruno issue begin, I would have to say even looking did this today that began in May. That's when I saw much more questions, much more directed questions that needed to get information. I don't remember this. And I don't know how much this stands out in isolation to everything else I was doing. My style is when I am asked a question, as long as it's an appropriate question I would try to get the answer. And I trust that's the case that I didn't focus on this at that time as being something so critically central to Bruno's schedule.
Q. What is interesting about this to me anyway is that Felton responds to you within four minutes.

A. Right.

Q. Do you think he keeps the travel details of Senator Bruno on his desk?

A. I don't know the answer to that. I would tell you that if you probably had one of the e-mails, if you look at how quickly I respond and how quickly I interact with people over the years have repeatedly commended me for quick responses to e-mails and quick responses to questions. And I think the agency respects that and the agencies treat me in the same way. I very rarely go significant time frames without immediately engaging. The blackberries have made that so much which easier to do.

Q. Do you have any idea of how you would know that Senator Bruno "was using the chopper tomorrow?"

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

Q. You must have checked with someone; right?

A. No. I think more likely how we started this is someone asked me a question say as to whether
or not he's using the helicopter tomorrow. I think the other thing I would say -- just one point.

Q. Go ahead.

A. I don't know the time frame of 3/14. I don't know if Preston had become the Acting Superintendent at that point or whether he was still the First Deputy Superintendent. As the First Deputy Superintendent would have been much more attuned to New York City which he once commanded and may have had some innate knowledge of the schedule. So, I don't know that I would read which into that but I would say the interactions we have on all issues are always very quickly timed and very quickly paced and I figure I owe it to the commissioners that report to me to get back to them quickly and I think they return the favor in some sort of interchange.

Q. I want to give you an opportunity to explain it, and I am having problems with your explanation because if you were going to be asking whether Joe Bruno what is going to be using the chopper tomorrow, it seems to me he wouldn't be asking what time is he going to be using the chopper
tomorrow. You would have said something along the line of: Is J. B. using the chopper tomorrow or when is J. B. using the chopper tomorrow. This statement indicates to me that you had prior knowledge.

A. I can't explain that. I don't know if there was a conversation that preceded the e-mail or what it was. What I can tell you pretty definitively I couldn't have cared less what Joe Bruno's departure schedule or what his helicopter usage was in this administration. And if I asked the question it was undoubtedly because someone asked me the question and I forwarded it on. Whether this follows a conversation that I can't recall I can't explain that. All's I can tell you that when I look at this it doesn't make any sense to me. But what makes sense took me is my understanding of the time frame that evolved later on in May. And that's when I really engaged in quite a dialogue with Darren and some more folks trying to get information. I don't recall it back this early, and I don't know what preceded the e-mail. I can tell you I wouldn't have done it on my own volition because I didn't care.
Q. I understand that you didn't do it on your own volition.

A. I would like to -- I said it, but I want to be sure it's understood that Darren -- I am very structure oriented, very oriented toward the hierarchal structure of government. And this was something that was a distraction to the duties that I was pursuing on a daily basis. And you know, I do care about government accountability. I care about people doing things the right way. But I wouldn't have engaged in any of those questions had I not be asked to provide the answers. If I could tell you definitively that I could recall the background of e-mail, I would tell you what it is. But walking in here today I was under no impression that things dated to 3/14. I wish I could be more helpful in giving the background. I just can't recall it.

BY MS. TOOHER:

Q. But in mid May you do recall being asked for more information concerning Senator Bruno's travel?

A. And providing answers to the best of my ability. I didn't see anything that was asked for
as being outside of my professional responsibilities. And I can tell you if I had to do it over again today and had to go through the media pillorying I have gone through I wouldn't do it. But absent that, if someone today asked me for the same information I would do it the exact same way. I would ask people for that information. I do not think it was inappropriate to ask me for that.

Q. When you got the mid May request from Darren Dopp were you handling the transportation issues at that time?

A. No -- no.

Q. Marlene Turner was handling those for the chamber; is that correct?

A. Yes. I didn't know that until recently, but yes. Marlene was handling those issues.

Q. You had had a conversation with her in February about the transportation issues?

A. I didn't know who was going to being signing the forms. I found out that Marlene actually signed the forms in the way that I used to sign the forms.

Q. You knew you were no longer signing the
forms?
A. Absolutely, yes.
Q. Did you say to Darren: I don't handle this anymore. Perhaps there is someone in the chamber you should speak to?
A. No.
Q. And did you believe that the superintendent was responsible for signing those forms?
A. No. I knew the Superintendent was not signing those forms. I would say my daily life on the floor was -- it's like being thrown into chaos. And I don't mean that has a negative because we are trying to figure out which end is up and which end is down when I first got there. So, I am walking down the hallway and people are grabbing me into offices seeking my advice on how to set up a corporation system or how did it work with people going through their individual phone bills to determine how much they owe. Every question of government was being asked of me. And under other circumstances maybe I would have thought twice and said, you know, I don't do aviation anymore; Marlene Turner does that and maybe you should talk to her. But at that moment
my whole orientation is to be helpful and help these folks set up the government in a way that succeeds. You probably could have asked me any question. People are asking me: What's the protocols for lowering the flags. I used to do that. I know what those protocols are; I used to do that stuff. Every question was fair game every time I walked down the hallway someone would pull me into the office and ask me some other question on government. So, Darren asking me these questions -- maybe I wish now that I had turned it over to Marlene Turner. But it didn't seem like an odd question because I was the resource. Q. So, your response to Darren Dopp's inquiry on May 17th was to turn to Preston Felson and ask him for information? A. Yes. Q. And you asked him on the 17th of May to provide you what? A. I think the question was, you know, is Senator Bruno flying to New York City. And it wouldn't have occurred to me that we had that scheduled. But what comes back to me the schedule, the itinerary, if you will, for that
day. And I don't have a recollection of asking for it because I wouldn't have known it existed.

But that is what comes back to me. I think it's faxed back to me within a couple of days. It doesn't come immediately.

Q. And, do you have any information prior to receiving that schedule about the senator's plans?
A. Not to my knowledge, no.

Q. I will show you what has been marked as Commission's Exhibit 58. This is a one-page document William Howard dated May 17, 2007 at 12:03 p.m. to Darren Dopp. "Getting more, but here's what I have."
A. Yes.

Q. Can you identify this document?
A. Yes. This is a document that relates again to that give and take going back and forth between the senior administration relating to the Governor's travel. This is not related to Bruno's travel.

Q. And the information contained in this relates to what?
A. Really relates to the issue of trying to figure out that policy that is going to apply to the Governor in terms of what is a political event and what is a state event.

Q. I direct your attention to the last line in this e-mail. "I'm getting more on the specifics of today with the passengers, et cetera." Can you tell me what that relates to?

A. Yep. I'm sure that would have related to the request for the Bruno information on the 17th.

Q. So you are getting more on the specifics of today?

A. The Bruno schedule. But the first part of this really relates to the Governor's schedule. And that splits between what is political and what is state.

Q. What do you have already on the Bruno information at this juncture?

A. My guess is that I have got something from Preston that indicates, yes, he is flying to New York City. But I don't think I have anything on paper at this point.

Q. But you are looking for, and expecting information concerning the passengers that are
flying with him?

A. Right.

Q. What would that expectation be based on?

A. The flight request form would not only have the fact that Bruno was flying but it would have the passengers that were on the aircraft for that trip. The expectation I had is not the Bruno schedule but the flight request form would be coming to me which would have the senator and whoever the passengers were.

Q. Now, the flight request form would be with Marlene Turner; is that correct?

A. Yes.

Q. Did you reach out to Marlene Turner?

A. I did not.

Q. Did you reach out to anyone in the chamber to find out who might be receiving those flight request forms?

A. No.

Q. The only person that you reached out to on the 17th was Preston Felton?

A. Correct. And, again, it's because I was asked to get the information so I sought to get the information. It never would have occurred to
me to say: Why don't you call Marlene Turner to get the form. That's not the way I do business. When I am asked a question I get the answer. And the only way I knew to get the answer was to go to Preston because I thought he would have it.

Q. And, again, how did Preston Felton respond to you?

A. He sent me the Bruno schedule, I think on the 21st.

Q. Did you have information concerning Senator Bruno's travel prior to Preston Felton giving you that schedule?

A. I mean based on this I must have known that it was going down on May 17th. I don't think I had any of the specifics of what that trip was. I don't think I did. And I don't think I saw the specifics until I had some understanding of the schedule. I don't know honestly -- I don't know if those specifics were given to me by phone or separate e-mail or something like that. I don't recall that.

(Exhibit 59 was marked for identification.)

Q. I am going to show you what has been marked
as Commission's Exhibit 59. This is an e-mail dated May 17, 2007 at 12:20 p.m., to Darren Dopp.

Can you identify this document?

A. Yes. One of the stops on Bruno's schedule for that day was a visit to C.V. Starr which I didn't know what C.V. Starr was. Darren asked me if I knew what C.V. Starr was and I indicated that I didn't. He said, "I think it is something that is connected with Hang Greenberg who was subject to the investigation a year before. He didn't ask me to do it, but I went back to my office after that conversation and looked up on the Internet C.V. Starr to see what came up. And this was a synopsis of what was on the Internet. And I e-mailed it to him. This was done unsolicited by me. He didn't ask me to research who C.V. Starr was. I just did it because I was interested in who C.V. Starr was.

Q. Was is your understanding at this point as to the relevance of C.V. Starr to Darren?

A. I didn't the answer to that. It was a question that was asked. I thought it was interesting in terms of is it a person? Is it a company? I just didn't know. I never heard the
name of the company and I typed it into the
Internet. And it took them two seconds to respond
the C.V. Starr is a global investment firm that
holds 2.4 billion shares of AIG stock.
Q. Had you received any other information on
C.V. Starr to this point?
A. No.
Q. I am going to show you what has previously
been marked as Commission Exhibit 16.
A. Yes, okay.
Q. Again, this is apparently an e-mail. Can
you identify this document.
A. As I said a little while ago I wasn't sure
whether the first team I knew of the schedule was
when it was faxed to me or whether something had
been shared over the telephone. I think this is
coming from a conversation that I had with
Preston, not the facts but this is the rough
schedule that Preston is giving me for that day.
And I gave this e-mail to Darren just indicating
12:30, C.V. Starr, 3:30 at the Sheraton, 9:00 a.m.
scheduled flight return tomorrow. But this is
before I actually had the schedule from Bruno that
was faxed. He made the initial request. I
contacted Felton and, as I said a little while ago, I think what must have happened is that Felton gave me the basics over the phone and then followed up with the facts, the document.

Q. So, at 12:20, you spontaneously provided information concerning C.V. Starr to Darren Dopp and 12:58 you are providing information concerning C.V. Starr in the context now of Senator Bruno's schedule; is that correct?

A. Yeah. You know, I mean what I can say is I probably got the information on the schedule verbally from Preston and went down and talked to Darren and double-checked back with the times and got back to him. That is my best recollection; that it probably was a conversation between Darren and myself following the conversation between Felton and myself. And, then, once I checked the times, I gave him that in a separate e-mail, so I think I already gave him that in a phone conversation and followed up, which is probably why I used the phrase "I checked the times" later on, because I probably had already given that to him verbally.

Q. So, the first time you received information
concerning Senator Bruno's schedule wasn't when you received the faxed itinerary from Preston Felton. You already had that information when you spoke to Darren on May 17th.

A. It was probably verbally based -- I appreciate the opportunity to refresh my recollection by looking at the exhibits as well. But that is probably the way it worked; a phone conversation between Preston Felton and myself, a back brief to Darren, and then the question of who it C.V. Starr and going back and getting confirmation one way or another. Whether Preston Felton called me or I called him about getting the details of the schedule. That's the best I can say as to how it involved. I probably didn't have a lot of detail and it looks like something I probably would have gotten verbally.

Q. Did you find it strange that Darren Dopp was asking you about C.V. Starr prior to knowing that it was Senator Bruno's schedule?

A. No. What I am saying is I think I probably had a conversation with Preston telling me what the schedules was, briefed Darren on that schedule. And I think the interchange on who is
C.V. Starr comes in response to a verbal briefing
rather than an e-mail exchange.

Q. So, you are changing your testimony on
Exhibit 59?

A. Well, you are refreshing my recollection
with these exhibits and I am trying to help out to
explain the time frames. That's where I think it
probably goes is that I didn't get the schedule
you know on the 21st; that I had some
understanding somehow, probably verbally based,
prior to that time. And I think that's why I
didn't have a lot of details here and that's why I
say I checked the times, which means I probably
did that verbally with Preston.

Q. A moment ago when I asked you about
Commission's Exhibit 59 your testimony was that
Darren Dopp was discussing C.V. Starr in a matter
that concerned Hank Greenberg previously. And you
spontaneously went back to your office and looked
C.V. Starr up on the Internet and spontaneously
provided this information to Darren Dopp; that it
had no correlation to anything else beyond your
informal discussion with Mr. Dopp.

A. I didn't mean to imply that. The question
of who is C.V. Starr was specifically in response to a question from Darren. I thought in my testimony what got us there was the sharing of the faxed schedule. Looking at the time sequence of these e-mails, I think it must have been that I had an understanding verbally from Preston Felton that this was the rough schedule for the day. He is going to C.V. Starr, and Darren is asking me the question of who is C.V. Starr. I think I'm mistaken by thinking it all came in response to the faxed schedule. It must have been done based on a verbal conversation between Felton and myself which I then briefed Darren on, which then inspires the question. I can tell you I distinctly remember being asked by Darren: Who is C.V. Starr? What's that? I thought it was based on the schedule. It obviously wasn't. It must have been based on either me mentioning the schedule for the day and him asking me that question. So, if I messed up the testimony it was through no intent to do so. It was just through a misunderstanding of the sequence.

Q. Just so I'm clear, your testimony now is that C.V. Starr response, the initial one
1 contained in Commission's Exhibit 59 was in
2 response to an inquiry on Senator Bruno's
3 schedule?
4 A. It absolutely was from Darren Dopp. It
5 absolutely was.
6 BY MR. TEITELBAUM:
7 Q. Let me ask you this, Mr. Howard. Is it fair
8 to say that at least by May 17th you had
9 understood that you were enlisted in a project
10 involving inquiries into the travel of Senator
11 Bruno?
12 A. It was clear on the 17th that Darren was
13 asking me questions about Bruno's schedule. I
14 didn't know at that point certainly how detailed
15 this would get, how extensive it would get later
16 on. But that was my recollection walking in here
17 today of the first time I was asked the question.
18 Q. When you say extensive you mean extensive in
19 terms of your role in it?
20 A. Extensive in terms of the questions asked by
21 Darren.
22 Q. How about extensive in terms of your role?
23 A. I tried to make that role as little as I
24 possibly could, and tried to respond to the
questions asked. I struggled at various times to be sure I was balancing my duties with these requests. Because Darren was asking a lot of questions about the schedules and how aviation worked and those sorts of things. I didn't see myself as extensively involved in this issue and still don't.

Q. From your perspective who was extensively involved in this issue?
A. I saw Darren as being very involved in the issue.

Q. At what point in time?
A. I think probably closer to the end than -- probably around the time that I see the FOIL coming in the end of June. I start to see all of these things coming together resulting in the FOIL request resulting in the story. I didn't know where there was going at the very beginning. I didn't know if this was something that was collected to change the process. I didn't know if this was something that was going to be referred to Ethics or I the I.G. or at the beginning of this process that it was going to be something that went to the media.
Q. You are a man who has had responsibilities for enormous projects in our state and you described them for us; floods and complicated and great tragedies. And, here you are being asked to do relatively ministerial stuff.

A. Um-hmm.

Q. And I find it surprising to hear that you didn't ask why you were being asked to do this. Can you explain that?

A. What I can tell you is that it's a different relationship. I am still finding the relationship with these folks. I am still not being trusted on a daily basis by most of these individuals. And maybe it's a fault in terms of any transfer over into the new administration. But what had been very independently done during Pataki -- I mean I closed a $6.6 billion transaction with WellPoint WellChoice with virtually no oversight at all and thought I did exactly the right thing. In this instance kinds of thrown into this new world with new personalities with some people that want me around and a lot that don't want me around on a daily basis, I am basically doing everything I can to respond and give them the information. I am
not asking a lot of questions and it didn't occur
to me to ask a lot of questions. It didn't. I
was happy that people were treating me with
respect and wanted to share in the knowledge that
I had. I wasn't in a position that I thought I
could ask a lot of questions. That said, I still
conducted myself as I always have, trying to do
everything as well and as appropriate as I
possibly could.

Q. In this particular instance you are not
asked to tap into your wealth of knowledge.
A. Right.

Q. You are somebody who is just making a phone
call.
A. I did that, too. I did that too with
Pataki. I did that too when I was in the
legislature. I have done it my whole career and I
have a very comfortable relationship with the
Commissioners and I want to make sure it is
understood also that I took some offense of the
idea that there was any kind of intimidation of
Preston Felton. I don't have a style like that.
I have style that is very collegial that I think
even Preston says in his testimony: We're on the
phone morning until night. That means that we
deal with important stuff and insignificant stuff.
I saw this as being very insignificant to the
course my work day, but it was a question I was
being asked when I was not being asked a lot of
other questions about the relationship with the
state police. And I did the best that I could to
get the answers to those questions.

BY Ms TOOHER:

Q. As a consequence of providing this
information to Darren did he discuss with you
anything further on Senator Bruno's schedule?

A. Very clipped responses. And I know you have
probably seen the e-mails, but the e-mails you see
match the type of responses I was getting when I
would either hand-deliver something to him or get
a phone call from him. Very short, very brusque.
muted, very clipped responses, by and large.

Q. Did he indicate to you what he was doing
with this information?

A. There was a conversation at one point about
the potential of going to the Inspector General or
going to Ethics or going someplace with this
information if it turned out that there was abuse of the assets.

Q. Did he talk to you at all about going public with this information?

A. No -- no.

Q. I am going to show you what has been marked as Commission's Exhibit 30 and I will ask you to take a look at it.

A. Um-hmm, okay.

Q. Have you seen this document before?

A. I did see it. My eyes bugged out when I saw it. I saw it for the first time when the D.A. slid it across the table during my testimony. And I had not seen it prior to that time the.

Q. So, the first time at you saw this document is when you spoke with the D.A.'s Office in Albany County?

A. That's my recollection, that that's the first time I saw this document.

Q. You didn't see this document on or about May 17th?

A. I don't believe I did.

Q. Did Darren ever discuss with you that he was preparing a statement about these issues on or
1 about the 17th?
2 A. I don't think he ever had a conversation
3 with me about preparing a statement.
4 Q. Did you indicate to Darren Dopp in or around
5 the 17th that you were going to be getting more
6 information about Senator Bruno's itinerary?
7 A. I think that's even in one of the e-mails
8 here that there would be more information; that I
9 was getting the specifics today about the
10 passengers at 12:03.
11 Q. Did you get the specifics on the 17th?
12 A. My recollection of that is not this. It's
13 not the 12:59 e-mail that has the times. It's
14 that there was some other information we were
15 going to be getting on who the passengers were on
16 the flight, which would have been the flight
17 request form.
18 Q. Did you prepare anything for Darren Dopp on
19 the 17th concerning these activities?
20 A. Not to my recollection.
21 (Commission's Exhibit 60 was marked for
22 identification.)
23 A. This is not related to this.
24 Q. I am showing you what has been marked as
1 Commission's Exhibit 60, an e-mail dated 5/17 2007 at 1:23 p.m. from you to Darren Dopp. And the subject is, again: Time check. Can you identify this document?

A. This is a document where we were getting the State Police report on the Bucky Phillips inquiry and I had five copies being made of that report because we were preparing to go public with that report. This refers to the Bucky Phillips State Police internal investigation.

Q. Who were the five copies to go to; do you remember?

A. I don't recall who they went to. We were evaluating how we were going to release this to the press, in what form it was going to be released in the press. So, I don't know if just I did five copies because it was better than one copy or two copies. I don't have specifics in mind as to who those individual would be. I think it was just a random number that was better than making just two copies, because it was a fairly voluminous document. And I still think have three copies in my file.

Q. And, after you received the information that
you provided to Darren Dopp on the 17th did you
have any follow up with the Superintendent on
Senator Bruno?
A. Not to my specific recollection. I might
have; I just don't recall what that could have
been. Do you mean on that same day?
Q. Yes.
A. I don't recall specifically. I might have;
I just don't recall.
Q. Prior to receiving the fax from him, did you
have any follow-up conversations with him?
A. I couldn't say yes or no with any accuracy
on that. I just don't know.
(Commission's Exhibit 61 was marked for
identification.)
Q. I am going to show you what has been marked
as Commission's Exhibit 61. This is an e-mail
from Preston Felton to you. It appears to be a
thread of a number of e-mails. Can you identify
this document?
A. I remember it. I can't recall what is
behind it. I remember reaching out to him and I
remember him responding to me saying that he can't
do it. He's on stage for the graduation. The
reason I remember that is because I initially thought we are not having a State Police graduation. What's the graduation ceremony? I think he was actually speaking at a high school graduation or something. I don't remember what the issues were here at all, whether they were related to Bruno or other issues. I just don't know with any accuracy. I literally called this guy scores of times in the course of a day. And I can't tell you what this is in reference to, but I remember the reference to the graduation.

Q. Do you have any recollection of reaching out to the Superintendent prior to receiving the faxed information from him after you had spoken with him initially?

A. Again, I can't say I did or did not. I just have no recollection of that at all. I'm not saying it didn't, but I just don't remember that in the course of my day.

Q. At a certain point in time you received information from Superintendent Felton?

A. I believe on 5/21, if I remember the fax line, I got the copy of the Bruno schedule faxed to me. The actual schedule provided to the State
1 Police by Senator Bruno I think it was sent to me
2 on May 21st.
3 Q. I am going to show you again what has been
4 marked as Commission's Exhibit 5 and ask you if
5 this is what was provided to you by the
6 Superintendent.
7 A. Yes. I believe it was faxed to me. And I
8 believe the original had a line on top showing it
9 had come from Bruno's office.
10 Q. Who faxed that to you; do you recall?
11 A. I may be wrong, but my recollection is that
12 it was faxed to me by Preston Felton.
13 Q. I am going to show you what was previous
14 marked as Commission's 15.
15 A. Okay.
16 Q. This is an e-mail from Preston Felton to
17 Anthony Williams: "Can you send me up the
18 information on that trip that the Majority Leader
19 did last week, itinerary for trip ASAP." And,
20 Anthony Williams responds: "I faxed it up."
21 A. To Preston; it wouldn't have come to me.
22 Anthony Williams wouldn't have faxed it to me.
23 I've heard the name, but I never had any
24 interaction that I'm aware of. While I might not
have paid a lot of attention to the fax sheet, I'm
99 percent sure this would have come to me from
the Superintendent, not from Anthony Williams.
BY MR. TEITELBAUM:
Q. When you say "this" what are you talking
about?
A. I'm sorry. The Bruno itinerary, Exhibit 5.
I might be mistaken on that, but I think that that
would be the first time Anthony Williams ever had
contact with me if he was the person who faxed
this up. My understanding was that Preston had
faxed this to me.
Q. Preston Felton specifically asks for an
itinerary for the trip on Senator Bruno.
A. Right.
Q. Had you specifically asked Preston Felton
for an itinerary on this trip?
A. I know it sounds convoluted but I think I
said we had a conversation leading to the
production of the schedules. I think in that
conversation there's no direction, there's no
order. There is a conversation that says, you
know, could you check and see if there is a trip
scheduled. And one way or the other -- I know I
didn't ask for an itinerary, but I think it was suggested that either we -- could you -- at this point we didn't even know that there was an itinerary available. And I think it goes to the first conversation held which was, you know: Would you like us to put something together for that? And I am not saying Preston on his own decided he was going to put together this itinerary for the Bruno travels, but I think it was a conversation between he and I, very collegial, very back and forth, and it didn't seem like an inappropriate thing to say: Do you want us to see what we can get? Do you want us to put something together for you? I can't accurately remember that, but it's my impression of how the conversation went and then what came was not something surprising to me at all. It was this Bruno schedule, this itinerary. What came later were those other documents that I'm sure you'll get to.

Q. We will get to those. But this document here specifically, Commission's Exhibit 5, the Bruno itinerary for May 17 and 18, I believe you testified earlier that you had never seen a
A. I didn't know that they necessarily existed, right.

Q. And Preston Felton is apparently specifically looking for an itinerary. When he makes his request of Anthony Williams he is looking for the information for that trip --

A. Right.

Q. -- and specifically requests an itinerary for that trip?

A. Right.

Q. Had he discussed with you at that point the existence of the itinerary?

A. I don't believe so. I think until I got this document I still remember -- I think very accurately -- that I was surprised it came in the form that it did. I was surprised that it had Bruno's fax name on top of it. I didn't know what they were going to do to provide any kind of details on the travel or what was going to come as a result of the request. But I remember being surprised when I saw that it had Bruno's fax stamp of top of it, which is Bruno is providing this stuff himself.
Q. Did you ever ask Preston Felton where he got the information you said he provided to you earlier?

A. I don't believe I did. I don't think I ever asked him the origins of where the information came from. I mean I knew from looking at it that this was a schedule that was provided by Bruno's office. I'm pretty sure when I asked for it I didn't know that it existed. And I do remember being surprised when I saw Bruno himself had faxed it to the office. But it wasn't something that I expected to get when I made the request.

Q. If I told you that there was other evidence in the record that supported that this was the first contact Preston Felton had with you concerning Bruno's schedule on the 17th and 18th, Commission Exhibit 5, would there be anyplace else you could have received the information you put forth in your e-mails on the 17th concerning Senator Bruno's itinerary?

A. The only thing I can think of was a conversation that would have taken place between Preston and myself. I wouldn't have dealt with Anthony Williams. There's nobody else in the
State Police I would have called. And the only person I dealt with on this issue was Preston Felton in the State Police. I didn't deal with Glenn Valle or the press person. The only person I consistently dealt with in the State Police on this issue was Preston Felton.

Q. What about someone in the executive chamber?
A. Not that I can recall.

Q. Did you reach out to Marlene Turner at all?
A. I don't believe I did -- I don't believe I did. My recollection on this issue is having no conversations with Marlene Turner on these issues and dealing only with the State Police, dealing only with Preston Felton. That's my best recollection. I don't recall having any conversations with Marlene on this at all.

BY MR. TEITELBAUM:
Q. During the conversation between yourself and the Acting Superintendent what was said between the two of you?
A. It was so collegial that it's hard to accurately remember it.

Q. Did you raise the subject of Senator Bruno's travel itinerary?
A. Yes. I can say one thing. And, that is, again, having been around for a long time I know that this issue of the FOIL was swirling around and I am very concerned about it myself because that's something I take very seriously. And I wanted to make sure that I say today -- and maybe this is the perfect opportunity. I can't imagine myself, knowing myself the way I do, that I ever would have represented to anyone that this information was being pursuant -- being pursuant to a FOIL if I didn't actually have a FOIL or wasn't told there was a FOIL in place. I have no recollection of mentioning to Preston Felton that there was an oral FOIL or that there was any request for a FOIL out there until the end of June when I heard we actually did have a FOIL. So, I don't recall Darren telling me there was a FOIL request for information. And, again, what I read -- and I know it's probably not all that pertinent. But what I've read about statements about oral FOILs and those things -- I have been around for 23 years. And, honestly, I think if someone told me for the first time in my life that there was an oral FOIL request I would remember
that. I have no recollections at all of being told there was an oral FOIL request and someone was engaged with reporters on a FOIL type issue or the type of information that you could get from a FOIL. So, the conversation that I had with Preston was data related. It was, you know, are we taking this trip? Are we involved in this trip? Can we get information related to this trip? Can you get me some information on it? And my best recollection -- and I have wracked my brain considering I know how important this issue is, particularly to the Commission, and also to me, I wracked my brain trying to figure out if I ever heard anything about a FOIL, If I'm misremembering or anything. And I don't recall. I think I had a conversation with Preston that was about getting the information about the travel and getting that information to Darren, but it was not done under any kind of understanding of FOIL. I can't find it in myself. It would be easy to say I somehow had some sort of vague recollection of it. I wish I could because everyone else is saying it was there, but it wasn't. It was just a conversation with Preston that got me information
and then got me a faxed schedule that was referenced here as Exhibit 5 that was faxed to my office.

Q. Mr. Howard, what do you think you were doing when you were going through the Acting Superintendent -- I'm not saying demanding or giving orders. But as a result of that conversation, information in the form of Commission 5 was delivered up to you. What did you think you were doing?

A. It seemed then and it seems now to be perfectly appropriate on my part. I saw this then, and I see this now as the use of a public asset that belongs to the people of the State of New York. And I'm being asked the question in the way that someone would ask about a car: What's the mileage report that's been done on that vehicle. Here we have helicopters that are being used back and forth from New York City. It's a public asset that's under the control of state police. It's under the control and responsibility for accountability. It is somewhat on my plate in the reporting relationship in the chain of command to the state police. I thought that this was a
very legitimate public policy question: How are our assets being used? And like I said, I would not dip my toe into this water again today considering what the media has done with this issue. But, absent that, if someone asked me today to get the same information, I would endeavor to get the same information. I think we have a right to know how our assets are being used. And I put this together when I looked at the A.G.'s report. You've got that flight on May 17th and 18th. And I put myself back in the old Pataki chair. So, Bruno and his staff fly down to the City on the 17th. They do minimal official business but a lot of political business. He stays over, goes to the Sheraton to the big fundraising event, and then flies back the next morning with no meetings in New York City. If I had that trip on my plate for Pataki I would have imputed his income for that second run of the trip because you've got a helicopter that belongs to the state police and the people flying down to the City, dropping him off, flying back empty to Albany -- that's $4,000; $2,000 on the way down, $2,000 coming back empty. It has to go back to
Albany the next day empty. That's $2,000. And it has to pick him up and bring him back. So, this is a six thousand dollar hit to the taxpayers of the State of New York for what amounted to admittedly -- I don't know his schedule -- but seems to be fairly insignificant official business but an awful lot of political business. I feel I have an obligation if I am asked to collect that information to collect that information. And it seemed to me whether that was information going to Ethics, whether it was information that was supposedly going to be generated for the I.G. or whether someone decided at some point they were going to release that to the media, all of that information is public information. And I firmly believe that today.

Q. Maybe my question was unclear. What I am trying to find out from you is, as you had your conversation with Acting Superintendent Felton on May 17th, why did you think you were asking Felton for this information? I mean it's not as if you were going off on a white horse to do good for the government. Someone was asking you to do this; right?
1     A. Yes.
2     Q. Did you have in your mind that there was
3  some program or project afoot --
4     A. No -- no.
5     Q. -- and that you were being asked to gather
6  information in connection with some project or
7  program, or do you think it just came out of the
8  blue?
9     A. My life consisted of questions that just
10  came out of the blue.
11     Q. So you thought this came out of the blue?
12     A. Initially, I did.
13     Q. I'm talking about on the 17th.
14     A. Yep. And I see that as initially in terms
15  of my recollection of when this issue comes up.
16  That's my best recollection of when the first
17  issue comes up. And I know you have the e-mail
18  that you showed me earlier from March; right?
19     Q. When I say "out of the blue" you are
20  gathering the information and, in your mind, there
21  is a question unrelated to any larger concern on
22  the part of the executive chamber? Is that what
23  you are telling us?
24     A. I am saying it fits into the same mode of
life for me in the executive chamber. Every single day that I walked into that building out there was a day someone asked me a question that was completely outside of my realm of assigned responsibilities. This was at least within my range of assigned responsibilities. And it seemed like a perfectly legitimate question to ask. And if the next day someone said: Would you check with OGS and find out how many state vehicles we have and get the latest mileage for all the vehicles assigned to the executive chamber or the senior level staff for OGS, I wouldn't have thought twice about doing that either.

Q. Did you think Darren was conducting an internal investigation?

A. I think that on May 17th I was responding to an initial question for information. There was a point after that when I believed that this was information that might have been collected for investigative purposes.

Q. Was it your understanding at whatever point in time you realized it, that part of Darren Dopp's responsibilities included conducting internal investigations of the executive chamber?
A. I go back to what I said at the very beginning. Nothing would surprise me what that position is or isn't. Maybe it's an error of judgment on my part in terms of how he fits into the senior staff of the Governor. But Zenia used to handle FOIL requests on behalf of Governor Pataki in dealing with the agencies. Zenia used to direct all sorts of policy initiatives. And, coming into this administration not knowing where my boundaries are, not knowing which end us up quite honestly and who's who in the administration, it seemed perfectly legitimate to me and still does based on everything that I have read to think a person classed as the Director of Communications is far more involved. And I don't mean this as a negative on Darren. I think the world of the guy. But he's far more involved in the development of policy and issues of chamber on the floor than a simple person serving in the position of Director of Communication.

Q. You are telling us Zenia Mucha conducted internal investigations with the Pataki administration?

A. She could have coordinated them, sure.
Q. Did she?
A. I would have to think about that a little bit. But she certainly was involved in every single aspect of the administration of the government.

Q. You mentioned that if someone had said to you there was an oral FOIL request you would remember that. Why would that stand out?
A. I have gone through this thing over and over again and read all the accounts, both in the formal reports as well as media reports people have said, and I find that somewhat unusual. And I think that -- I can't recall any time in the course of 20-some years of government that I have ever heard of an oral FOIL request. I'm not a lawyer. I'm not speaking to whether there is or isn't under the law the ability to do an oral FOIL request. But I think if someone had told me this information was being collected pursuant to an oral FOIL, that would have registered with me and I would have wondered about that. And the fact that I don't recall that, to the best of my ability to try to recall that, is indicative, I think, to me that I don't believe that that
conversation took place. And I don't believe that
my motivations in this were related to collecting
information for a FOIL request.

Can I just add one other thing? I'm sorry. The other piece I think that is important
that I have looked at -- and, again, all of these
people involved in this are great people with
dedicated public service careers and I don't want
to cast aspersions on any of them. But, if the
Acting Superintendent of the State Police was
acting on my claim that I wanted this pursuant to
FOIL why are my requests met with informal e-mails
that are amended and revised based on subsequent
information that comes into the process? That's
almost this dialogue that's taking place on an
e-mail basis. But when I say at the end of the
process that I was asking for the information
pursuant to FOIL request that I hadn't seen at the
time but which I was told was filed by Jim Odato
of the Times Union, why then did the State Police
show up at my office with three bound copies of
documents all formally organized in a way that my
experience of twenty-some years of service, you
would get a response to FOIL. It seems to me,
again no aspersions intended, but it seems to me that that makes sense from the standpoint of when I asked for the response via the FOIL I get a formal response. When I am asking for it informally over the course of the process I didn't get formal responses. And I think if I felt as though I was doing it pursuant to a FOIL request, and if they thought -- the State Police thought -- I was doing it in response to a FOIL request it would have been a much more formal exchange of data. And I would ask you to take a look at that as you review it.

Q. You think that Commission 5 is the informal submission to you?
A. The way in which it was sent to me I do, yes.

Q. Why is that?
A. It was faxed to me. And it was once again added into the final FOIL request at the end of the process, added into the FOIL documents.

Q. You anticipated the protocol would be that they would present it to you personally as opposed to --
A. I would say formally rather than personally.
I said in the first testimony that I gave that I was surprised when the State Police delivered the packets to me, but it didn't strike me as necessarily out of the ordinary either because they frequently had couriers bring documents down to me. But I would have expected if something was done pursuant to a FOIL request it would have had more formality attached.

Q. When you say the three packages, are you talking about the three pieces of paper, the itineraries?

A. No. I'm talking about the actual bound copies of all the flight itineraries that was sent down to me by the State Police. And what I did with those is I had one copy, I think, for myself. And I gave the other copy to Darren which was used to respond to the FOIL. And when I did that, again, just so we are clear, I know he's not a lawyer. I know that he's not a FOIL expert. And my assumption is that there were other people in the mix that are responding to this and that the other people would review the documents and appropriately forward them to wherever they were going. And I knew they were going to Jim Odato at
that point. I'm not trying to be a good soldier here. What I'm trying to say is that I'm giving you information and assuming that other people with experience are going to look at those documents and make determinations about what's releasable and what's not releasable.

One thing I took heart from the D.A.'s report was, it seemed to me -- I have not seen the testimony surrounding it. But it seems the two impressions I have are actually sustained by the D.A.'s report. On the one hand it does sound as though people were trying to see whether the Inspector General or the Ethics Commission would be involved in looking at these documents or looking at this issue. And the second piece is that it's very clear to me from the D.A.'s report that senior staff to the Governor reviews of documents that I wasn't privy to because I'm not at that level, and on the legal issues involved, whether it's Peter Pope or Dave Nocente, there is a discussion I'm not a party to where people are looking at the legality issues and making some judgments. I am not in that loop, but my impression is that other people were having those
discussion. And it seems to me, not being familiar with what they actually said, just what's been reported in the report that those sorts of conversations were taking place.

MS. TOOHER: I need a short break.

(Luncheon recess: 1:25 p.m. - 2:15 p.m.)

AFTERNOON SESSION

BY MR. TEITELBAUM:

Q. Mr. Howard, you spoke with your lawyer and he suggested you put something on the record?

A. Yes, thank you. I was walking around the park after speaking with Fred, and I wanted to go back to that 3/14 2007 e-mail, SPF 496 or Exhibit 27. That is important to me because I had no recollection of that. The other thing that is interesting to me is attributed to me at the chamber address is, "What is the J.B.'s departure time tomorrow?" I don't ever recall referring to Senator Bruno as J.B. I am not saying this is not authentic, but I wanted to at least put it on the record that the more I think about it, the more doubts I have about it. I'm looking at the typeface issues here. I was disabled in one way which I thought was smart in the way in which the
chamber e-mail worked for me; that my "sent" file was deactivated. They did that because about four years ago I found I had all these e-mails dealing with the homeland security issues some of which were secret level, some of which were law enforcement and sensitive. And I was horrified to think that these e-mails were sitting out there. So, I had had my "sent" file deactivated within the chamber about four years ago. So, when this all broke I was at a great disadvantage for all the things I thought I did right from a security standpoint, I was at a disadvantage because I couldn't get access to my own e-mails that I sent. I trust it's coming out of the State Police system as opposed to the executive chamber system. I'm not saying that it's not authentic. I wouldn't cast any doubts on anyone that produced this, but it does surprise me a little bit to see attributed to me, "What is the J.B. chopper departure time tomorrow?" It seems like something that I wouldn't necessarily say. And I wanted to make sure that I had a chance to at least say that on the record.

The other issue I raised with Mr. Newman
was the issue of document production, because I know that it's important and I take those issues very seriously. Our position was that everything that I had had been shared with David Nocente and that a copy was made of everything and David had sent all of that material in pursuant to the request. So, we don't have anything that you have not seen. But, anything that I have, I would be more than willing to give to you so that you have my complete folder. We didn't see that as necessary. Fred didn't see that as necessary, but I would certainly make that available to you if you would like it.

BY MR. TEITELBAUM:

Q. Did you keep copies of the three binders that you talked about?

A. No. I have the e-mails that I was actually able to get off my e-mail account when I came in that weekend. And have the e-mails that were faxed to me on May 31st. They were faxed to my office. If we get to those, I would like to talk about that a little as well. And I have the flight schedules I have available. Basically, my whole file that I have on the issue you are
welcome to take a look at it. My understanding in

talking with Fred and others is that this was all

already turned over. So, if you would like to

confirm that --

BY MS. TOOHER:

Q. You indicated that you had notes in February

of 2007. Are those notes in that file as well?

A. Yes.

MR. TEITELBAUM: We would like to see

them.

THE WITNESS: Yes. I think that covers

my -- the last issue I wanted to say is when I

talked to Fred about the e-mails we represented

that there are no private e-mails. And I just

wanted to give that assurance again today; that I

have never used a private e-mail for any of these

chamber indications. I do have a private e-mail

account and I gave you that address, but we do not

use that for official business purposes.

Everything I did was unfortunately for me was

attached to my hip on the BlackBerry. I lost all

access to my computer, I guess, on July 24th.

Everything that was there was lost to me. Thank

you.
BY MS. TOOHER:

Q. I just want to go back very briefly. You indicated that you had received bound copies of the flight itineraries at some point. And I think we may be a little out of order here, but I did want to clarify what you were talking about when you referred to that.

A. I say "bound" because they were in those big alligator clips, so I say bound. When I had asked for the schedules from Preston Felton pursuant to what I was told now was a FOIL request that had come in, that Darren had indicated that we got a FOIL from Jim Odato: Can you reach out to State Police and get that information? What I got back from that request to Preston literally is a trooper who comes to my office and hands to my secretary an envelope that has three copies that are clipped of the Bruno flight schedules as we see them here, this one --

MR. TEITELBAUM: That is Exhibit 5?

THE WITNESS: 5, as well as the ones that were typed up later on, the ones at issue as having been recreated, I guess, for lack of a better word, along with the flight logs, you know,
for the aircraft with the list of passengers, the
aircraft flight request forms and, for Bruno only,
because my understanding was that Darren already
had those for the Governor. He had already
collected those. And I had seen those on his desk
at one point with a lot of scribbles. It may not
have been accurate, but what I thought they were
at the time were the Governor's personal schedule.
The issue that was talked about in terms of what
is guiding the State Police when they are driving
Senator Bruno or the Lieutenant Governor or the
Governor, what are they using as their guides.
And the idea was that there is something sitting
on the seat next to them guiding them through the
course of the day. That's kind of what I was
looking for from the State Police for Bruno. But
that's also what Darren already had for the
Governor. And what I thought I saw on his desk is
a very intensive what looked like a personal
schedule and looked like had a lot of scribbles
and amendments and changes and things on it that
were being used to guide the State Police. I may
have been wrong about that. That may have been
the public schedule with those amendments on it.
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1 But at the time I thought it was actually the
2 personal private schedule that the State Police
3 had access to that would guide them in their day
to day travels.

5     Q. That was provided to you in one alligator
6 clip. You were provided the request forms, the
7 flight logs and the itineraries. And you
8 indicated there were three packets; is that
9 correct?

10     A. All duplicates in three packets probably an
11 inch and a half thick or so with some stuff that
12 couldn't possibly have been faxed because it was
13 longer than what would be necessary to Xerox it.
14 Because when I produced that for Nocente I had to
15 hand-Xeroxed that stuff because it was not
16 something you could just put into a machine. It
17 was all different sizes of documents.

18     Q. You produced that to David Nocente in what
19 context?

20     A. The call for the -- Attorney General's call
21 for information, however that came in.

22 BY MS. SULLIVAN:

23     Q. When did you receive the packet from the
24 troopers?
A. That is an issue I have testified on. And my best recollection is, I think I found out about the FOIL request on June 28th. I don't think I knew about it on the 27th. And I think the packet must have been delivered to me either on the 29th or thereabouts is when the trooper came to my office. And I didn't actually meet with the trooper. I kind of heard him outside with my secretary. And, then, I got brought in the documents in this folder. And when I opened them up I saw what I thought were very formalized documents.

BY MS. TOOHER:

Q. I'm going to take you back chronologically to the 21st when you were provided Commission's 5 by Superintendent Felton. And, did you receive anything else from him on that date?

A. If you could show me an exhibit or something I would be glad to take a look at it. I hope you can appreciate the difficulty of going back on this stuff because it's so hard with so much stuff that has been written and the different inquiries that have taken place. I'm doing the best I can to be as forthcoming and as accurate as I can.
And I know I am being held accountable for those statements and I want to make sure I get it right. If you could show me an exhibit, that would help. I have interactions with them all day long, and I can't recall specifics, though.

BY MS. SULLIVAN:

Q. Mr. Howard, you said you wouldn't normally refer to Senator Bruno as J.B.

A. It strikes me as an odd thing for me. I would have said "the senator." I'm not saying I didn't, but it strikes me as an odd thing for me to have done because I don't see myself as having given the initials. I wasn't hiding anything. That's the thing that's so interesting about all of this. The impression is how stupid those people all were doing this thing and all of these e-mails and stuff. I didn't think there was anything that deserved to be hidden in this. It all seemed to be pretty appropriate stuff. I am not saying I didn't, but it would surprise me if I had put the initials down.

Q. You would reference him and refer to him as --

A. "The senator, or something like that
depending on the context of the discussion. It struck me as odd when you showed it to me, and I wanted to make sure I came back on this a little bit and the scheduling issues. And I also want to make sure that I understand exactly what the issues are, the timing and everything else.

BY MR. TEITELBAUM:

Q. Before you ask your question, I want to go back to the documents. How voluminous were the documents that you had given to David Nocente?

A. Not real voluminous. I think I was only able to pull off maybe 18 e-mails, something along that line. There is nothing I have not seen in the course of being asked about the documents. Everything that I turned over I have seen at one point or another coming back at me.

Q. Is there anything that you have not seen that you have?

A. No. The only issue is somewhat the surprise over the notes. That was it.

Q. In other words, all of the e-mails that you gave to David Nocente have come up in one way or another either by the D.A. or by the I.G.?

A. Yes, absolutely.
Q. And, that's true of all of the other documents other than your notes?

A. Well, the notes came up in the context of the D.A. The note was shown to me by the D.A. That's the only --

Q. That is the only one of issue that I can see. It's a single page plural xeroxed document that just has my handwriting on it, very grainy. And that did come back to me.

BY MS. TOOHER:

Q. It's possible that we have it and didn't identify it as such.

A. I don't think -- It's literally notes, so it's not addressed to anyone. It's just my notes based on the meeting.

BY MR. TEITELBAUM:

Q. What does it say?

A. It speaks to the issue of developing a tighter certification process as part of the flight request form.

BY MS. TOOHER:

Q. I am going to show you what has previously been marked as Commission's Exhibit 32. It's an e-mail from Preston Felton to William Howard,
5/21/07. There is a thread through the e-mail, bottom e-mail: "Just received another request for ground transportation from that same individual we had last week in New York City."

A. Right.

Q. Do you recall receiving this e-mail?

A. I do recall receiving this e-mail.

Q. And, do you have any idea what Superintendent Felton is reaching out to you at this point?

A. This is one of those issues I alluded to when talking about the FOIL. Again, no aspersions being cast, but there is give-and-take and conversations going on within those e-mails. I didn't ask for updated schedules. I didn't ask for amended schedules. I just asked for the information to be provided. So, he tells me that he just received another request. And the piece that I have not paid attention to that, you know, I probably should have paid attention to is the issue of: Do you want us to provide it? I didn't pick that up in this e-mail.

Q. It's, "Do you want me to do the same documentation we previously talked about for this
A. It's interesting, because the way the question was asked previously is: Do you want us to continue to provide the ground transportation? And that's the way it is both the A.G.'s questioning and in the D.A.'s questioning. And the fact that you read it the way you read it right now is actually a new interpretation on what this e-mail is all about.

Q. If I can be clear for the record, Mr. Howard, I'm not interpreting. I am reading the language of the e-mail which specifically says, "And, do you want me to do the same on documentation we previously talked about for this trip?"

A. I have read this over and over again. I asked for information about the trips to be provided to me.

Q. I am not questioning that. You asked for information about all future trips to be provided to you?

A. No. I asked for information about this trip. And then there was a conversation and he is asking me in this e-mail: Do you want to continue
to get that information? The answer to that would have been yes.

Q. And had you --

A. Just so I am clear, I never asked for anything from the information standpoint that I was not asked to procure. So, based on this e-mail I think there are other e-mails that you probably have between me and Darren where I'm asking Darren: There's another trip. Do you want the information on that? That's why I'm asking him. I am not doing it for my own purposes. I am doing it because I was asked to come up with the information. But yes. The answer to the question is I would like to have that information.

Q. You respond to him a little further up the thread, "Sup" -- which I assume is Superintendent -- "Can you call me with the details back in the office now?" And he responds, "Don't have them just yet. An inquiry on whether he can get transport."

A. Yes.

Q. This appears that you are asking him for details.

A. Right. But I do think there is other e-mail
traffic around the same time where I am e-mailing Darren that we just found out there is another trip; would you like me to get the details. And the answer is yes.

Q. Why are you reaching out to Darren Dopp in that way?

A. I think I have already seen this at this point as Darren being interested in the Bruno travel. That's the answer to the question. We have just had another inquiry. Do you want me to get more information about this? To Darren. And, the answer is: Yes. So, I'm getting the information for him.

(Commission Exhibit 62 was marked for identification.)

Q. I am going to show you what has been marked as Commission's 62.

A. This predates the other e-mail.

Q. It doesn't quite predate it. You got an e-mail, as best I can tail from Commission 32 combined with 62. The e-mail from Preston Felton to you is at 4:14.

A. Right.

Q. And you respond to him at 7:18 saying, "Can
you get me the details?"

A. Okay.

Q. And at 7:33 from Commission's 62 it appears that you write to Darren Dopp, "Be advised that another request has been made. I will collect the details as we get these."

A. Right.

Q. This does not appear to me like you are getting direction from Mr. Dopp to collect the details, but rather you are doing so on your own initiative.

A. I can tell you that's not the case. I am not doing it on my own initiative. I am doing this in response to a request from Darren. These are verbal or e-mail requests from Darren. I have no interest in doing it otherwise. I am doing this in response to questions that have been asked of me by Darren Dopp.

Q. Would you concede that from the e-mail chain in front of us we don't have a request from Darren Dopp asking you to collect this information?

A. I would not concede that because there are more direct conversations taking place than are taking place in e-mails. And I can tell you in my
heart of hearts and everything else, I had no interest in doing this in and of myself. I was responding to Darren's request to do this.

Q. But the e-mails we have in front of us, specifically Commission 62, it appears at 7:33 you are advising Darren that the request has been made and you are collecting the details on this request --

A. I understand that, but I'm saying --

Q. Let me finish, please -- and in Commission 32 at 7:18 you had already requested the additional information.

A. But there are conversations outside of the e-mails. And I think that, you know, please -- and I understand the inclination to do this and the tendency to do this, but please don't hold me to these words when there are conversations that are taking place that I know exactly what I am being asked. I'm being asked to come up with the schedules and the information.

Q. Now that you are receiving requests from Darren Dopp to collect the information and collect more than one schedule but another schedule, what do you believe you are doing?
A. I am responding to his request for the information. I have no knowledge of what they are going to use the information for at this point.

Q. Has he relayed to you to collect all of Senator Bruno's itineraries?

A. I believe he has, yes.

Q. And, was that reduced to writing at any time?

A. No. Like I said, you probably have all the phone messages and the phone logs. There's all sorts of -- there's a clipped -- a quick call: Can you come down and see me? And all of this stuff is taking place during the context of those conversations. I can tell you I had no interest in doing this but for the fact that I was asked to do it.

Q. So, on May 21, 2007 beyond the e-mails, you are having conversations with Darren Dopp about Senator Bruno?

A. Absolutely. Even the C.V. Starr conversation which we referred to earlier was a conversation that took place in his office that I then went back and checked the computer. There are lots of conversations that are taking place.
Q. What did he say to you about gathering the information on Senator Bruno's schedule on May 21st?

A. I can't tell you that it was May 21st. I can tell you that there is a very brief, clipped conversation basically saying: Can we get any of the others? That's it, very clipped conversations. These aren't full conversations. These are very clipped, brief, sporadic conversations where I clearly was under the impression based on that conversation that I am supposed to look into whether or not others of these schedules could be secured.

Q. And this is a continuing request that you should be gathering this information in the future as well?

A. Yes. I mean I saw it that way. As the information was available we would get them I would give it to him.

Q. And did you relay that to Superintendent Felton?

A. No. I don't think it was relayed to him in that way because I think, again -- and the record would probably show it -- a lot of specific
interactions about specific trips and time frames.

So I think I am coming at Preston from the standpoint of, you know, as these trips are scheduled can you get me the information. I don't believe he would be on any kind of understanding that this would be a continual stream of information that would flow forward.

Q. As I look at Commission's 32 -- and he specifically writes to you, "Do you want me to do the same on documentation we previous talked about for this trip?" Is he talking about that you had previously instructed him on the documentation you wanted for future trips?

A. No. My take on that is he is referring to the type of itinerary that we had for the 17th and 18th trip that he had provided to me.

Q. And following the provision of the 17th and 18th in Commission's 5, did you have a conversation with Darren Dopp about the type of information you should be gathering?

A. It is that conversation. And I can't tell you what day it was, but there is a conversation: Can we get others? Can we get other trips? Can we get those other trips? And, again, I didn't
specify the form. And I think the Superintendent has even testified to that; that he wasn't directed -- there was no specification as to form. He decided to put the trips in the form that they were sent to me. And I did not specify how I wanted that information collected. And, honestly, I didn't give a second thought to how he would collect it, how he would get that information again, like I said, whether scribbles between the secretaries or whether he was talking to folks -- I don't know how he was getting it, but I expected he would be getting me the information as he got it available to him.

Q. Did you continue to receive information from the Superintendent?

A. Yes. I mean I got the trip for -- I made a specific request at some point, you know, for all the April and May travel for the Governor and for Senator Bruno. And that was faxed to my office on May 31st.

Q. In regard to this other trip that we are speaking of now in Commission's 32 and Commission's 62, did you receive additional information concerning the trip by Senator Bruno?
A. Yes. I got -- I think I got a schedule for the trip.

Q. What type of schedule, a schedule similar to Commission's 5?

A. If you could show me something I would love to see it because my recollection was that it was a typed schedule. My recollection is that there is an e-mail schedule and typed schedule that follows.

Q. I am going to show you what has been marked as Commission Exhibit 34.

A. This is what I was remembering, that was an e-mail schedule that came out. I think it was later typed up, but this is the first way in which it came to me.

Q. Commission's 34 is an e-mail thread apparently from Anthony Williams to Preston Felton, and then from Preston Felton to William Howard, and from William Howard to Darren Dopp.

A. Right. And what I would say -- and I want to make sure I get this on the record as well. I have talked about what my daily life was like, and I want to specifically talk about 5/23 and 5/24, if I could, in terms of what Bill Howard's daily
life was on the second floor. May 23rd was a day on which we were planning a trip to go to Fort Drum to meet with the 10th Mountain Division with the Governor. I spent most of the entire day trying to put that trip together. But when I came into the office that morning the news of the day was the bodies of -- that there were two. The initial reporter said it was two. It later turned out to be one of the 10th Mountain Division soldiers who was found over in Iraq, one of the guys that had been captured by the Iraqi insurgents. So, the entire day was basically spent in meetings with Sean Maloney and other folks going back and forth over: Are we doing this trip or are we not doing this trip? What does your trip look like? What is the nature of what we were announcing up there? Can we really do this at this point because we have got the body of the soldier that has been found? So, the whole day was spend basically tying to plan this trip and in scheduling meetings and scheduling -- What I said when I was reviewed the record for the D.A. testimony was: I'll bet if you checked these you will find two things. One, I either took the
e-mail off my BlackBerry and forwarded it without thinking of it and, second, or it took me a really long time to forward the e-mail. And, you can tell me, but I think this e-mail was forwarded to Darren Dopp in about four minutes. And later in the day there is an amendment that comes out of a change in the schedule. And I think it took me close to four or five hours to actually forward that e-mail to Darren. So, that's what I want to get across in terms of how little attention I was paying to this issue. I had other responsibilities and other things driving me crazy within the chamber. And I would encourage you to look at what the rest of my schedule looked like for that day in terms of how much attention I was paying to these issues.

BY MR. TEITELBAUM:

Q. Do you have your schedules?

A. I Xeroxed those days and provided them to David Nocente. I do have them, yes. I have those schedules. The other thing I would say about schedules, 5/31 when the fax comes into my office -- it's a fairly heavy-duty fax that comes in taking a couple of sections from Preston Felton to
myself. And it's the Governor's flight schedule, the Bruno flight schedule. And I was actually out of the office the May 29th through the 31st and I came back into the office on June 31st, and when I was putting all the documents together for Dave Nocente I noticed that the April and May schedules were missing from everything I had. I didn't know if I xeroxed them, left them in the machine or what had happened to those schedules. Sean Maloney made a point of making sure I did a diligent search of my office and suggested that I look through everything that a document could be in. Look in your in-box and in places that you don't necessarily put things. In my in-box when I went back on the Saturday following my testimony, so I think if that's the 14th of July, I found in the middle of my heavy-duty in-box the April and May schedules that were faxed in to my office. I am not saying they didn't get delivered to Darren Dopp when they came in by my secretary, but I would like you to know that, honestly, I didn't even look at those schedules when they came in until July 14th when this whole issue was starting to break. And, again, that's how much I was
paying attention to these issues.

(Commission Exhibit 63 was marked for identification.)

Q. I am going to show you what has been marked as Commission's Exhibit 63.

A. Right. This is the e-mail I was referencing that comes in with the change. And this came in to me at 3:13, and I forwarded it to Darren Dopp at 8:22 p.m.

Q. There is a note, "Meeting with Bloomberg. Add to Bruno." Looking at Commission's 34 and 63, it appears that you are immediately forwarding to Darren Dopp any and all information you receive on Senator Bruno's itineraries; is that correct?

A. I dispute the "immediately" because I would go back to the fact that I got this at -- when did I say -- 3:13 p.m. it comes to me. And I forwarded it to Darren at 8:22. It's like four or five hours delay.

Q. But the first e-mail you received at 10:27 and by 10:38 you forwarded it.

A. Like I said, this is what my life is like, and this is how I operate my BlackBerry when things come in. I'm positive I was in a meeting
on scheduling issues when this came in. I immediately forwarded it. I don't think there is any comment from me on it. I just forwarded it to Darren as soon as it came in because he had requested it.

Q. So, as soon as you have the time and an opportunity you are forwarding the information on Senator Bruno to Darren Dopp; would that be fair?

A. I would disagree -- I don't like the way that that was phrased.

Q. Why don't you tell me what your understanding is as to how quickly you are forwarding these e-mails.

A. I have an obligation, I think, to respond to the questions that are being asked. And as I get the answers to those questions I am trying to respond to the questions that are being asked. I'm not in any rush to do it necessarily. I just know that I'm on the hook to answer a question and check the box that says Bill Howard has fulfilled this question to that person, as I did for other people that day.

Q. Well, what is the question you think you are being asked here that you are sending the
information to Darren Dopp in response to?

A. Can you get me the Bruno flight schedules, the ground transportation schedules for when he
does trips to New York City.

Q. And, that was a specific request that you
received from Darren Dopp?

A. Yes. That would be my understanding of what
I was supposed to be doing for him, yes.

Q. Prior to this time you didn't even know
these ground itineraries existed; is that correct?

A. No. That is probably not correct in that
way. I assumed that it's not a taxi service. I
think I said earlier. I assumed you don't just
yell out from the back seat where you want to go
in the City of New York. There has to be
something deciding in advance what that schedule
is.

Q. But, you had never seen the ground
itineraries before?

A. I had never seen them before. When I asked
Superintendent Felton at some point did they have
those, he said no; they're like destroyed or
shredded at the end of the day. We don't have
those.
Q. Did you relay that information to Mr. Dopp --

A. Yes.

Q. -- That they were destroyed at the end of the day?

A. Yes. And, I also indicated to him that -- I think this is the one. If there are other ones that I see I'll correct it later, but I think this is the one that what I said to Darren specifically was that it came as a result of the two secretaries having a conversation back and forth and was really based on the notes that took place in that conversation as opposed to the other schedules later on which were, you know, reconstructed or whatever the word is that has been used to create those synopses. But, with my understanding, and I believe this is the schedule, that this was done based on the secretaries' action.

Q. When you say, "This is the schedule" you are referring to Commission's 34?

A. Yes. And I think the reference "as per Leslie J.B. office, the schedule is as follows," I think what I was told by the Superintendent is
that this schedule came as the result of conversations -- and "scribbles" was the word -- between the two secretaries, the State Police secretary and the secretary in Bruno's office.

Q. Well, it appears in the first e-mail in the thread that Anthony Williams indicates that he was given this e-mail over the phone.

A. I understand that. My belief was that this was between secretaries back and forth. And I remember seeing Leslie -- that was Bruno's secretary -- as being the person. So, my information based on a conversation with Preston I'm pretty sure was that this was based on conversations between secretaries and scribbled notes that existed between the two.

Q. Further up, noting the change in schedule Anthony Williams again writes, "Investigator Swansen was just contacted with the change of schedule."

A. Right.

Q. This appears to be a fairly direct line of communication between Investigator Swansen, Williams, and Felton. Is that a fair characterization?
A. It looks like that way, yes.

Q. Had you relayed anything concerning changes in scheduling being forwarded to you?

A. No. In fact, I was surprised when I saw that there was a change in the schedule. What I said is that that's typical of what you would get in the Governor's schedule during the course of the day. When the Governor's schedule is changing -- you get an e-mail indicating no change in schedule. But there is a change in the schedule happening for that day. So, I didn't ask for it. I didn't ask for the form. I didn't ask for investigator to be involved. What I cared about was getting the information because I thought we had a right to get the information. But I didn't ask for it to be amended during the course of the day.

Q. With your background in security did you have any concerns about forwarding this type of information in advance of the trip?

A. I didn't see this as security. In my conversations with the superintendent I don't think he saw it as security. I had one conversation that I did not remember in my A.G.
testimony but I remembered almost immediately after the testimony which was, you know, they kind of hammered me on the issue of the security aspects of the schedule. And I remember talking to Preston Felton after the fact about it. I'm pretty sure it was Preston Felton; it wasn't Wayne Bennett. And I asked the question: Is there any security value associated with these schedules? And the response back -- I can hear his voice -- was "No!" After an event is over there's no value whatsoever in the security aspects of the schedule.

Q. But, Mr. Howard, this is in advance of the event.

A. Right. But I'm also not under the impression that any of this is being shared. I deal with sensitive information all day long and share it with Dave Nocente. I'll share it with the State Police Superintendent or I'll share it even with Darren Dopp, all sorts of homeland security information that is very sensitive. I'm not sharing secret information with people that don't have the clearances, but I am sharing sensitive information with people during the
course of the day. If Dopp had told me we are going to be releasing this stuff to the media later this afternoon, I would have said, "You can't do that. There is security value in this." But being asked to produce it and not seeing any signs of this stuff being released to the press, I didn't think that there was any issue with sharing that information. It seemed to me to be public information, public asset information related to how these assets are being used on a daily basis, not dissimilar from the information -- and probably in less detail in many ways -- than information being shared about the Governor.

Q. What did you think Mr. Dopp was doing with this information at this juncture?

A. Collecting it.

Q. For what purpose?

A. I don't know the answer to that. It didn't occur to me that it was necessarily a media thing.

Q. But you knew the helicopter was certainly a media issue?

A. Yes.

Q. Did it occur to you that Darren Dopp was perhaps collecting this material to provide it to
the media?

A. Not at this point. And it wouldn't have surprised me that he was asking for it, that anyone on senior staff might have been asking for it. And, I was aware of some conversations on the issue of whether or not this was something that was legal, whether this was legitimate, whether this is something that we should be referring to --

Q. "This" being what?

A. The whole issue of travel and the mix of political with business.

Q. There were discussions going on with senior staff at that time?

A. Not that I was part of, but that I thought Darren was part of.

Q. You were aware of these conversations going on?

A. I thought Darren was having the conversations. And I said a little while ago is that I was somewhat heartened to see what I thought were suspicions seemed to be confirmed by the D.A.'s report. There were people that were having conversations.
Q. What was your understanding as to who Darren was talking to at this juncture?
A. I didn't know the answer to that.
Q. But you believed he was having conversations with senior staff?
A. I absolutely did.
Q. What was that based on?
A. Just the impression I had on how the information was being handled internally. It didn't seem to be a particularly media type packaging like I had seen in the past, and I was under the impression that there were some conversations going on about what could be done with this information.
Q. Did Darren say something to you in that regard?
A. There was a reference at one point to the Inspector General, and I indicated that I didn't think the I.G. had jurisdiction.
Q. What was that conversation? The I.G. was going to be looking at what?
A. The whole issue of that appropriate split between official business and political travel.
Q. What was your input in that regard
concerning the I.G.?
A. That I didn't think the I.G. had jurisdiction; that was pretty much it.
Q. What did you think the I.G. had jurisdiction over?
A. The Legislature.
Q. Was anyone else a party to that conversation?
A. No. It was just Darren and myself.
Q. Did Darren indicate that he was speaking to anyone else about this?
A. Not specifically, but I left with the impression that he was.
Q. What was that impression based on?
A. Just a gut feeling. I can't say, and it would probably be unfair to go any further than that because there was no specific references to any individuals or anything. I just had the impression based on the questions that were being asked that he was in conversations with other people.
Q. "Other people" with senior staff in the executive chamber?
A. I wouldn't even say necessarily senior
... staff; other people that had something to say about this; whether they were lawyers, but other people within the administration.

Q. And, this is -- I'm going to call it a unique request in the sense that you had not produced those types of items before or were unaware of their existence in terms of ground itineraries for Senator Bruno; is that correct?

A. Yes. Again, I would say that putting myself -- I put myself in two different places because today is a different world with all the media that has occurred on this. But I go back to where my head was at this point, I assume that this stuff was all being created. We just didn't have access to it. Again, like I said, it's not a taxi service. I assume the State police knows where they are driving Senator Bruno on a daily basis when they are in the City. And all I was seeking to do is: Is that a public record? Is that something we can see?

Q. Did you speak to anyone about the propriety of providing this information to Darren Dopp?

A. No.

Q. Did you ever speak to Michael Balboni, your
supervisor, and indicate to him that you were receiving these requests?
A. No.
Q. Is there a reason you didn't go to Mr. Balboni?
A. First off, Mike came into the administration on difficult circumstances. He had left his Senate seat and there were a lot of burned feelings between him and Senator Bruno. It didn't strike me, one, as something I should necessarily have to report to him on. And, secondly, I really saw in this instance that my reporting relationship wasn't to Mike Balboni who was the Deputy Secretary, but rather to Darren Dopp who was asking me the questions. Maybe it's an error on my part, but I did compartmentalize that and say: If Rich Baum is asking me a question of report, my report is to Rich Baum. If Darren Dopp is asking me a question, my report is to that senior staff member. And I saw that in that way as it related to this issue. And, I didn't think it would be good to put Michael in the middle of a situation involving his former majority leader.
Q. So, you felt it might be a sensitive issue,
the issue of Senator Bruno's travel and Mr. Balboni's prior experience in the Senate?

A. My experience with the issue in the past with the New York and everything else when the helicopter was denied told me this was an issue that could have some sensitivities to it, and I didn't want to see Michael brought into that.

Q. Why is that?

A. We are busy putting the government together. He is trying to get his handle around the agencies. He's approaching government from the standpoint that everything that existed before is screwed up and everything needs to be done in a different way. And it didn't seem the type of thing rising to that level of importance, and it had the potential of putting him in a bind with someone he considered to be a friend.

Q. That "someone" being Senator Bruno?

A. Senator Bruno, right.

Q. Did you have any further communications concerning Senator Bruno and his travel activities on or about the 21st?

A. At some point. I think it was later in the month, but at some point I asked for the travel
records for April and May that I referred to just a little while ago and got the Bruno travel schedules and the Governor's travel schedules -- I think actually the Lieutenant Governor's schedules as well for the months of April and May. Those were the ones faxed to me on May 31st.

Q. I am going to show you what has been marked as Commission's Exhibit 45.

A. Yes, I have seen this.

Q. You have seen this document before?

A. I have.

Q. And this is an e-mail from Darren Dopp to Richard Baum dated May 23, 2007, 5:48 p.m. subject: State Police records.

A. Yes.

Q. It states, "Bill H. says the records exist going way back. Itinerary showing where the individual was taken and who was in the car. Bill has the last two trips in his possession." Are you the "Bill H." that this e-mail is referring to?

A. I believe that I am.

Q. What are the records that exist going way back?
A. The best that I can say about this e-mail is that it's a misunderstanding of what I said to Darren because I remember the conversation with Darren. What I told him was that the FAA requires that flight records be kept basically in perpetuity. And the records that I was on is that I told him the State Police would have the records on the travel. And I think I even used the phrase "going way back" as it relates to the travel. Not ground itineraries because I didn't even know they kept that stuff and was under the impression that they wouldn't have it. And, in fact, I think I said, "The Pataki stuff would have been shredded at the end of Pataki, if not at the end of the day." So, I never under the impression that this stuff that we referred to in 34 or 63, that this document would have survived. But I knew that as a matter of FAA records who flew on helicopter and who was piloting the helicopter, all that stuff would go way back. And that's what I was referring to Darren. So, he just misunderstood what I was referencing.

Q. You had clearly indicated that you had the last two trips in your possession. And at this
juncture it seems fairly safe to say we are talking about the 17th and 18th and 24th reflected in the e-mails you have been provided.

A. Yes.

Q. His impression is that there are itineraries on other trips. And, I think you testified a little bit earlier that you had already relayed to Darren Dopp that Felton had told you those itineraries were destroyed.

A. Right.

Q. So, do you understand where he might have gotten the impression that these itineraries still existed?

A. I do. And it’s what I just referred to. I think he is mistaking the itineraries from the FAA records, the actual flight records for who flew on the helicopter. I can trust that if we need to go back today and look at January 1st of the first year of Pataki we would see FAA records that the State Police has on that actual flight. Those are the records that I was referring to, not the travel itineraries but rather the flights records on who flew, on what date with all of the passengers specified. He just misunderstood what
I was talking about. I'm sure of that.

Q. Mr. Dopp indicates, 'There's is a new and
different way to proceed re media.'

A. Right.

Q. Did he relate to you at any time that these
records were part of a media request?

A. No.

Q. So, as of May 23rd --

A. You said "at any time." I clearly know at
the end of this process that this stuff is going
to the media.

Q. As of 5/23 when you had forwarded this
information to him, this information being the
e-mails we discussed earlier concerning Senator
Bruno's itineraries, and apparently he is
expecting other information on Senator Bruno, has
Darren Dopp relayed to you in any way that there
is a media request?

A. I'm sure that he hasn't. I'm sure he
hasn't.

Q. And you indicated that you had received a
request from Darren for other information
concerning the travel issue?

A. Yes.
Q. What was that information?
A. Just other information related to other
schedules. As the trips developed, you know, more
information on it. Nothing beyond the type of
stuff that we have here, just consistently: Give
me the information on other trips to the City.
Q. What about the flight manifests, the logs
you spoke of earlier?
A. I don't think he ever asked for that. I
don't believe he ever asked for that information.
You may have something that says otherwise, but I
don't remember him ever asking. He clearly asked
for the flight records, but not the flight logs
that exists back at State Police headquarters that
have all the fuel and technical information about
the aircraft.
Q. Well, what are the records you understand
him to be looking for?
A. He's looking for travel itineraries and
basic flight records on who flew, on what date,
and the time of departure and time of arrival time
of departure back, time of arrival back in Albany.
I mean: If you have those, fax those. It was
stamped for 5/31. And that's the impression of
the other records that he was looking for regarding other flight records. (Commission's Exhibit 64 was marked for identification.)

Q. Showing you what has been marked as Commission's Exhibit 64, an e-mail from William Howard to Darren Dopp dated May 31, 2007 at 10:58 a.m. Do you recognize this document?

A. I do.

Q. Can you identify this document?

A. I was in the car going down to Long Island for a conference, or I was at the conference on Long Island. He e-mailed me, I think, or called me or something asking -- oh, no. I'm sorry. It's right on the bottom. He asked me if I could get the April and May flight records. By "April and May flights records" he means those records that I just referenced which was a basic summary of who flew on the aircraft, all the passengers and time of departure and time of arrival, Where it departed from, where it arrived. Basically, summarized information, not the itinerary type information that we looked at in the other issues.

He is looking for the actual records of the
flights. And I said on this e-mail previously
that I don't ever recall getting January,
February, and March for him. I never recall
asking for those records. It occurred to me, and
my recollection says he already had those. I
don't know how he got those records. I don't know
who he went to in order to get those records, but
I don't think I provided him with those records
for the first three months of the year. I think
somehow he got those separately. And, to my
recolleciton this was the first time I was being
asked to come up with the records for April and
May. And I called or e-mailed the superintendent
and they were faxed to my office sometime on May
31st.
Q. When you say they were faxed to your office,
you mean the records for April and May?
A. Yes, and in like two large faxes bunches
that came in at some time. Just so I am clear on
this I just want to make sure -- just the language
on these flight schedules is confusing. My
thinking there is that there are really two types
of records. And, issue one is what I could call
the Bruno schedules. It could also be
itineraries. And, then, there is the flight records which are the actual records in the State Police system: Who flew the helicopter, who is on it as a passenger, where it took off from, where it landed, where it took off from and where it landed on the return trip. And they are all summarized all in about a two-inch or so section of the document. And, as I recall this document, they were all listed in this multipage -- and it was basically ordered by date. And it had -- I think it might have been separated for Bruno and the Governor and Lieutenant Governor. But I believe it was each one of them had separate entries.

Q. I am going to show you what has previously been marked as Commission's Exhibit 28, A through I, and just ask you if this is representative of the types of documents that you were providing.

A. Yes. These were not with the documents that were faxed to my office on 5/31.

Q. Do you know who faxed them to you?

A. My belief is that it was Preston Felton from the State Police.

Q. Do you recall what your request was to
Superintendent Felton in this regard?

A. Very basic, I think; the flight records for
-- I do think I added the Lieutenant Governor. I
needed the flight records for the Governor,
Senator Bruno, and the Lieutenant Governor for the
months of April and May. I don't think I got into
any great discussion of what they were. I assumed
he knew what I was looking for based on -- I don't
know -- based on knowledge of dealing with the
documents. I didn't -- it was not a detailed
conversation about what I was looking for, just
that I need the flight records.

Q. In early June I believe there was an article
that came out in the Times Union concerning
Senator Bruno and some difficulties he was having.
Do you recall that article?

A. Yes.

Q. What is your recollection of the article?

A. If this is the article that deals with the
FBI investigation --

Q. Yes.

A. I just want to make sure there is not
something I am missing here. I think it's a
Sunday article that came out in the Albany Times
Union. It's somewhat electrifying in terms of the amount of space that is given to this article. It talks about issues of pork sale. It talks about an FBI investigation that is pending. And, you know, it's got a lot of detail and a lot of ink is devoted to this.

Q. Is there a reaction in the executive chamber to this article?
A. Not one that I saw. Maybe one that I initiated from the standpoint of sending an e-mail to Rich Baum. But my impression at the time was that Rich was living in Orange County. I don't know that that's true. He may have moved up to Albany by that point, but I didn't know that. And my thought is that relations are pretty difficult and strained. You need to be aware that this is an article that appeared in the Albany Times Union today.

Q. Did he respond to that?
A. He did.

Q. Did you continue you are communications with him?
A. I did, yes.

Q. What was the nature of your communications?
A. Would it be possible for you to show me the e-mail because I would love to get this right.

Q. When you reach out to him in terms of an e-mail what are you thinking in this regard?

A. I have gone over that so many times. I can't tell you what I was thinking. I think it's somewhat embarrassing, quite honestly, because -- I hate to admit that because it comes hard for me. But I think, you know, I e-mailed him, one, to probably let him know that there is this story that appeared. I'm not sure where he is living at this point, so be aware that there's an Albany Times Union story. Why I wanted to be the first one to tell him that is beyond me. And he responded, which is one of the rare times he actually responded to my e-mail. And, then, I e-mailed him back. We'll probably get to that in a second. But I think that what's going on in my head is this kind of advice that: You have been collecting all of this information. I don't know what you are going to do with all this information. But, based on what I just read in the Albany Times Union, whatever you are going to do with it, you should probably do it soon because
I think this guy really is in a tough spot. And I will tell you, I don't know at this moment what they are going to do with the information. But I know it's going to be something they could use to some advantage, including potentially confronting the senator with the information: You've been flying on this helicopter. You've been splitting the business between Albany and political stuff. There could have been a whole bunch of things they could have done with this information on how to make the situation better, maybe force some accountability on the use of the asset. It's an e-mail that I've looked at way too many times that I wish I hadn't written because I think it implies a familiarity and a relationship that I don't have. That's the thing that's most embarrassing about the e-mail, is that at that point in my life I am not with these guys. I'm not part of their circle. And that's one e-mail that says to me: Hey, guys. If you are not just reading the Albany Times Union, here's the story. And then the guy responds to me and I go back to him with this advice: Whatever you're collecting the information for, now is the time for you to use
it. I mean I look at it and I'm embarrassed by it quite honestly.

Q. At this time you were aware that the executive chamber is collecting information on Senator Bruno and his travels?

A. I am providing the travel information to Darren. I know the information is being collected. I don't know what it's going to be used for. At that point I don't know that.

Q. But you write to Richard Baum; you don't write to Darren.

A. Right.

Q. You assume that Baum is familiar with this information as well?

A. I did, yes.

Q. What is that based on?

A. Just I think it goes back to how we began this conversation; that I don't have any specific knowledge that he was. But my impression is that Darren is the chief policy maker for the administration. Maybe I'm wrong in that, but it strikes me that if you are that guy, then you are communicating with everybody else in the administration. I don't know that to be true and
I wouldn't want it to be read that I think it's true. But that's where I was in my head at that particular moment.

Q. Well, you thought it was true at that point in time?

A. Yes, but I didn't know it to be true.

Q. You believed it to be true?

A. Yes, I did.

Q. You believed Rich Baum knew this information was being collected?

A. I thought he did, but I had no conversations with him to confirm that at all. And I have not had any conversations with him since then to confirm whether it is or it was not the case. And there was no response back from this e-mail, so I am a victim, perhaps, of making too many assumptions about things. But I assumed at that particular moment that other people were in the loop about this.

BY MR. TEITELBAUM:

Q. Mr. Howard, you are now communicating with the Secretary to the Governor?

A. Right.

Q. And, you refer to impending travel stuff
which, unless somebody really knew what you were
doing, would be a meaningless phrase. Given the
fact that you are communicating with the secretary
to the Governor just strikes me it's a little
presumptuous to assume that he is in the loop on
this gathering of information. And since you are
an old hand at government, I'm just stunned by
your explanation. Let me say that.

And, do you agree with me that in your
testimony up until this point you have painted
yourself really as a good soldier. And now you
are getting into politics; is that a fair
characterization?

A. I would say that I am making a political
observation in this e-mail that I wish I had not
made. And I am embarrassed that I made it. You
are right. It was presumptuous. That's what
bothers me so much about this because I feel like
the fact that that is in the record makes it seem
-- and I understand -- that there were all sorts
of other conversations and contexts that was
there. And I am telling you that that was not
there. There was no context for this other than
my belief that people must have been in the loop
on this prior to my involvement. But I have no
direct knowledge that that's the case.

Q. And the impression I'm getting from this
document, Exhibit 48, is that there is a political
dimension to the work that you have been doing
that you recognize in 48; is that incorrect?

A. I think it is incorrect. I would hate to
stand on one e-mail that I have written in my
life. And I can tell you that was what was going
on in my head was not that. It was: Whatever is
out here that you guys are working on, now is he
time. Keep in mind the tax issue which are
clearly specified in the aviation policy that we
have, the document that has guided the
administration since I think 1985. I believe the
timing is right for "the move." I don't know what
"the move" is. And, I am telling you honestly I
don't know what the move was at that point. It
could have been anything.

Q. My question wasn't what was in your head.

My question -- I am asking you what is in written
form on 48. 48 indicates to me that there is a
political dimension to the work that you have been
doing because you now say: "I think timing right
for that move" which is a political comment. Do you agree?

A. Whatever we are going to do with the information, we should do it. And I don't know that it's necessarily going to be a media thing or an investigative thing. I don't know what it's going to be. I understand what you are saying, but I don't think that is exactly what was going on in my mind at the time. What's going on in my mind is, look. People have been asking me for all this stuff. The stuff has been collected. I think -- I don't know that you are in the loop as to what's being done here. And whatever you're going to do with it you should do it because now's the time. This guy just got hit hard in this article. Again, I wish I didn't say it.

Q. And Bruno is the political adversary of the Governor. You are working in this administration and "the timing is right" because it would deal a blow to Bruno; correct?

A. No. That would be putting words in.

Q. I am saying that the inference here is that the timing is right now because he is getting hammered pretty good. So, now, the timing is
right; we can hammer him some more. Isn't that what this really says?

A. It's what this really says. This is saying whatever we are going to do with the information you should do it with the information now. For all I knew it could have been a conversation between the Governor and Bruno saying: Look. My guys have been looking at this stuff. It's not a good situation. This is right in the middle of campaign finance and a whole bunch of issues. No one, including myself, would have come at this from the perspective of trying to blow this system apart in the way that we've gotten to this kind of grounding of everything happening with state government right now. And, all of this, I think, was extended to figure out a way to keep this moving forward and back on track.

Q. Now, the document that you are referring to that requires costs for the non state business with respect to the use of an aircraft to be treated as attributable income, what documents are you referring to?

A. There is an aviation policy document. That is 1985, revised in 1995, I believe. And I saw it
at the D.A.'s testimony. I saw it at the Attorney
General's testimony, and I have it in my file in
case you haven't seen it.
Q. It's a '95 document?
A. It's a '95 document that I don't believe has
been amended since.
MR. TEITELBAUM: If you could provide us
with both the '85 and '95 documents.
THE WITNESS: All one document with
notations in '85 and '95.
MR. TEITELBAUM: The full document?
THE WITNESS: Yes.
BY MS. TOOHER:
Q. After you sent the June 3rd e-mail to Mr.
Baum what did you do next in regard to Senator
Bruno's travel?
A. There was no response to the e-mail.
Q. What did you take that to mean?
A. Maybe there wasn't as much familiarity as I
had thought; that maybe faced with an e-mail like
the one I sent to him he recognized its
sensitivity in some way and then chose not to
respond.
Q. Were you aware at this time that Richard
Baum indicated this issue should not be pursued?

A. Absolutely not -- absolutely no.

Q. Did he ever relay to you any indication in the area of Senator Bruno's travel that this wasn't an issue to be pursued?

A. I had not a single conversation with Secretary Baum on the issue at all on Bruno's travel. I did not have a conversation.

Q. Did Darren Dopp ever relay to you that he had discussed the issue with Mr. Baum and he indicated that he didn't want this issue pursued?

A. No, absolutely not.

Q. Did he ever indicate to you that he had discussed the issue with Mr. Nocente and he didn't want this issue pursued?

A. No.

Q. Did he ever indicate to you that he had spoken to Peter Pope and they didn't want the issue pursued?

A. No.

Q. Did Mr. Dopp ever indicate to you discussions with anyone in the executive chamber concerning pursuing the issue of Senator Bruno's travel?
A. No, not to my -- I don't recall any other conversations on that point that said that this was something that he was not going to be pursuing. Again, I am providing information to Darren but the information that is being provided to Darren, I am not giving it to the reporter. That FOIL request comes in -- I thought at the time it came in to state police. I wasn't even aware because I never even saw the FOIL until the A.G.'s report. I wasn't aware that the FOIL was actually made to the executive chamber. I didn't even realize it had come in there. I gave the documents to Darren and it's Darren that gives the documents to the reporter. I had no involvement whatsoever in handing the documents over to the reporter other than what I gave to Darren. And I was under no understanding that anyone had said they didn't want this to move forward.

Q. But on June 3rd it's fairly clear to you that the documents and information concerning Senator Bruno's travel are being collected for some purpose?

A. Yes.

Q. What did you think the purpose was?
A. I think accurately on June 3rd I am still thinking it's related to a possible investigation or confrontation with Bruno over the fact that they have these documents.

Q. Has anyone relayed that to you?

A. No.

Q. Has anyone said to you that this is for an internal investigation?

A. Other than the comment that I referred to earlier about, you know, the conversation about the Inspector General or, you know, that issue which led me to believe that people were having that conversation -- those conversations.

Q. Did it occur to you that this would be turned over to the media at this juncture?

A. Not at this juncture, no.

Q. When does it occur to you that this information will be turned over to the media?

A. Late in the process.

Q. When you say "late in the process" --

A. I was getting to that. I'm sorry. I am aware that Darren is having some conversations that seem to me to be media related questions that are coming up. But I don't definitively know that
the documents are being turned over until he tells me there is a FOIL request. I can remember that conversation; it was a phone conversation. He called me up and said: We've got a FOIL. Can you have the State police put together the documents?

Q. That is the definitive conversation, but you indicate there were earlier conversations where you get inklings -- my word -- that this is going to be turned over to the media?

A. I wouldn't say inklings that it's going to be turned over to the media, but he may be getting questions from the media people.

Q. From what do you draw that impression?

A. The was he's asking questions about how the policy worked, how the travel worked, and some of those issues. It seems to be moving away from the policy issues we talked about previously into much more specific types of questions. And, I would say, very late in the process, maybe the 27th or 28th of June.

Q. That's when he first starts to ask you about these things?

A. Yes.

Q. In the beginning of June do you have any
conversations with him about Senator Bruno's
trace activities?
A. Beginning of June?
Q. Yes.
A. You know, I can't specifically remember it.
But I think we are having some conversations about
the travel, you know, from that May 17th date all
the way through to the FOIL.
Q. You are continually having conversations
about the travel from May 17th on?
A. Yes, off and on.
Q. Solely with Darren Dopp or with anyone else?
A. Exclusively with Darren Dopp.
Q. What about Superintendent Felton?
A. Oh, yes. I'm sorry, with Preston as well.
Q. Did you ever say anything to Preston Felton
about the nature of these inquiries?
A. No, not a lot of -- ask the question, got
the answers, provided the information. That's
really the way it worked.
Q. Did there ever come a time where Darren Dopp
asked you for additional information on Senator
Bruno's itineraries besides that provided in the
e-mails?
A. Not to my recollection. I don't recall anything that went beyond the itineraries.

Q. Did you ever provide him with additional information beyond the e-mail itineraries?

A. If you can show me something I will react to it, but not to my recollection.

Q. I'm going to show you what has previously been marked as Commission's Exhibit 23 and ask you if you have seen this document.

A. I have.

Q. Can you identify this document?

A. Yes. My recollection of this document, this comes from the conversation that I had with Preston Felton about the schedules no longer exist. Do you want us to put something together?

Q. This is a conversation you had with Preston Felton?

A. Yes.

Q. And, when did this conversation take place?

A. I think sometime in -- probably after the documents were faxed to my office on the 31st. Sometime after that, maybe early June.

Q. And Commission's Exhibit 23 comes into your house?
A. Yes. I don't know how it comes in, whether
e-mailed or faxed or both. I don't know. Maybe
you would know from the records, but at some
point, yes. I do remember seeing this document.
And I don't think I ever actually asked for the
May 3rd and 4th trip. I think that just comes
because it's the summary of all of the trips in
May. I don't think I knew there was a trip that
early. I think it comes later in the process.
Q. So, Superintendent Felton provides this
document to you, Commission's 23, in response to
your request for additional itinerary information?
A. I don't know that I would say "additional"
itinerary information. I would say itinerary
information. I think this is coming to me in a
whole bunch of different ways. I think it's
coming in e-mails, it's coming to me in faxes, and
it's coming to me in this form as a retyped
document. And, I think what they've done here,
they basically retyped the May 24th schedule which
we have in e-mail as 34 and that other appended
one, and they are retyping it when whenever this
is transmitted which would be sometime in June.
Q. Had you requested that it be provided to you
in a typewritten separate form?

A. No. I know from reading the report that Preston himself had said I didn't ask for it to be typed up. I didn't ask for it to be provided in any particular form. I didn't know how they were going to get it. I just asked: Can we get it. That's why -- I know it sounds kind of weird, but it's a conversation that leads to the documents. And I know that sounds terribly circuitous, but that's the kind of management style I have. And what comes out of that is the documents.

Q. It appears you already have the information contained in Commission's 23 in e-mail form?

A. Right. Correct, yes.

Q. And Superintendent Felton is a fairly busy man; is that correct?

A. I would think so. He is probably as busy as I was.

Q. So, why is he sending you again the same information that he has already provided to you?

A. I don't know the answer to that.

Q. Did you ever ask Superintendent Felton?

A. No.

Q. What did you do with this information?
A. I gave this to Darren.

Q. You forwarded this information to Mr. Dopp?
A. I think I gave him a hard copy of this originally. I don't think -- might have forwarded the e-mail. If the record shows that I did, I did. Whatever I got, I gave to Darren. I want to be very clear about that. The information I got I saw as coming from the request, so I provided it to Darren.

Q. When you say "the request" what is the request you are responding to at this point?
A. I have gone over this. The request is for the scheduling information for the senator and, as I got the information, I gave it to Darren.

Q. Even though you were getting the same information again and again and again?
A. Honestly, I probably didn't even notice that. I mean I remember this; this stuck in my mind because it was typed. I didn't remember this which is 34. I didn't remember that. But anyone that has ever worked on the second floor knows what daily life is like there. And, this was not something so important to me that I was focusing. I know that probably sounds hard to understand
1  considering for some it's the most important issue
2  that's going. But I might have provided six
3  copies of this without even knowing it. I
4  provided what I was getting as I was getting it
5  and because that got me off the hook for what
6  these requests were.
7     Q. Was there any response from Darren Dopp
8  after you have him Commission's 23?
9     A. You know, "thanks" or something like that.
10  Not a lot of conversation went on about these
11  things. Handing it off, forwarding to him. Not a
12  lot of acknowledgment which you'll probably see.
13  Usually a thanks, "TX" or "Good" or something like
14  that. Not a lot of feedback on this stuff.
15     Q. Did you communicate back with Superintendent
16  Felton after you received Commission's 23?
17     A. I don't know. I couldn't specifically
18  remember that. I just don't know. I had so many
19  conversations with him. I don't recall any
20  specific conversation with him following the
21  receipt; I don't remember that. But I am probably
22  talking to the guy, you know, 13, 14, 15 times a
23  day on all sorts of issues.
24     Q. Did you ever ask Superintendent Felton to
break this information down into three separate
documents?
A. Not to my recollection; I don't remember
that. I don't recall that.
Q. Did you ever ask Superintendent Felton to
break this information down into three separate
documents?
A. Not to my recollection; I do not remember
that.
Q. Did you ever receive this information in a
different format than is presented on Commission's
23?
A. I think I received the information on
separate pages. I do remember that. I just don't
remember asking for it.
BY MR. TEITELBAUM:
Q. Let me ask you a question. You say you
don't remember asking for it. You could have
asked for it?
A. I might have; I just don't remember. I know
how important it is. I hate to say I did if I
don't remember, and I just don't remember it.
Q. What conceivable reason might you have had
if you had asked for it on separate pages?
A. I don't know. I wouldn't even speculate on that, other than just having it separately framed. But I don't know why that would have come up that way. I don't remember asking for it. I really don't. If I did I would say so. I just don't remember asking that.

Q. If I told you Preston Felton said you did ask for it, is there a reason why you would disagree with that?

A. I would have to say I don't recall that. I don't recall. And, again, I don't want to impugn any motives from Preston at all because I think very highly of him. But I don't want to get into a he-said she-said with him either, because -- I don't remember talking about the FOIL with him either and I know he's very insistent on that point. But if I don't remember it, I don't remember it. If I did, I would tell you.

BY MS. TOOHER:

Q. I am going to show you what has been previously marked as Commission's Exhibit 35. It's a print screen of an e-mail from Preston Felton to William Howard on June 6, 2007. "See attached." And it has three documents attached to
A. Okay.

Q. I am going to provide you with copies of Commission's Exhibit 1, Exhibit 2, and Exhibit 3. Do you recall receiving this e-mail?

A. I do, yes, now that I see it.

Q. When did you receive this e-mail?

A. I have got to assume the timing is correct and that it's 6/06.

Q. The documents that are Commission's 1, 2, and 3, were those the documents that you received as attachments?

A. It would appear that is the case, yes.

Q. Did you receive Commission's 1, 2, and 3 as attachments to an e-mail?

A. You know like I said earlier it could have been through an e-mail. It could have been hand-delivered. I have no reason to doubt what was in front of me from and e-mail standpoint.

Q. Did you request these documents from Preston Felton?

A. These are the documents that we talked about, you know, which were the synopsis of the Bruno schedule.
Q. When you say "we talked about" --
A. Preston Felton and I talked about getting synopses -- I think that was Preston's word -- synopses of the Bruno schedules. I don't know how they did it, whether it was interviews with the driver or the notes or the scribbles or whatever, however they did it. But I knew they were putting together schedules on the travel, and these are the documents they sent me in response to that request.
Q. When did you have this conversation with Preston Felton?
A. I can't accurately recall that. Obviously, it was sometime before this and sometime after, probably, the 5/31. I don't remember ever asking them to be separately framed in this way. I don't remember that. I don't ever remember having them separate each page.
Q. Do you remember receiving Commission's 23?
A. I do remember receiving this, yes.
Q. And if you would take a moment and compare Commission's 1, 2, and 3 with Commission's 23, I think you'll see it's virtually identical information.
A. All right.

Q. Can you conceive of a reason that Superintendent Felton would provide this in a separate format absent a request from you to do so?

A. I don't know why he would have done that. I can tell you I don't recall asking for it to be put into this format. And the other thing I would say if I am following where you may be going, there was no interest on my part, no interest whatsoever in trying to make documents appear as though they are contemporaneous documents or that they are somehow publicly releasable as FOILable information. If they came in this way, they came in this way. And if I asked for them to be put on separate pieces of paper, then if that's what Preston Felton said, that's what Preston Felton said. I don't remember making the request. I don't know why they would have come to me in this form. Maybe it's easier to understand as separate pieces. But I can tell you there's no other motive for them being placed in this format. I can't conceive that I would have asked for the documents to be placed in this format or any
motive.

Q. If Darren Dopp had asked you to put the
documents onto separate sheets would you have
relayed that request to Superintendent Felton?
A. I would have, but I don't recall it. And I
would tell you today if I remembered that as a
request from Darren Dopp. I wouldn't hesitate to
tell you that. I just don't recall ever
instructing that they be put on separate sheets.

But, yes. If Darren had asked me to put them on
separate sheets I would have asked for them to be
put on separate sheets for whatever reason he
wanted them in that form. I just don't remember
that ever being a request and I don't remember
making that request to the Superintendent.

Q. You did provide the three separate
documents, Commission's 1, 2 and 3 to Darren Dopp;
didn't you?
A. Yes. 1, 2 and 3 were definitely provided to
Darren. I can't speak definitively as to whether
23 was shared with him. I guess would be that
whatever I got I shared, so I possibly did share
23 with him as well. I just don't recall any
interchange around that. I'm sure I would have
given it to him. Anything he would have asked
for, I gave to him.

Q. Did you have any further conversations with
Darren Dopp concerning Senator Bruno's itineraries
and the travel documents after June 6th when you
had provided these documents?

A. Maybe the one that comes to mind is late --
although I'm not saying there was not
conversations that occurred in June. But in early
July there was another request for, you know, any
June trips that Senator Bruno took. And I don't
know when that request came in. It was after the
story appeared in the paper. I think the story
was on July 1st, and it's July 2nd that the
request comes in for any June travel. It makes
sense. We wouldn't have had it right at the end
of the month.

Q. When you say "the request comes in" you mean
from Darren to yourself?

A. Darren to myself, yes.

(Commission's Exhibit 65 was marked for
identification.)

Q. I am going to show you what has been marked
as Commission's Exhibit 65. It's an e-mail from
you to Darren Dopp dated June 21, 2007. Can you identify this document?

A. I saw this, I think, when the A.G. asked me about it. And I don't think it has anything to do with the other stuff that's going on. My recollection is that there was an article in the paper on campaign finance issues, and this was more unsolicited advice, perhaps, on: Time for you to step forward on campaign finance and make it resonate. I don't think it's related to the travel issue at all. I really don't.

Q. So, this is just another separate political statement on your part now to Darren Dopp?

A. I think it's another observation about: You should move forward on campaign finance. He said something in the paper -- there was an article in the paper on campaign finance that I remembered and I think that's how it's relevant. I don't think it relates to this issue. I never remember mixing the campaign finance with this other stuff in my head. I just don't recall that.
A. Not as part of my formal responsibilities. Just -- I am on the floor and people ask me lots of questions but not necessarily campaign finance questions. There certainly was a huge sprawl of interest and discussion about campaign finance.

Q. Why was June 21st the time from your perspective to make campaign finance --

A. I think there was a leaders' meeting or a big discussion that didn't go well on campaign finance issues. And I think there was a news article that appeared -- and don't hold me to the fact that there was a leaders meeting or some public forum, but I think there was. And my best recollection is that it was not in reaction to any of this stuff but in reaction to other stuff that was going on in the newspaper. In terms of my duties, I am a member of the administration. I have the ability to weigh in with opinions on certain things even if they are outside of my assigned responsibilities. And this was just a one-sentence remark about something that was going on in the newspaper, you know: Time for you guys to make campaign finance resonate. And maybe that happened because I am being asked a million
different things in the course of a day. Maybe my formal responsibilities aren't always clear to me. Q. Maybe it happened because you are getting close to making with Mr. Dopp Commission's 1, 2 and 3 public?
A. No, I don't see any connection to that. I don't see anything inappropriate with what I did with regard to getting the schedules, quite honestly. So I don't have any reason to not make the connections that would otherwise look like they could be made because I don't have any issue with what I was asking for from the State Police. I think this is an issue that the public has a right to know about and the executive chamber has the right to ask questions about it. I believed it then. I believe it now. I'm sorry that I'm in the newspaper the way I have been in the newspaper. I'm sorry I've suffered the stuff that I've suffered. But I still fundamentally go back to the fact that if we can't ask questions about how the state helicopter is being used and how other resources are being used, then I don't know what government accountability is. I mean that sincerely. For every fundraising event that this
guy went to there are state police officers sitting in a car outside. We have a right to know that they're sitting out there and how much it cost to have them there. We have a right to that, I think. I may be wrong. I'll let the lawyers make those decisions.

BY MS. TOOHER:

Q. Did there come a time when you were notified that there was a FOIL request for this information concerning Senator Bruno's travel?
A. Yes.

Q. When did that happen?
A. I wracked my brain on that issue to try to figure out as accurately as I can. I think it's dated June 27th. I don't think it was on June 27th that I found out about it. I think it was the next day, and I think it was a conversation with Darren, a very hushed conversation which, in his usual style, he says: We've got a FOIL request for all of the Bruno travel information. Can you have the State Police put that together? And I wish I had. I should have. I didn't ask the question: Can I see the FOIL? Send it to me. Let me take a look at it. Has Dave Nocente or
anyone else on the floor taken a look at this? It didn't occur to me that I needed to do that. And I assumed in getting the information before it went out the door people who had those responsibilities would look at it. And I believed that would be the case.

Q. When you say you should have asked certain questions, in your prior life with the Pataki administration did you ask those kinds of questions? Did you ask to see the FOILS involving you agencies or your responses?

A. It was different. It was set up differently. And maybe that's my biggest mistake, if you will, or if I will admit that in some of this is that in transmitting my Pataki experience into the Spitzer administration, but things don't necessarily jive in the same way. When I was sitting in my chair with Pataki -- and we're having senior staff meetings every single day and sometimes two or three times a day. And I'm in all of these meetings and I'm hearing all the stuff that's going on in government and all the things that people are working on and dealing with. And I'm hearing Rich Plotkin report back
with a possible perspective, and I'm hearing Jeffrey Lovell and other people talk about what's going on in their world and I'm sharing what's going on in my world. In this instance my only real contact, my only genuine contact is Darren Dopp. And I'm not wired into Nocente. I'm not wired into Baum. I'm not wired into the Governor.

Q. That's not the question.
A. No. It is, though, because in the old days I would have asked the question at those staff meetings. In this world I don't have the access to really ask the question. Could I have raised my hand and called Nocente? Could I have walked into his office? Could I have tried to get in there? I probably could have tried to get in there to ask the question. Did it occur to me that I could? What I was being asked to do, I was fulfilling my responsibilities and Darren was now on the hook for whatever he needed to do in terms of getting that out the door. It never occurred to me that lawyers wouldn't look at the FOIL before it went out to the newspaper. It never occurred to me that that would have been the case. But I didn't see that as my responsibility.
MS. TOOHER: I understand. Could you read back the question, please?
(The requested portion was read.)
A. No.
Q. You didn't ask to see the FOIL.
A. No. But I would have been much more familiar with what was going on based on my access in the meetings. I would have heard people describing. I would have been engaged in those dialogues. But I never would have asked an agency to give me a copy of the FOIL or something like that.
Q. If there was a FOIL in front of the executive chamber that concerned your agencies, you gathering information, would you ask to see that FOIL?
A. Probably not. And I can't think of -- I say probably not. I can't think of any situation where I did have FOILs in the old Pataki days where I also asked to see the FOIL. I knew there were FOILs out there. I knew there was a request for information. I knew that I was involved sometimes in the give-and-take providing information to whoever was in the executive
chamber facilitating dialogue with the agencies. I can't recall ever seeing a FOIL request that came from the agencies that were under my charge, but I probably was better informed than I was in this instance as to what the context of the FOILS were.

Q. So, if Darren Dopp had told you there was a FOIL, you wouldn't have asked to have seen it?
A. I probably wouldn't have asked to have seen it. I think if I had been told that there is an oral FOIL I would have asked for more information about that because it strikes me as kind of an odd thing that I have never heard about before. And I do think I would have asked the question if he had told me about it.

Q. But if he told you there was a FOIL you would not have asked any questions?
A. No. I don't think I would have.

(Commission's Exhibit 66 was marked for identification.)
A. There's just one thing I would like to add to that point. I wouldn't have asked for it but, also, it still occurred to me that at the time I was preparing this information I still thought
that the FOIL actually was, you know, to the State
Police. I didn't think it was to the executive
chamber. And as you evaluate all this stuff I
want you to keep that in mind; that I didn't
assume that this was a FOIL done of the chamber.
I don't know if that is of significance to you,
but I didn't see this as a FOIL that was done to
the chamber. I thought it was done to the State
Police, but I did think that the chamber was
coordinating the response.

Q. So, at a certain point in time you were
notified by Darren Dopp that there was a FOIL
request?

A. Yes. I think the language literally was:
We received a FOIL. And my head registered that
the State Police had received the FOIL. I didn't
see it as an executive chamber FOIL.

Q. If the State Police had received the FOIL
why did you expect someone in the executive
chamber would review these documents?

A. Because it had been done that way in the
past. Clearly, on the second floor -- whether
it's appropriate or not is another question. But
the second floor had coordinated agency responses
to FOIL in the past. I do think the agencies responded to those FOILs and provided those documents pursuant to the FOIL. But in the past there were many occasions where the second floor actually did coordinate the response to the FOIL. I think the perfect one -- the one that is most striking is the issue of the Thruway FOIL that was at the end of Pataki, and I think people in the executive chamber were very involved with how that was structured. And, again, whether that was appropriate or not I don't know, but the chamber was heavily involved in processing the FOIL. So, it wouldn't strike me as odd that the chamber was in a position of helping or being the primary respondent to the FOIL. I see that issue now as I sit here, but I didn't see that issue then contemporaneous to those documents as a particular issue. I didn't see it as an inappropriate issue or unusual.

Q. I'm going to show you what has been marked as Commission Exhibit 66 and ask you if you have seen this document before.

A. This is the first time I have seen it in this form. I haven't seen it in this form. I saw
it as it was summarized in the D.A.'s report and
I believe it was summarized in the A.G.'s report.
And that's the only time I saw the document. I
didn't see it in the form as you show it to me
until today.

Q. This is the first time you are seeing what
you believe to be the actual FOIL request that
Darren Dopp was discussing with you at the end of
June?

A. Yes. Although I've certainly read the text
in those reports, this is the first time I saw
what is labeled as 66.

Q. When Darren Dopp relayed to you that he was
responding to a FOIL request or that he had a file
request --

A. That we had received a FOIL request.

Q. -- that "we received a FOIL request," he did
that by telephone?

A. Yes.

Q. What did you do?

A. He asked me at that point to talk to the
State Police about getting the information for the
FOIL request. And I don't know exactly how that
was phrased, but what I did was I got the flight
records and asked Preston Felton to submit to me, you know, all the flight records that we had. And he sent them to me in a package because we had received a FOIL. I don't remember getting into a lot of detail with him on this. And, again, I was under the impression because it was a State police FOIL that they were already familiar. So, I think in the A.G.'s report it says I considered it a courtesy call. I don't think I would have said it that way, but I did think I was advising him that we, thinking them, the State Police, received a FOIL. We need to have all information put together on the flight records. I don't recall any kind of detailed discussion with Preston about how that would be or how it would deal with this FOIL. And it didn't specify any of the information. And when I got, I provided it to Darren. And I know that doesn't look like good government.

Q. When you get from Preston Felton?

A. What I got was what I called the flight records which were the records of the flights with the requests for the flights signed by Marlene Turner, whoever the passengers were that were on
the flights. My recollection was that these
documents marked Exhibits 1, 2, and 3 that we
talked about earlier were also in this packet
because I remember seeing them in the packet as I
leafed through it. I didn't look through it in
any kind of detail. It looked like the type of
information Darren was looking for. I remember
just leafing through it to see that it all made
sense in terms of the kind of information, dates
and things, and not paying a lot of attention to
walking it down there. And shortly after I got it
I hand-delivered it in these what I called
alligator-clipped packets. I walked it down to
his office and gave him the documents and he said
thanks.

Q. Do you recall who delivered the documents to
you?

A. I didn't actually see the person. I heard
the trooper outside and caught a glimpse of the
trooper delivering them. When Judy Brady, my
secretary, walked in and said, "The trooper just
delivered this." My recollection is that it was
sealed but not like security sealed like some of
my stuff comes. It was just in an envelope. I
opened it up and I kind of remember seeing the alligator clips, seeing the three copies, pulled it out, looked at it, and they had delivered the stuff that I hadn't anticipated being delivered to me. I leafed through it very quickly, walked down the hall and gave it to Darren. And he said "Thanks," or some other comment and that was it. There was no real discussion about it.

Q. Did you have any discussion with Preston Felton at the time you indicated there was this FOIL request and he again provided this information to you?

A. I might have misstated that but, yeah, I had a conversation with Preston telling him we had received this FOIL and could you put this information together for me and send it down. And I don't remember -- that's what I was referring to. I don't recall the exact details of what I said to him because I kind of assumed they received the FOIL, so I was giving him what I thought was my heads up. We are aware the State Police has a FOIL. Could you have the documents put together for us.

Q. Did Superintendent Felton at that time or at
any time indicate to you that the documents
identified as Commission's 1, 2 and 3 were not
appropriate for release under FOIL?

A. No. And I have to tell you, I saw that in
the D.A.'s report for the first time. And if that
had been said to me, that would have changed my
opinion of this, I guarantee you. Had someone
told me that this was specifically not public
records or should not be shared -- I would not
have shared them if I had been told that
information. And, again, I'm not saying anything
about integrity or anything else because I hold
all of these people in extremely high regard. But
I can tell you many things about my background and
ethics and everything. And if anyone had told me
that the documents couldn't be shared or were not
public records, either one of those things would
have flagged something in my head that at the very
least I would have said this is something that --
a lawyer has to review this. And I would also add
that this doesn't extend to what I said previously
about thinking lawyers were involved in this
issue. Had someone specifically told me these
weren't public records or shouldn't be shared,
having the assumption that a lawyer was involved,
the end of the process would definitely not have
been sufficient. I would have either not shared
them or demanded to talk to a lawyer.

Q. Did Superintendent Felton relay to you that
these documents were not State Police records;
that they were synopses?

A. He used the word "synopses" and said they
were put together based on notes. I never heard
the word "interviews," but notes that existed.

So, in my brain, my thought was that these weren't
necessarily based on interviews with the troopers
but, rather, based on some sort of contemporaneous
record, whether it was the record that existed,
again the secretary's scribbles I referred to
earlier, or whatever they had sitting on the
passenger seat of that car as they drove the
senator around. I thought what they were giving
me was not the literal document sitting on the
seat because that was supposedly destroyed at the
end of the day, but they were providing me the
synopsis of the summary of what those documents
were. And that is as clear as I can state it.

And if anyone told me and if it registered that it
1 wasn't a public record and something subject to
2 FOIL, I immediately would have put the brakes on.
3 I don't care who was asking me for the
4 information. If I had heard that, I would have
5 put the brakes on this. And I'd put my full
6 integrity on the line because I wouldn't have
7 shared those records if anyone had told me that.
8 Q. When you shared the records with Darren
9 Dopp, the records that you are now providing as a
10 consequence of the FOIL request, was Commission's
11 23 included in those records?
12 A. I don't know. I honestly don't recall. I
13 do remember giving him these.
14 Q. "These" being Commission's 1, 2, and 3?
15 A. Yes. I do remember giving him those. All I
16 can say is based on how I conducted myself through
17 the course of this, if it was something given to
18 me I would have given it to Darren because I saw
19 everything I was asked for as something I was
20 responsible to provide to him, so I have no
21 recollection of doing it. But if I got it, I'm
22 sure I shared it. Now, when I shared it with him,
23 I don't know the answer to that. But if I got it
24 I'm sure I would have shared it with him.
Q. Do you know if this was part of the documents that were provided as the FOIL package, the package you said was delivered to you by the State Police and included the flight records as well as Commission's 1, 2 and 3?

MR. TEITELBAUM: You are talking about 23 now?

MS. TOOHER: 23, yes.

INTERVIEWEE: I don't remember this as being part of the FOIL. I do remember 1, 2 and 3 as being part of the FOIL. It might have been. I don't know why it would have been if we had these other documents. But I remember 1, 2, and 3 as being part of the FOIL.

BY MS. SULLIVAN:

Q. When you gave Commission's 1, 2 and 3 to Darren Dopp when they were recreated what did you say to him?

A. I want to be careful about this because I know how important it is. I mentioned to him that the State Police indicated that these were synopses of the schedules. And he said "that's okay." Now, I didn't really have a chance to explain what I meant by "synopses." There wasn't
a lot of, you know -- there was a certain --
because he was very busy, a certain brusqueness
from him because I'm sure he had a million things
going on. But I'm sure that is what I remember
and I don't remember any other deep conversation
about it or any other ability to explain what
these were. But I just said to him, "I would
think twice" -- I told him these are synopses of
the documents. And, in my mind that meant -- and
I was hoping to convey -- these weren't literal,
original documents that were sitting on the car
seat but, rather, were based on that stuff and
were the synopses of those documents. I don't
think I ever used the word "recreations" and I
have not used it since in talking about it. My
understanding is how these were created is that
they were based on the information. They were
based on the documents. But what I tried to
convey to Darren is that these were not the
literal documents but the synopses of what was
guiding the State Police as they drove the senator
around. And I said that twice.
Q. Twice in the same conversation?
A. Twice in the same conversation so that he
got it. I didn't have the chance to tell him any
more about that because he basically cut it off
with, "That's okay." My sense was that he got it
and I walked out of the office and thought that he
understood that there was a distinction there
between original documents and what these were.

Q. When is this conversation taking place that
you are relaying right now?

A. My guess is right after they were sent to
me, right after.

Q. So when it was initially sent to you by
Superintendent Felton?

A. Yeah, probably.

Q. And you walked the packet that you indicated
was provided to you, which included Commission's
1, 2, and 3, down to Darren Dopp in response to
the FOIL request, did you mention Commission's 1,
2, and 3 at that time?

A. I don't recall mentioning it at that point.

My knowledge is that he knew they were in the
packet because he asked for them. So he knew they
were there. And part of his interest was getting
what the transportation schedules were for those
days, so I knew he knew they were in the packet,
but my recollection is just coming in and handing
him the FOIL packet that had come in from the
State Police and not a lot of conversation. Maybe
no conversation; maybe just giving him the packet
and walking out. I don't think there was any
interchange that I can recall. There might have
been, but I don't recall any kind of conversation.
Q. Did you feel there was any distinction
between Commission's 1, 2, and 3 and the remainder
of the aviation packet?
A. I didn't -- I didn't. I mean like I said, I
go back to that point of public records and all of
those issues. If I felt like there was anything
inappropriate about this I would have put the
brakes on it and I would have stopped it and I
wouldn't have participated in it. I wouldn't have
done that. I didn't see any issue with getting
there information at all, and I didn't see a
distinction between this and --
Q. "This" being Commission's 1, 2, and 3?
A. This being Commission's 1, 2, and 3 and the
other information. And I'm not sure if I am
supposed to do this or not, but even in -- I think
it's the D.A.'s report, there is this conversation
with the Superintendent where he is maintaining that there was this FOIL request and indicates in his testimony, apparently indicates in his testimony, that he understood that the flight records were under a FOIL request. And the question is: Did you ask about the Bruno travel/ground itineraries? No, because I thought they were related to the same FOIL request. I mean that is what they kind of literally summarize. So my view was just as the flight records are appropriate and could be released, the schedules were something that could appropriately be collected and be released.

BY MR. TEITELBAUM:

Q. In your conversation in which you pointed out to Dopp that these were synopses and not original documents, that was not at the time you handed the documents to him in the first instance?

A. It would have been when I handed him the documents. So it is may have been this document.

Q. 23 you are talking about?

A. Maybe 23. But it was related to handing him the documents. And as we're sitting here -- and I don't know that anyone has really asked the
question -- I think there was a phone conversation where it was related as well.

Q. So, you walk into his office and give him the packet that the trooper gave you, and you point out that 1, 2, and 3 are not original documents but synopses; is that correct?

A. I don't think that when I handed him what I call if the FOIL packet, I don't think there's any conversation.

Q. When did you tell him that these were not original documents but synopses?

A. It was whenever I first got them.

MS. SULLIVAN: Which would have been around June 6th?

A. If it relates to June 6th that's the time frame for when I did it.

Q. What were you pointing that out to him for?

A. I thought it was important for him to know that.

Q. Why?

A. Because the Superintendent had said it.

And, again, I would have remembered those other points that were made; that these are public records or subject to FOIL. I would have remember
1 that. But the superintendent made the point that
2 we don't have the original travel documents, so
3 what we have are what we have been able to put
4 back together as synopses. And that struck me as
5 something important and something that Darren
6 needed to know about the documents.
7     Q. Why did it strike you as important?
8     A. Because it struck me that there was a
9 distinction between the documents he wanted which
10 were the documents he saw which he talked publicly
11 at this point -- he said literally sitting on the
12 passenger's seat of the car -- and what I was
13 giving him. I was under the impression that these
14 documents would generally match the documents that
15 were guiding the state police, but I wanted him to
16 know that they were the exact documents sitting on
17 the passenger's seat of the car.
18     Q. Did Dopp tell you he wanted the documents
19 that were sitting on the passenger's seat of the
20 car?
21     A. Yes.
22     Q. When did he -- am I paraphrasing in my
23 question or he said, literally: I want the
24 documents that are on the passenger's seat of the
A. It would be something along those lines, pretty close. They're not just driving him around wherever he wants to go. I mean there is, just like with the Governor, you know, with the clipboard and I see the guy -- and it's: Darren, I see the guy sitting in the passenger's seat with a clipboard with the schedule. They do that for him, too; right? Can we get access to that? Is that something that we can get? So, that's where this whole passenger's seat of the car -- I thought it was important to underline to him and maybe I didn't do it as effectively as I should have. But I saw the distinction between what he was looking for and what he was provided, not the issue of public records or FOILability or any of that stuff, but the fact that you asked for this. This is what I have that has been given to me by the state police and this is a synopsis of those records.

Q. Let me ask you one other question concerning your experience in the Pataki administration and FOIL. You said it happened frequently in the Pataki administration that FOIL requests that went
to the agency would be coordinated by the second floor.

A. Right.

Q. Do you have an instance in the Spitzer administration where that happened?

A. This would have been my first involvement at all with FOIL in the Spitzer administration, so this is the only one I ever saw. I wasn't aware -- I was asked this previously. I wasn't aware of any differences in the approach. I was certainly aware of transparency in government and wanting to be more open to press inquiries and public inquiries than Pataki had been. But I wasn't aware of any formalized changes that had taken place in the process under FOIL.

Q. You were not aware at that time that there was something special about State Police as an agency and FOIL requests relating to state police documents?

A. Right. And I was also not aware until read the footnote in either the D.A.'s or the A.G.'s report and state police request that Fred Dicker had made and those documents and all of that stuff that went back and forth. I wasn't familiar with
those issues. And I can't think of any circumstance in the past where I dealt with a State police FOIL. There might have been some, but I can't remember anything in Pataki where I actually did deal with the state police.

BY MS. TOOHER:

Q. Were there instances that you are aware of them during the Pataki administration?
A. Not that I think of right now. I went through a bunch of them and had a list. And I may be able to pick out a bunch of them but not as I sit here can I recall it.

Q. Did you ever see any response to the FOIL request beyond the packet that you received from the state police?
A. No. What I gave to Darren is what I have provided to Darren. And like I said, I looked through it before I gave it to him. But I never actually saw what had gone to the reporter.

Q. Did you ever see any documents Darren prepared to provide to the reporter concerning Bruno's travel?
A. No.

Q. Did you ever see any document that Darren
had prepared internally concerning Senator Bruno's travel?

A. No. I mean, you know, the thing that was talked about earlier with the press statement I didn't see until the D.A.'s testimony.

(Q. I am going to show you what has been marked as Commission's Exhibit 67 and ask you to take a moment and review that document. It's a two-page documents captioned "for background only." Have you seen this document before?

A. Until today I have not seen this document.

Q. Have you seen any version of this document before?

A. Not to my knowledge have I seen any document that reads like this, no.

Q. Have you seen any documents that were similar in substance to this?

A. No, I'm sorry. I have not seen any document that was similar in substance to this.

Q. Did Mr. Dopp ever advise you that he is working on a document of this nature during the time that the FOIL request came in?
A. No.

Q. And you had no discussions with him concerning a written request to the FOIL that he was preparing in written response to the FOIL he was preparing?

A. I wasn't aware that he was doing a response to the FOIL; I never saw that.

Q. Following the actual receipt of the FOIL were you involved in any way beyond requesting the documents from the State Police that came over in the packet that you described?

A. There was after the story broke.

Q. The story being the July 1st?

A. The July 1st story. I was called down with some frequency by Darren to answer questions that he was getting from reporters. I think Glen Miner from the State Police was their public information officer. He was e-mailing me about his response to some of the press inquiries that he was getting. I think there is, you know, maybe -- I don't want to speculate, but maybe because it's so hard to get the people in the press office, I think the PIO, the public information officer dealing with me tried to get some sense of where
is Darren going with the statement. Are you guys putting anything out. So there is some e-mail traffic I recall between Glen Miner and that myself where he is basically giving me the report back on how the press inquiries went, how that stuff went. And that's typically the way agencies PIOs might use me in the past and even into Pataki and even now.

Q. But that's after the story.
A. After the story, yes.
Q. But prior to that are you having additional conversations with Darren concerning the FOIL request?
A. I think there are questions being asked. I can't remember specific questions and fitting them into the time frame. But I'm sure he is asking me questions.

(Commission's Exhibit 68 was marked for identification.)

Q. Showing you what has been marked as Commission's Exhibit 68. It's an e-mail from you to Darren Dopp dated June 27, 2007.
A. Yes.
Q. "I have read through 73 several times and
have a hard time finding an applicability to this issue."

A. Yes.

Q. Are you familiar with this document?

A. I am. And when I was looking at the record trying to figure out when I first heard about the FOIL this is one of those documents saying to me that I don't think it was until the 28th because I remember the circumstances of this. I was leaving for the night and you will see at 7:02 p.m. I stopped by Darren's office to say goodnight. There weren't too many people left in the capitol at that point. And he made a comment that he was checking through Section 73 of the Public Officers Law: Don't you think that the Bruno travel issues would be a violation of Section 73 of the law. I don't know 73 of the law. I have heard of it but I don't know specifically what it said. So, I did one of my things. I went back to my office, looked up Section 73, read it over a couple of times. And I was basically telling him here: I don't know what you're talking about. I don't see any applicability at all to the issues of the Bruno travel here.
Q. You are indicating that this is prior to the
time you knew there was a FOIL request?
A. Yes. This is actually one of the things
that I used as the benchmark to try to understand
when did I hear of the FOIL, because Darren could
have told me on the night of the 27th that we had
received a FOIL. But I am very sure that this
conversation only related to Section 73 that night
and didn't relate to the FOIL, so I don't think it
was until the next day that I actually heard there
was a FOIL. We would have had a conversation if
it was that night. And I do remember this
conversation. I remember it being very brief. I
remember stepping in the office. I remember
leaving the office, but I don't remember any
discussion of the FOIL. That tells me it was
probably the next day.
Q. You indicate, "I am going to check out some
other sections"?
A. Right. I didn't do that.
Q. Why not?
A. You know, it was late for one thing. I
might have done it the next day or something. I
might have looked at 74 or some other sections.
So, I actually use this was one of benchmarks for why I didn't -- I don't believe there was any conversations on the 27th related to the FOIL. If I remember them I would have told you. There's no reason to not.

Q. What were you looking for concerning Section 73 at this point?

A. He had told me --

Q. Meaning Darren Dopp?

A. Yes, stopping by just to wave and say good night, basically. And he said, you know, "Hey. I looked at Section 73 of the law and don't you think the Bruno travel issue or something to that effect would be a violation of the Public Officers Law?" And I said, "I don't know." And I was leaving for the night and zipped by the staircase, and instead of going home went back over to the office and actually logged back on the computer and checked to see what 73 had to say, looked at it at least twice. And I said I don't know what he is talking about. I don't see anything here that would be a flag for me, so I e-mailed him back.

Q. You indicated that you didn't check out
other sections that evening but perhaps the next day?

A. It was -- I don't know why, but my recollection is that it was hard to find 73 or something. I remember it took me awhile to find the right section and go through it. I needed to get home. I don't know what night of the week it was, but if it's a Monday night I need to get home as close to real time as I can. I remember being rushed to get out of there.

Q. What is your understanding of the issue you are looking at in Section 73?

A. My understanding from Darren was that there was some legal issue here that he thought was a problem, and that's what I was looking for.

Q. You are not an attorney; are you?

A. I am not an attorney, no.

Q. And, to your knowledge, was Darren discussing this with attorneys in the office?

A. I thought he was. I don't have specific knowledge that he was but I thought that he was.

Q. You thought he was discussing Section 73 issues?

A. I thought he was talking about all of these
1 issues with attorneys in the office.
2 Q. These issues being what?
3 A. The Bruno travel issues.
4 Q. What is that based on?
5 A. Just my understanding of what I would think
6 he would be doing in terms of -- we are dealing
7 with legal issues. I assume he was talking to
8 attorneys.
9 Q. Did he relate to you that he had had a
10 conversation with anyone else in the chamber
11 concerning Bruno travel issues?
12 A. Not that I recall.
13 Q. And did he ever discuss further with you the
14 application of the Public Officers Law?
15 A. No. I think this was the only thing. I
16 don't know that he really asked me to go back and
17 check 73. I kind of did it because he mentioned
18 it as an issue, so I checked it to see what it
19 looks like. I certainly had looked at it over the
20 years but I wanted to see what he thought bore
21 relationship to the Bruno issue.
22 Q. This is prior to the time you are notified
23 that there was a FOIL?
24 A. Yes. I'm pretty sure of that because we
would have had that conversation. That's why I think I don't find out about it until the 28th because if I thought it was a FOIL I would have remembered that on the 27th. If I remembered it was the 27th I would tell you it was the 27th.

Q. Do, what do you think Darren Dopp is doing at this point?

A. At this point I think he's looking at legal issues, off the cuff, admittedly, related to the Public Officers Law and the Bruno flights which, in my mind, I guess probably still holds for the -- it would have been back and forth on all these questions. I have gotten all of this information, so are we going forward with the A.G.? Are we going forward with the I.G. or with the SIC? Where are they going with this stuff? Does an investigative agency have jurisdiction? I saw it is as consistent with that.

Q. This "back and forth" that you are talking about with the Inspector General when is this taking place?

A. I'm talking back and forth in terms of questions and things related to the travel. I think the I.G. conversation -- you know, that
conversation was a one-time thing early on in this process I talked about already.

Q. And, when do you believe that conversation took place?

A. I think that's early in the process. I think that's back in May.

Q. You haven't had any conversations since May until June 27th concerning what they are doing with the Bruno travel information?

A. No.

Q. Did you have any conversations with Preston Felton after he had provided you with the FOIL package information?

A. I'm sure there were, and know there was after the article appeared.

Q. Prior to the appearance of the article.

A. I'm sure there were, yeah. I don't know what they were, but -- I can't think of anything of substance. I just don't recall.

Q. On the issue of Senator Bruno's travel?

A. I think I would remember if there was stuff of substance. I just cannot recall issues of substance on those conversations.

(Commission's Exhibit 69 was marked
Q. Looking at what has been marked as Commission's Exhibit 69, it's an e-mail from Preston Felton to you. Following the thread, "Now formally being asked the question on landing fees."

A. Oh, yeah. I had forgotten about this.

Darren asked me the question of how much does it cost to land the helicopter at the various heliports in the City.

Q. When you say "now formally being asked," why are you saying that?

A. I'm not sure. I think that I was --

Q. Had you discussed this issue with Preston Felton earlier?

A. No. I think I discussed this issue earlier with Darren, but it was much more fluid. And I think what I'm referring to here, he is now actually asking the question: Can you get me the landing fees for the heliport. I don't think it's an earlier conversation with Preston. I think it reflects an earlier conversation with Darren that was more informal. Now, it's: Can you actually get me these fees. And I did get an e-mail that
had fees for the landing. I remember that.

Q. Did you discuss other issues concerning Senator Bruno's travel issue?

A. If you could show me something that would refresh my memory I would be glad to look at it.

I didn't even remember the landing fee issue, but I remember it now.

Q. Did you ever have discussions with Darren Dopp concerning the response to the FOIL that you were providing to Mr. Odato?

A. I don't remember ever hearing about packaging or how it was being transmitted or issues that were going to go with it.

Q. Were you aware that this was from Mr. Odato?

A. I'm not sure of that. I have might have been in that time frame. I might have heard that it was a Times Union request, but I can't tell you if I knew it was from Jim Odato. I can hear Darren's voice. I can hear him saying: We have a FOIL request -- not that we have a FOIL request from Jim Odato of the Times Union.

Q. Did Darren ever discuss with you whether Jim Odato was making any further inquiries concerning the senator's travel?
A. Yes.

Q. What did he discuss with you in that regard?

A. At some point -- I think I talked to you about it earlier -- maybe as early as July 2nd I got asked the question --

Q. Prior to the article did he ever discuss with you further inquiries from Mr. Odato prior to the article concerning Senator Bruno's travel?

A. I don't think so.

Q. Did he ever discuss with you Senator Bruno's response concerning the travel issues?

A. Yes, I'm sorry. And that sparked my recollection because there was an issue of I think Darren coming back to me and saying that -- and I don't know if he said Odato and I don't know if he said the reporter. I don't remember Odato's name being part of that. I remember what came back to me is that the Senate in their response to the reporter was indicating that this was all due to death threats that had been made against the senator. And Darren asked the question of me: Has a threat assessment ever been done on the senator. And I believe that I e-mailed or called Preston Felton and asked him if a threat
assessment had ever been done. I don't think he
came at that question. I think he said
he would get back to me after he checked and he
got back to me and said there was some lobbyist
that showed up at his office that was diffused,
and there was an issue in Saratoga at his district
office where someone lit a garbage bag on fire and
then left a threatening note at one point. But
there had been no formal threat assessment that
had been done.

Q. What is your understanding of a threat
assessment?

A. It would actually be an interview, an
analysis of the position of the person and the
type of responsibilities, the public /TPHAERTSDZ
of their responsibilities, the public nature of
the responsibilities that that person would go to,
and an analysis of either known letters, calls,
things like that, or unknown threats that the
person might be subject to. And by "unknown
threats," I'm basically talking about risk.

Q. What does your knowledge of what a threat
assessment is come from?

A. Unfortunately, it goes back to Pataki and
goes back to the issue of continuing the security coverage for the Governor post-governorship. And I was engaged in quite a bit of dialogue with State police over that issue and got heavily into dealing with the FBI and other law enforcement agencies about what constitutes a threat analysis on the person, what was releasable as a threat assessment for that person and the factors that went into determining it and the factors that went into determining how many people were necessary to be assigned. And you may recall that Governor Pataki, with no small amount of controversy, was actually extended some state police coverage after the end of the Pataki administration which then terminated 30 or 60 days after he left office.

Q. Did you have other familiarity with threat assessments?

A. Much less specific over the years, but probably when letters came in to the Governor on other assignments I would be the point person in dealing with those issues and certainly be part of the process of, you know, evaluating that threat, and not from an expert's standpoint by any means, but part of the dialogue in terms of law
enforcement analyzing those letters or threats.

Q. I am going to show you what has been previously marked as Commission's Exhibit 36 and ask you if you can identify this document.

A. Yes, I can.

Q. What is this?

A. It's an e-mail from Preston Felton from myself. I think it took him some time to find this on his BlackBerry. I asked the question -- it's in military time so I'm not good on that, 18:53:27, "Did the 'flying Senator' ever have a threat assessment done by State police?" And this was in response to Darren asking me that question: "And their defense reminds me of Hevesi," in reference to the fact that I was a little stunned that the Senate was taking the position publicly, from what I heard from Darren, that all the State Police stuff, all this driving service was based on death threats and security and that they actually said that publicly. And it surprised me that they had said that because none of the conversations I had ever had with the state police said that it was about security. Everyone had always said that this is about convenience and
driving.

Q. Are you upset about this position?
A. No. Their defense reminds me of Hevesi. It's an observation of what they are saying. There is no negatives in it at all.

Q. Well, did the "flying senator" ever have a threat assessment? That seems to be a somewhat derogatory term.
A. It wasn't intended to be that. I would hate to see a lot of people's e-mails in terms of how people express themselves in e-mails. If I am guilty of being loose with language there, then I'm sorry for that, but it was not intended to be derogatory.

Q. "Their defense reminds me of Hevesi" --
A. It was almost the same defense that Hevesi's people made; that he needed the driver for his wife for security purposes. So, it's really a matter of fact in terms of what it reminded me of which was Hevesi had stepped out and said that the driving services being provided were being provided for security purposes. There is probably not a person in the world that thought that that was the case. And this defense reminded me of
what Hevesi had come out of the gate with in terms of why he needed access to public employees to drive his wife. Not a negative. It just reminded me of what Hevesi had said.

Q. And the Hevesi defense was not a successful defense; is that correct?
A. Yeah. I wasn't thinking that far ahead. I guarantee you that.

Q. From what I gather from what you said so far, you are not finding this a credible statement on the part of the senator; that you had never heard anything concerning any kind of death threats in the past, and your understanding of State police driving was not related to a security issue; is that right?
A. I had been told specifically by the Superintendent that driving the senator had nothing to do with security and had everything to do with convenience. So, it was not an opinion that I was expressing; it was knowledge of what he understood and what I believe as well.

Q. "He" being --
A. The Superintendent. He very specifically said that this was not about security; that this
was about driving, picking up people at the
heliport and taking them to that schedule. You
know, it's not intended to be cranky or obnoxious
or anything else. It's just intended to be
stating somewhat of a fact. Their defense did
remind me of what Hevesi said. Their claim was
that state police security was needed because of
death threats and I thought it was understood by
the superintendent that those facts weren't true
based on everything I learned from him in looking
at this issue.

Q. Did you have any conversations with the
superintendent at this time about the death threat
issue?

A. I believe that there was. And I think the
conversation was, you know: Was there ever a
threat assessment done of the senator? He said he
would check. I'm not sure if he got back to me by
e-mail or by conversation. But I know -- if I got
an e-mail I also had a conversation because I can
remember having a conversation where I got the
answer as well, which is there really had not been
a formal assessment done.

Q. It says here that, "The security issues in
the last couple of years" --

A. Yes. And every member has had security
issues over the years. That's probably an
everissue. And if there is a real security
issue then I think the state police has a real
obligation to address it and provide security.

Q. Did you ever relay to Preston Felton that
you felt the senator had a low security
assessment?

A. I don't think I ever would have expressed it
that way. No, I don't think I have ever had a
conversation where I rendered the opinion on his
security status. I don't think I would have done
that.

Q. Did you ever have a conversation concerning
the superintendent's rendering of an opinion?

A. I might have had a conversation with Darren
based on the conversation with the superintendent
that would have said: There is no public figure
-- I mean if I were to ask for a threat assessment
on myself -- I have had people threatening me from
time to time -- I'm sure that I would come up with
a low threat assessment. They are never going to
say it's a zero, that there is no risk to the
individual. I think I explained it in that way
that for any public official if you did a threat
assessment you would find at a very minimum a low
threat level. It might range based on certain
circumstances. But they're never going to say
that there's no risk to a public official.
Q. Did the superintendent relate to you any
information concerning the level at which Senator
Bruno would come in?
A. There had not been a threat assessment done,
and I think there was one initiated by the
Governor after the story broke. But I think the
senator put the brakes on having that done, but I
don't remember him rendering an opinion. I don't
think he would have rendered an opinion based on
an analysis without doing an analysis of the
facts.
Q. Did you relate to Mr. Dopp that there were
these prior incidents involving the senator?
A. Yes.
Q. Did you get any response from Mr. Dopp?
A. No. I viewed them as the type of thing we
deal with in daily life. I have had threatening
letters that have been sent to me by phone. I consider it to be part and parcel of public life.

Q. This is prior to the July 1st Times Union article?

A. Right. This is in response to: The reporter has the information and is now going out to Bruno's office and asking for comment. So, it's out there that the information has been shared. And this is in response to I think John McArdle was the person who was quoted. Did he tell the reporter: This is all related to death threats and the security needs of the senator. And, then, the way the reporters are dealing with this, they then call the press office and report back as to what the senate is saying, which is why I got that e-mail. And they would then report back to the Senate what the Governor's office is saying. So, they'll share all of this back and forth so that they will try and get the better quotes.

Q. So, it's clear at this point when Commission's 36 is sent from you to the Superintendent that you are working on the article or the article is being worked upon within the
executive chamber.

A. Like I said, my best information and my knowledge of the FOIL is on the 28th. June 28th I am aware that a FOIL as come in. I don't think it's the 27th.

Q. Prior to the time the FOIL comes in do you have -- now, as you look back on it, do you have any concept of when Darren Dopp first started working on this issue with the media?

A. I don't. But expressed exactly that way, I look back at questions asked and things I thought were probably investigatory related were probably more press related questions. But I go back to the issue -- and I want to make sure that I get this as clearly as I can. If I thought there was some FOIL, if I thought there was some media interaction going on, I would have approached this differently at that time. I would have. And I was not operating under the assumption that the information I was getting was pursuant to a FOIL oral until we actually had that document or evidence of its receipt. I wish I had asked to see it. I didn't. I was actually told we had the FOIL request. I think on June 29th I was
operating under the assumption that I didn't know we were dealing with the media.

Q. And, if you had known you were dealing with the media prior to the actual FOIL request is it your testimony that you would have responded differently to some of these inquiries?

A. I would have thought it was an obligation on my part, not that I wanted any more unsolicited advice. But I would have thought it was incumbent upon me to just share some of my experiences regarding sensitivity in this issue and the likely media response that was going to come from this; that it wasn't going to be a story -- it was going to be very serious stuff that was going to go on and on.

Q. In terms of the information that you provided, specifically the synopses and the information that the Superintendent had relayed to you were synopses would that have changed anything you did with regard to providing that information and what you advised Darren Dopp?

A. I still thought it was all public information and I still thought it was within my duties. And I still think it is to this day. I
think had I been told by anyone that it was not subject to release as FOIL or that it was not a public record, that would have made a difference in me sharing this information. But as a point of information in this process I would have advised them more on what I think the likely repercussions were of a media story rather than the appropriateness of what we did. I don't think I did anything inappropriate. I think what I was asked to do was within the rights of the executive chamber to ask for.

BY MR. TEITELBAUM:

Q. When you say, "Their defense reminds me of Hevesi," what were they defending against in your mind?

A. They were saying that they have access to the State Police to provide the securities services because of the death threats taking place.

Q. Who is making the accusation? Usually the word "defense" is in response to an accusation.

A. Maybe a bad choice of words. I was thinking from a media defensive standpoint. I knew behind the scenes on this e-mail before this e-mail.
Whether it was McArdle or their other guy who was the press guy, I didn't necessary know. But I knew their response back to the reporter which was then conveyed to Darren is that they were taking some defensive structure within the security aspect to defend what they were using in connection with what they were using these drivers for. So, "their defense" refers to the issue of they are defending themselves publicly as to why they are using or misusing this State Police asset. It reminded me of Hevesi because it seemed Hevesi was saying, well, I need this because of the security issues surrounding my wife. That's why I need to have a public employee driving my wife. It struck me almost the same exact language.

Q. The Hevesi defense was in connection with an accusation by law enforcement.

A. I'm not thinking that far ahead on this. I am looking at it from a press standpoint. I'm looking at this from what they said in response to the press now saying to them: How do you justify the State Police asset being used? And they are saying its because of the death threats that the
Q. When you are using the term "defense" are you telling us it is unrelated to the work that you and Dopp were doing is going to result in an accusation of inappropriate use of aircraft?

A. I could put myself right into this e-mail and could have added the word "their public defense" reminded me of Hevesi, not legal defense.

Q. Right. But is that in connection with the fact that there is going to be a public airing of this as a result of the work that you and Dopp are doing which will be accusatory, implicitly accusatory?

A. I know there is an article being written now. The FOIL has been shared. I know there is a reporter engaged in a dialogue with everybody of interest in this thing. And I know when confronted by the reporter the Senate has responded back that: We need this for security purposes. I don't know that anyone inside government or inside this issue looks at this as necessarily being security coverage for the senator. It looks like driving services. There's one guy driving a car or two guys driving a car if
they have their staff in the one behind. The real
issue here is what they are saying publicly.
Their public defense to the media strikes me as
what Hevesi was saying when Hevesi was saying when
he was initially confronted on this issue.

Q. When you had a conversation with Acting
Superintendent Felton did you suggest to him that
in your view the level of risk with respect to the
senator was low?

A. I don't ever remember that, and I don't
think I would have had that sort of conversation.
I know I had those conversations related to
Pataki. We talked a lot about the Pataki risk
level and the fact that we didn't have -- we had
some threatening letters but not a lot of stuff
that was active. And I remember the summary of
this being he was of low threat. But I don't
remember ever having any kind of discussion about
Bruno where I would suggest that he was of low
threat. There may have been in the context of a
conversation but doesn't strike me as the kind of
thing that I would say. I don't think I have
enough knowledge about this to have ever rendered
an opinion like that.
Q. Were you aware that there came a time in mid May where a conclusion was reached in the executive chamber that the Senator's use of the aircraft didn't violate any law?

A. I saw that; I saw it in the report. But I was not aware of any conclusion.

Q. Can you explain why you were doing what you were doing after the middle of May in light of the fact that that conclusion had been reached by attorneys at the executive chamber as well as the Secretary to the Governor?

A. Yes, two things. One, because I was being asked to do it. And, two, because I wasn't aware that anyone reached a decision that they no longer wanted to pursue this. I am in the weakest of all positions on the second floor. My interest is not in bucking decisions of the senior staff. My interest is providing service to them and the best advice. And if anyone had told me at any point there was no interest in pursuing this and there was no interest in engaging in this, that would have been the end of it. Again, Darren -- not throwing any stones here, but Darren continued to ask me questions, continued to ask me for
information, and I provided it. If at any point
someone had said: By the way, the Governor and
senior staff no longer wants to pursue this thing,
that would have been the end of from my
standpoint.

Q. Let's assume that it is correct that that
collection had been reached in mid May. Does it
occur to you that -- I'm not saying you knew about
it or didn't know about it. But does it occur to
you that the work that was being done at Dopp's
direction, say, after that point was in
furtherance of a political agenda?

A. I don't know. I didn't see my role in this
as fulfilling any kind of political agenda.

Q. That's not the question I am asking you. I
am asking: In light of the fact that that
collection had been reached -- assume that for
second -- and you read it in a report -- and for
your information there is testimony in the record
to that effect. You have been in government a
long time. Does it occur to you that the work
that was being done after that conclusion was
reached was in furtherance of a political agenda?

A. It does not.
Q. It does not?

A. No. If anyone said to me they no longer wanted to pursue this I would have stopped it. I didn't see my role as being a political role. And I think that I go back to looking at the information, looking at the issues that are out there. And it seems now that every single day there are new issues out there. I go back to whatever the Governor wants to do, whatever Rich Baum wants to do as a direction from the administration is one thing. But from the standpoint of the information that was collected, how it was collected and what it was, I don't think there was anything inappropriate in what was collected. Whether or not other people seek to use it for political purposes is a whole other matter. But going back to what I thought my role was, our right to know about this information, my ability under the chain of command to collect that information based on a request, I thought it was perfectly legitimate for me to do that. And I go back to that today. What other people were going to do with it was at pay grades above my level at this point.
Q. I appreciate your remarks. And perhaps my question is not clear, I'm not asking you now whether you were pursuing a political agenda. I am asking you now as somebody whose career has been steeped in government services at a high level. As you look at the course of events that occurred and the fact that in mid May the conclusion had been reached to drop this and that nothing illegal was being done by the senator that the continuation of collecting information on this subject -- I am asking about you, not what your intention was, but as somebody who has been in government -- would you agree with me that it appears that there was a political agenda being pursued.

A. I don't want to go there on that. What I would say is if I knew that someone had made the decision, whoever it was that ranked above Darren, whether it was the Governor or Rich or David Nocente from the legal standpoint, if that decision had been made to not pursue this, that should have been the end of it. And whatever other people decided to do with the information certainly has political repercussions and
ramifications. And I agree with that and see it now. But from my standpoint the fundamental issue is I was operating under the thought that this was something that I was being asked to do that was something that was clear to the process. If there was ever a point where someone said they didn't want to pursue it, it should have stopped. And whoever continued to do it at that point should have been instructed to stop because it did have all of those issues.

Q. The Governor said there appears to have occurred a breach in the wall of the separation between the State Police and politics. You were the guy who was the supervisor of Superintendent Felton. So, I am asking you now: Do you agree with that?

A. I don't.

Q. You think there was no appearance of a breach of that law?

A. I don't think there was. From my standpoint of what he was trying to do I honestly don't think there was.

Q. I'm not asking you that. I am asking you, as you look at the course of events -- I'm asking
you to comment on whether he breached it. I am
asking as a man who has been in government all of
those years at high level positions, as you look
at this situation sitting here today do you agree
with the Governor that there is an appearance that
there has been a breach in that wall?
A. I don't think there was. I don't.

BY MS. TOOHER:
Q. Just a few more questions. The article from
the Times Union comes out on July 1st. And prior
to that time are you in communication with Jim
Odato from the Times Union?
A. Prior to that I think there is one call
after the article comes out that I got from Jim
Odato dealing with the threat assessment issues.
Q. And, you believe that that was after?
A. I think it was after. I'm not sure if it's
after the article came out or after the FOIL. But
I know I got a call from Jim Odato. And the
context of the call was the threat assessment
issue, so I think it was in response so the Senate
telling him that this is all about security. And
he is asking me if he can get access to any threat
assessment that has been done.
Q. And he did reach out to you?
A. He did reach out to me on that occasion, yes.

(Commission's Exhibit 70 was marked for identification.)

Q. I'm going to show you Commission's Exhibit 70. This appears to be --
A. I think I remember this. It would be sometime after the FOIL but before the article appeared. Jim called me on the phone and asked me if a threat assessment had ever been done on the senator and, if one had, whether the State police would ever share something like that. And I think it was a very brief conversation. I said I don't know if they have ever done one because I don't think I knew at that point. I wouldn't have told him if I did. But I don't know if they had done one, and I was pretty sure that they wouldn't have shared something like that. It would have been very inside. And he seemed to accept that.

Q. This was after you had e-mailed and had gotten a response from Superintendent Felton as set forth in Commission's Exhibit 36?
A. I don't know the time frames there.
Q. The time of the e-mail to hear back from Preston Felton is 5:44 a.m. on June 29th, and this message was given to you at 10:18 a.m. June 29th.

A. My call to Preston was not based on Odato. It was based on Darren Dopp asking me the question whether a threat assessment had been done.

Q. Why is Odato calling you?

A. He respected me. He told me he did anyway. I would see him in the hallways and always say hello. He was involved in the arts, so I would see him at museums and things like that. I remember one time bumping into him at the Clark Museum over in Williamstown. He was surprised that people in the Governor's office actually had real lives. And we had a conversation over there. And, from that time on when he saw me at the Governor's press events and things he would come up to me and say: Hey, did you see the exhibit at the Clark, or did you see there is another exhibit coming to the state museum? It was really small talk, but I think he respected who I was and what I did and my interest in history. And he seemed to be interested in it as well.

Q. From mid May to June 29, 2007, had you had
other conversations with Odato?

A. I'm sure I had other conversations with Odato.

Q. Did you ever discuss Senator Bruno's travel during that time frame with Odato?

A. There was one conversation when he approached me in the hallway and asked me had I heard the state police that drives Senator Bruno are very unhappy. And it kind of struck me out of nowhere. That was the first thing he said to me. And I said: I have not heard that. And I did check it out with Felton. I don't think he really checked it bout but told me he not heard anything like that.

Q. Did you ever discuss with Preston Felton anything concerning Mr. Odato and inquiries about Senator Bruno beyond that one phone conversation?

A. I don't think I did.

Q. Were you aware that the FOIL request came from Mr. Odato?

A. Certainly later on. I don't know that I did in the first instance, as I said earlier. I think Darren said to me: We received a FOIL. I don't think he said it was from the Times Union. He
have might said it was from Odato and I might have
told the Superintendent: We got a FOIL from
Odato. I don't remember saying that. I remember
saying that we got a FOIL request.

Q. Do you provides other materials beyond the
packet that the State Police had provided to you
in response to the FOIL?
A. To the FOIL?
Q. Yes.
A. Darren had asked me if there was some policy
related to aviation policy, if there was a formal
policy related to aviation. And I had given him a
copy of the FOIL I had. And I think there is an
e-mail someplace that says I put it on his chair.
That's what I gave him, and that was coming up as
part of the conversation as well.

Q. When the article come out in the Times Union
on July 1st did you see the article?
A. Oh, yeah.
Q. Did you see the documents annexed to the
article?
A. I didn't until later on. I didn't bother to
on line and check them out, so I didn't.
Q. When did you see the documents?
A. I don't think I ever actually did check them out on line. I think I saw them as part of the A.G. -- no, it couldn't have been the A.G. The A.G. didn't share any documents with me when I went down for the testimony. So it must have been the D.A. or prepping for the D.A.'s testimony or something like that. But I didn't really bother to look at them at the time the story was published.

Q. Did there come a time when you provided other itineraries to Darren Dopp?

A. Just the one that I can recall which was, I think, on July 2nd. He asked me -- I think he told me he had gotten another FOIL request from Jim Odato. And I'm pretty sure he said Odato this time. And he indicated he was looking for all of the June trips.

Q. That he had gotten another FOIL request?

A. I think he said he got another FOIL request. And I either e-mailed or called Felton and asked for any of the June trips. I think that's on July 2nd. I'm not positive of the date.

(Commission Exhibit 71 was marked for identification.)
Q. I'm going to show you what has been marked as Commission's Exhibit 71. Can you identify this document?

A. Yes. This is what I was just referring to. I had received in a request based on Darren's request to me for any other trips for the month of June, any trips for the month of June. And I made the request to Preston Felton probably by phone, I would guess. And this was the response. And I think I have other material I am bringing down. My recollection is that I printed out the same thing I was forwarding him. I think I gave him a hard copy of the ground transportation schedule for the June 27th trip.

Q. I'm going to show you Commission's Exhibit 4.

A. Right. I think this is what I gave him. Why I did it that way, because I already sent him the information. I think I gave him the one piece of paper or the 2 pieces of paper, but I gave him a hard copy.

Q. And, it was your understanding that he had received an additional request for this document?

A. I was operating on the assumption that Jim
Q. If I told you Jim Odato's separate FOIL didn't come in until July 10th would that change your explanation?

A. Yes. That would surprise me because my recollection in getting this document is that it came -- I thought it came specifically from a request from Darren indicating Jim Odato had FOILed for this information. I don't think the information has ever been shared, by the way. I don't think this document that was FOILed has ever been shared.

Q. Commission's Exhibit 4, you don't believe that was ever shared with who?

A. I don't think it was ever shared with Jim Odato. I think it was sticking out there as an unresponded-to FOIL. And I believed that up until two minutes ago that this was a FOIL request that had been received from Odato that had not yet been responded to and had basically been forgotten about. My understanding was this there is no official business that takes place on this trip and this trip has some exposure. That's what I
BY MS. SULLIVAN:

Q. Who told you that?

A. Preston Felton told me there was one meeting with I think Mayor Bloomberg that was supposed to take place on this day and because of weather issues they couldn't do that meeting. So what we were left with is basically a political meeting but no official business meeting for that day.

And I'm pretty sure I expressed that to Darren as an issue. In fact, I know I expressed to him the weather issue because I thought it was somewhat of a mitigating factor that: Yes, it's true that this would probably violate even the previous ethics policy, but on the other hand there was a weather issue. And I wanted him to be aware of that.

Q. When you say "the previous ethics policy," when had you discussed the previous ethics policy with Darren in the past?

A. I don't know that I ever did. I can't ever remember having that discussion with him in the past. But I remember in the context of this trip mentioning to him: This looks to be a purely
political meeting, but be aware that there is this issue of the weather. Apparently, they decided to come back from the City so there is no official business for this day. And I know there had probably been general discussions about the mix of political business and official -- we talked about that previously. But I think this might have been the first time that I actually indicated: But don't get too excited here because I think the weather issue mitigates those other factors.

Q. When did you start having these conversations with Mr. Dopp about the political implications versus the straight transportation?

A. Mostly -- and I won't say not at all about Bruno, but mostly about the Governor when I talked about the split between the Pataki bills and the Governor's travel and the Bruno issue, within the context of the Governor's travel issue there's a lot of discussion with Darren, some of which is probably reflected in the e-mails and a lot of which I remember as direct conversations about how did you do this? How did you guys decide with Pataki what was political and what was not? How did you work the schedule? And I tried the best I
could to give guidance. So, those issues were being discussed back in -- I don't know. Pataki pays the final bill I think on May 15th for the charter trip. So, prior to that there was all sorts of discussions about: Is this appropriate? If we did a whole bunch of business trips and one big political trip at the end of the day, would that pass muster? So, there were a lot of discussions not about Bruno but about the Governor and comparing to Pataki and how he did things.

Q. So, in mid May you are having a lot of conversation, a lot of talk about Governor Pataki's use of the craft?

A. Right.

Q. And the standards for looking at that?

A. Right, because I have those bills that are unpaid.

Q. And the focus turns almost immediately to Senator Bruno at that same time?

A. That's why when you showed me the earlier e-mail I don't remember a discussion that went back that far. But in my mind this evolved from the discussion about Governor Pataki's travel and the settlement of the bills, the discussion of
Governor Spitzer's travel and figuring out the appropriate reimbursement level and it gets into the Bruno piece. That's why in my mind I had it pegged to like mid May.

Q. And, then, in mid May we go from discussing Governor Pataki and the Governor's travel issues immediately into looking at Joseph Bruno's travel situation.

A. Because of the leaders meeting which they were trying to put together which they said they couldn't do because of the fundraiser that night. It kind of evolves in that way.

Q. And, it's the same issue as to whether or not the helicopter is being used for political purposes --

A. Right.

Q. -- by Senator Bruno?

A. There was incredulity associated with the issue of: You don't suppose they are flying to the fundraiser tonight; do you? Are they really taking the state helicopter to the fundraiser tonight? That's the way it came over to me from Darren, so -- that's the way it was put to me

Q. So, Darren is looking at the issue of
Senator Bruno on May 15 -- May 17th as an issue of whether this is the political -- the use of the helicopter for political purposes?

A. Potentially, yes, absolutely.

Q. After the Times Union article comes out -- I think you mentioned earlier that Glen Miner is in contact with you concerning the press activities at this point?

A. Yes.

Q. Can you explain that?

A. You know, it's not untypical of the relationships. The press officers often would call me on stuff because, as I said, they had trouble getting an answer or they weren't getting their phone calls returned, because the press office is very busy. So, I don't know how it all started, but it may have started with just a response back to me from Glen -- e-mail response, I think -- indicating that, you know, he is in dialogue with the reporters and he has this one, that one, this one asking questions. And, then, I think he sends me another e-mail almost apologizing for not throwing one or two other reporters in the mix who are inquiring. And he is
now engaged from the press standpoint and he's in
contact with me to give me a heads-up that the
press is asking questions and he needs to know the
answers to those questions. I don't know if in
Glen's frustration -- he can speak to that. Many
times the press officers get frustrated because
they are not getting guidance from the press
office sometimes as quickly as they need it to
satisfy the press inquiries.

Q. So, he is now turning to you?
A. Not for the responses or not what he says,
but: Can you get me -- is there a statement that
has come out from the Governor? Are you guys
saying -- is there something that I should be
saying in that response? And I think I am either
walking down to Darren's office to try to
encourage them to deal with Glen, or: We're in
the process of putting out a statement and I know
there is a draft statement that's done. We have
it a binder there where I do run it by state
police and ask them the question: Is that okay?
They tell me it's okay and I bring it back to
Darren saying the state police is okay with the
statement sa well. And this is sometime after the
1 story that a public statement comes out.
2 Q. Are you talking to anyone else in the
3 chamber at this point?
4 A. Darren, obviously. But I don't believe --
5 maybe Paul Larrabee a little bit, but probably
6 not. On this stuff, probably mostly Darren.
7 Q. Did you have any conversations with Richard
8 Baum?
9 A. No, none.
10 (Commission's Exhibit 72 was marked for
11 identification.)
12 Q. I am going to show you what has been marked
13 as Commission's Exhibit 72. Can you identify this
14 document?
15 A. Yes. I had forgotten about this. I
16 received a call from Steve Logasso, the Secretary
17 to the Senate and who is very close to Senator
18 Bruno. It was basically a shot across the mouth.
19 He was pretty much pleasantly threatening me with
20 the idea that: Your new friends on the second
21 floor are throwing you under the bus. They are
22 blaming you for all of this. I wanted you to know
23 that that is the case. I have the e-mail
24 exchanges that were given to Fred Dicker from the
second floor and they are saying you are the reason for all of this stuff. And I said, you know -- I don't know what my response was, just basically to poo-poo that. And he said: Well, keep your head low, my friend, because bad stuff is coming your way. And I assumed that that was an attempt to see whether or not when it really hit the fan whether or not Bill Howard would step up and support Senator Bruno. That's what I thought. And I thought it was a clear warning note given to me in a pleasant non-threatening way by the Secretary to the Senate. And I thought that that was something I needed to report to Rich Baum.

Q. Why did you feel you needed to report it to Rich Baum?

A. I think that's one of those issues when the Secretary to the Senate calls up, particularly now that the story appeared and people are calling for investigations and things like that, that's something I felt like I needed him to be aware of. It was a contact with the Senate under the worst of circumstances. Well, we didn't see the worst of circumstances at this point. But it was under
bad circumstances and he needed to know about it.
I didn't know what they were going to do about it.
And, my goal was to be as smart as I possibly
could in dealing with the Senate because I assumed
everything I said could end up in the newspaper.
Q. So, at that point you are reaching out to
Baum that you had been approached by the Senate?
A. Right. And I thought the clear intent is to
see whether Bill Howard is willing to kind of step
forward and buck the administration. That's kind
of what I thought was in the message.
Q. Did you have any conversations with Richard
Baum bout this?
A. I did. I told help kind of what was said,
how it was said. There was a brief conversation.
Q. And what was his response?
A. Just, you know, no real response. Not
really taking it all that seriously, kind of
laughing it off. Again, I wouldn't want to leave
here with the impression that -- I have been
threatened a lot in my career. I didn't take this
as a threat. I thought this was a little shot
across the mouth. Some bad stuff is going to come
your way and I want to be sure it does.
MS. TOOHER: I think we are done.

INTERVIEWEE: Can I say something at the end?

MS. TOOHER: If you would like to make a statement you certainly may. I would ask that it be brief.

INTERVIEWEE: I want to thank you for the way I have been treated. I want to thank you for the opportunity to look at exhibits. It's something that when I was sitting with the Attorney General I was not given the opportunity to look at any exhibits. I think there is confusion at some point in my testimony because I wasn't able to look at exhibits. And I think if you review that testimony -- you probably already have -- there are at least several points where the Attorney General folks indicate: We will show you testimony. They never did. And I think everybody is trying to do the best job they possibly can to figure out the story here and figure out whether or not there has been any violations of any of the laws. And I appreciate your efforts to try to get to that same result. I tried to the best of my ability to be honest and
forthright and to tell you everything that I know.
And I have tried to do that very sincerely today.
I would also like to get on the record
the issue that -- I mean -- I hope I can get
through this. This has been very, very difficult
for me. And I am a person that is very proud of
what I have been able to do for State government
over many, many years. I think that when I look
at the accomplishments that I have had in state
government and I see how it has been impacted and
affected by this series of events. I still do not
believe that I did anything that was
inappropriate. I don't think I did anything that
was out of my assigned duties. I know that isn't
part of -- sorry.
MS. SULLIVAN: Do you want a glass
of water?
INTERVIEWEE: Yes, please. One of the
things you will have to determine as you analyze
the record and analyze the testimony, but I wanted
to --
MS. TOOHER: Take your time.
INTERVIEWEE: I wanted to let you know
the impact that this event has had on my -- oh,
man. I'm sorry -- has had on me and my family
including my mother and father who are very proud
of what I have done in state government over the
years. I think I have acted with a supreme ethic
over the course of my career. I never took a meal
from a lobbyist in all those years that I was in
the legislature. I have always believed that I
stood to ethics in government and good government.
And if I felt at any point in this process that I
had done anything wrong I would have stopped it
because that's who I am and that's what I bring to
government.

I don't see anything that I did in this
that was out of my responsibilities and out of my
official duties. I think that I did, under very
difficult circumstances, what I was asked to do.
And I did it to the best of my ability. And if I
had it to do over again I would do things a lot
differently. I would probably talk to more
lawyers as I went through this process because I
think that's something that was probably missing
at my level in the interactions on this. But I
want to be very clear, if I can, and just say that
I would hope that as you look at these whole
circumstances, evaluate it based on 23 years of
state government, evaluate it based on what I have
done for the people of the state, and that there
was never a moment when I didn't walk into that
building and feel proud of what I did and what I
thought I was doing for the people of the state.
And this has been very, very difficult
emotionally. Financially, I have taken about a
$20,000 pay cut. I don't know what the future
holds in terms of my employability or continued
service in State government. I do think state
government is better for Bill Howard being in it.
I truly do. And I think if you look at things
that are far outside of politics that I have had
an unusual career from the standpoint of being a
person who has been thrust into a political
position but has not been a political person. And
I think you look at the Alfred E. Smith award for
Public Administration, you look at the highest
level of National Guard award that has ever been
presented to a civilian, you look at all of those
things that independently recognized a person who
has never solicited that stuff -- I couldn't have
cared about it. If I was going to be honored with
something I wanted it to have come from what was real and not what was orchestrated.

So, I would ask you to look at that record. Look at that record of accomplishment. Look at the cost that this has already wracked on my life financially and emotionally and otherwise and I hope that as you weight these option that you have available to you that you look at what has been a very distinguished career over many, many years and my hope that I can continue to do that career in state government as effectively as I have been asked to do it for the last 23.

And, I thank you. I was able to almost get through that and to say it from my heart as I do.

MS. TOOHER: Let me just say to you thank you for coming in today. We do appreciate it. The interest here is solely in doing a complete and thorough investigation into what happened. And we appreciate you coming in and testifying today. Thank you.

INTERVIEWEE: Thank you.

(The interview was concluded.)
STATE OF NEW YORK )
   ) SS:
COUNTY OF ALBANY )

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

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

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

IN WITNESS WHEREOF, I have hereunto set my hand.

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