

1 STATE OF NEW YORK
 2 COMMISSION ON PUBLIC INTEGRITY
 3 =====
 4 In the matter of
 5
 6 An Investigation into the Alleged
 7 Misuse of Resources of the Division
 8 of State Police
 9 =====

6 Commission on Public Integrity
 7 Alfred E. Smith Building
 8 80 South Swan Street, Suite 1147
 9 Albany, New York 12210-8004

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

10 STENOGRAPHIC RECORD of an Investigative
 11 Interview under oath conducted in the
 12 above-captioned matter.

12 INTERVIEWEE: WILLIAM F. HOWARD
 13

14 APPEARANCES: For the Commission:
 15
 16 HERBERT TEITELBAUM, ESQ.
 17 Executive Director
 18
 19 MEAVE M. TOOHER, ESQ.
 20 Investigative Counsel
 21
 22 JOAN P. SULLIVAN, ESQ.
 23 Investigative Counsel

24 PRESENT: ROBERT SHEA, Investigator
 25

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

1 PROCEEDINGS

2 WILLIAM HOWARD,

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

6 EXAMINATION BY MS. TOOHER:

7 Q. Do you want to state your name for the
8 record.

9 A. William F. Howard.

10 Q. You are here voluntarily today; is that
11 correct, Mr. Howard?

12 A. I am here voluntarily today.

13 Q. You are represented by counsel in this
14 proceeding; is that correct?

15 A. Yes. I talked to my counsel, Fred Newman,
16 this morning. He had a medical emergency last
17 night involving his wife. He is at the hospital
18 and regretted that he couldn't be here today with
19 me, but we have decided to move on with the
20 testimony.

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

23 A. I did.

24 Q. And, that you would be going forward without

1 counsel?

2 A. Yes.

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

7 THE WITNESS: Yes.

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

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

14 Q. How long have you been in that position?

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

20 Q. And what are your responsibilities in that
21 position?

22 A. Basically, building on what I did when I was
23 with Governor Pataki, and then to the Spitzer
24 administration. I am really responsibly for

1 coordinating Homeland Security efforts as well as
2 disaster response efforts. So I am the person
3 that is usually deployed to our command center
4 working somewhat around the clock dealing with
5 either manmade or terrorist-type actions that
6 could affect the State of New York.

7 Q. You indicated you moved there in late July.

8 A. Right.

9 Q. Where were you prior to that time?

10 A. Prior, immediately prior to that time I was
11 working for the State University of New York at
12 Albany and was assigned as the Executive Director
13 of this new Homeland Security Institute that we
14 were seeking to put together. I assumed that is
15 where I would be going at the end of the Pataki
16 administration. Through an agreement with the
17 Governor's Office they decided to keep me in the
18 Governor's Office in Governor Spitzer's
19 administration for six months. And, during that
20 time I did the best I could to try to balance the
21 responsibilities of the assumed position with the
22 Governor's Office position. So, I was attending
23 meetings at SUNY on a work product that I was
24 doing for SUNY. I was also assisting the

1 administration with the transition of government.

2 Q. And, what were your responsibilities for the
3 executive chamber?

4 A. It was serving in the title of Assistant
5 Secretary for Homeland Security and had the
6 responsibilities of the State Emergency Management
7 office, State Police, Division of Military and
8 Naval Affairs, the Office of Homeland Security,
9 the Office of Cyber Security, and was serving in a
10 position, really, of coordinating those efforts as
11 related to what we call all hazards response. So,
12 either manmade or natural disaster type response
13 as well as preparedness issues for the state.

14 Q. You served in two positions; is that
15 correct?

16 A. It is a little unusual. What it was
17 intended to be was a loan arrangement between SUNY
18 and the second floor with the Governor's
19 administration. So, I really was kind of divided
20 betwixt and between two position. I was reporting
21 to SUNY on a weekly basis and also had some
22 deliverables I was working on for them. I had two
23 federal grants we were processing for homeland
24 security. I had this major initiative with what I

1 developed with the State Emergency Management
2 Office, which is this New York Alert System is
3 really something we were working on even prior to
4 Virginia Tech, which is a system of reaching the
5 public but also focusing on students so that
6 whether it's cell phone bursting or blackberry
7 accounts of those sorts of interactions, there
8 would be an immediate way of notifying students in
9 the case of an emergency. We kind of announced
10 it. We announced it at the Long Island Hurricane
11 Conference at the end of May, but we were waiting
12 to get some final bugs out of the system before
13 announcing as a major SUNY initiative. I think
14 the end of October was the plan.

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

19 A. Correct.

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

22 A. Really from the beginning of January;
23 January 1st through the time that the Governor
24 announced that I was leaving the administration

1 and was going into the state agency position. I
2 think that's where I got that date of July 24th
3 from. That was in the press statement that was
4 put out in the midst of all the -- the Attorney
5 General's reports had come out. The Governor had
6 a press conference and indicated that I was going
7 to be leaving the second floor and Darren Dopp was
8 going to be leaving the second floor. And I spent
9 about a week or so not knowing what was going on
10 before I ended up at the Office of Homeland
11 Security. So, I think the technical start date
12 for Homeland Security was August 1st.

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

15 A. I was surprised, quite honestly. I didn't
16 think that in any of this affair that has been so
17 widely reported in the media that I did anything
18 wrong. I thought what I was doing was related to
19 my official duties. I think at on any point based
20 on anyone that you could talk to about what Bill
21 Howard's public service career for the last 23
22 years, it would be one where people talk about the
23 work ethic, talk about the personal ethics. And
24 if I thought at any point in this process that

1 anything I was doing was wrong, I would have
2 stopped it from happening. And I didn't think
3 that asking for the information from the State
4 Police was anything that was inappropriate. But
5 by feeling on July 24th when I somewhat got hit
6 between the eyes by the press conference and the
7 press release was that this whole furor had
8 erupted and the Governor had made the decision,
9 which is his prerogative -- I was employee for 23
10 years of service -- to make changes on the second
11 floor. It killed me to leave that building that
12 day. In fact, as I was leaving going into my car
13 I actually turned one last time and gave it a nice
14 salute. But, the circumstances, I think, were
15 something that was in response to the Attorney
16 General's report and in response to the media
17 accounts that were starting to circulate.

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

20 A. Okay. I received a call from my attorney at
21 home the night before. I think the press
22 conference was a Monday, if I am not mistaken. I
23 might be mistaken but I think it was a Monday.
24 And I believe the call came in on a Sunday night

1 late indicating that the Governor was going to
2 have a press conference the next morning. I had
3 had no contact with people in the executive
4 chamber for sometime; I can't tell you accurately
5 how long that time was. But there was no contact
6 between me and the second floor for some time
7 period. And my attorney indicated that I was
8 going to be taken off the floor; that there
9 probably was going to be a significant salary
10 reduction, but that they had received word -- I
11 don't know who he got the word from -- but my
12 services were valued by the administration and the
13 hope was to either find a place for me at the
14 State Emergency Management Office or Office of
15 Homeland Security. I think I provided tremendous
16 value to the administration, I think not only in
17 the transition period in terms of providing advice
18 on how to set up the government but I think that
19 folks throughout the course of my employment there
20 indicated to me -- and I am not a person who tries
21 to toot own horn -- probably just the opposite.
22 But there were people who told me they slept
23 better at night knowing I was dealing with the
24 issues I was dealing with. And, I think that had

1 I not ended up in a state agency I still would
2 have worked in the world that I get so much
3 patriotic feeling from, this Homeland
4 Security/Disaster Response.

5 Q. When you say your attorney called you, was
6 that Mr. Newman?

7 A. Yes, Fred Newman.

8 Q. When did you first engage Mr. Newman?

9 A. I think July 20th was the date.

10 Q. Were you ever given a reason as to why you
11 were being moved?

12 A. No. I mean the only reason that I have is
13 what was in the press conference. And from that
14 moment on, other than some give-and-take back and
15 forth between trying to work out the details going
16 to Homeland Security or SEMO, I can't recall any
17 articulation as to why I was leaving the second
18 floor, other than what was in the press conference
19 and in the press release.

20 Q. Prior to serving with the current
21 administration you were employed with Governor
22 Pataki; is that correct?

23 A. I was.

24 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

1 travel issues. I think easily within two years of
2 the end of the administration I was actually
3 signing off on the executive travel which would
4 include the requests from the Governor for
5 helicopter usage as well as not all, but many
6 senior staff literal flow travel requests. And I
7 don't really know why I got some and I didn't get
8 others, but I got most of the senior staff as well
9 as my own staff, the secretaries and the program
10 associates that were working for me. And I also
11 would sign off on the requests for travel for the
12 legislators and others that might want to use the
13 helicopter or aircraft.

14 Q. Did you have experience in dealing with
15 Senator Bruno's travel?

16 A. I did.

17 Q. Can you relate that experience?

18 A. It was actually far more routine than what
19 would be described in the media, I suppose. There
20 was one incident of conflict between the senator
21 and myself that I did report back to the District
22 Attorney when I was being interviewed by them. I
23 did deny the use of the helicopter for a trip to
24 the City.

1 Q. Do you know approximately when this was?

2 A. Yeah. And I think I was mistaken in my
3 testimony because in the testimony I think I said
4 it was June because that's what I recalled. But
5 based on the issues that are out there with the
6 former commission, I believe it was probably
7 December because my understanding was that it was
8 in response to my denial of the helicopter that
9 the Senator then went to Mr. Abbruzzese and was
10 able to get an aircraft to the City. And, I
11 believe that time frame was December and not June.

12 Q. December of what year?

13 A. 2005. And the senator called, me in
14 response to the decision almost immediately when
15 the helicopter was not available. I think we have
16 four executive ships and there were two that were
17 generally used for executive travel. One was
18 being used by the Governor that day and the other
19 was down for maintenance. So, I think it was in
20 the middle of some difficult relations between the
21 Governor and the Senator. And when the helicopter
22 got denied I think bad intent was assumed. The
23 reality was that the helicopter was down.

24 The Senator had some sort of access to

1 State Police. And I have never been able to
2 figure out who that was. My thought was that it
3 was probably at a very low level, maybe between
4 the secretaries from Bruno's office and the
5 secretary from State Police, but I don't know that
6 to be the case. But, at any rate, what was
7 reported say back to by the senator is he had it
8 on good authority to contact the State Police that
9 there was, in fact, a helicopter available and
10 this was just ridiculous that the helicopter was
11 being pulled. He indicated to me that this was a
12 privilege associated with his position and went on
13 to say if this was the Governor that he would
14 understand, but if I'm taking an executive
15 helicopter and using it for the Lieutenant
16 Governor, that's just not right. And I indicated
17 that I had checked before I made the denial and,
18 in fact, there was one executive ship being used
19 by the Governor and another one down for
20 maintenance. And the one he thought was available
21 was actually a medi vac helicopter. And I was
22 under specific instructions from John Cahill going
23 back at least a year, I think, that we would never
24 allow executive travel on a medi vac helicopter.

1 We'd never take one out of service for that
2 purpose. I think he was skeptical but accepted
3 the explanation. He indicated that he was going
4 to check on it and if this wasn't the case, he was
5 going to be calling me back and we were going to
6 have a different conversation. I never got a call
7 back. And it's the only time he ever called me on
8 any issue that was unrelated to legislation or
9 some other issue. I didn't take animus from it.
10 I have respect for the Senator. I thought it was
11 an interesting exchange in the history of my
12 exchanges over the last 23 years, but I didn't
13 have any kind of residual feeling after it was
14 over.

15 Q. So, in December 2005, your denial of use
16 of the aircraft to Senator Bruno was based on lack
17 of availability of a craft?

18 A. Correct.

19 Q. Did you ever have any other occasion to deny
20 the Senator use of aircraft?

21 A. He claimed in that conversation that there
22 had been other occasions, but I don't recall ever
23 having denied him a helicopter. I didn't remember
24 it then and I don't remember it now. I think

1 there were others who might have had the duty
2 prior to me. I think there was a period of time
3 between John Cahill and myself when Caroline Ahl
4 who was our Deputy Secretary for Administration, I
5 think she had done the helicopter duties for some
6 brief period of time, because I don't think I
7 literally took it over from John Cahill. There
8 may have been denials during that period but I
9 wasn't aware of any.

10 Q. You just spoke of the helicopter.

11 A. Um-hmm.

12 Q. During the Pataki administration what were
13 those duties per se?

14 A. There would be requests for the helicopter
15 that would come in a variety of forms. Sometimes
16 it would be a phone conversation from our own
17 folks.

18 Q. To be clear, we are talking about Senator
19 Bruno's requests at this point.

20 A. If I could, let me just go back to the
21 Governor's, because that was the primary
22 responsibilities, really, the Governor's travel.
23 You would either get an e-mail from our scheduling
24 office on behalf of Governor Pataki or a phone

1 call if there was short notice and they might have
2 been changing the schedules around that day, so
3 you might have gotten a phone call on that. Or,
4 you might have gotten something more formal that
5 came over as something that had been prepared days
6 in advance. It was the same sheet that was
7 produced at least four or five times now before
8 the modifications by Governor Spitzer that would
9 just attest that was for public -- official
10 business. And there would be a sign-up sheet on
11 the bottom where I would put either my initials or
12 put my full signature on that form. And that
13 would approve the flight. And what I would do as
14 part of the duties would be to review the
15 Governor's schedule if I could. And I think the
16 only time I couldn't do that is if it was
17 something that was coming over orally. But if it
18 was something in writing, either an e-mail or
19 something that was prepared in advance from the
20 scheduling office, I would literally look at the
21 schedule. I would apply that "smell" test,
22 basically, as to whether or not this looked like
23 it was official business or looked like it was
24 more of a political type trip. And after the fact

1 -- I would deny. I denied Pataki the helicopter
2 several times based on the fact that I didn't like
3 the way the schedule looked. And I always tried
4 to balance it --

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

7 A. Yes. If the schedule was heavy on politics
8 and light on business we would tend to question
9 that. I would tend to question that. And in some
10 instances where he might have had an official
11 business schedules in the City, let's say, but the
12 next day was seeking to come back to Albany, I
13 would make sure that the meeting that was in
14 Albany was a legitimate meeting and it wasn't just
15 a five-minute meeting with somebody taking place
16 from the standpoint of justifying the helicopter
17 for official business purposes. I get myself in a
18 little bit of difficulty from time to time as we
19 worked through the issues but I took the duties
20 seriously. I hoped that the folks that did it
21 before me took it as seriously. I would look at
22 that schedule and at the end of the year or so, or
23 before the end of the year I would sit down and go
24 through and look at that schedule again and make

1 the decisions about what was imputed tax income
2 and what was purely for business. And we would
3 actually analyze the schedule to make sure that
4 meetings were appropriate and not just five-minute
5 meetings to make it look like it was an official
6 business type situation.

7 Q. Did you have an understanding as to what was
8 the standard for allowing or denying the craft?

9 A. I had an understanding, but I can't say that
10 I actually ever looked at the Ethics opinion. And
11 I have done that now, but I hadn't done it at the
12 time.

13 Q. When you say you looked at the Ethics
14 opinion, what are you referring to?

15 A. I think I am talking about the '95 opinion
16 that has been referenced in some of the documents.
17 And I certainly looked at the new opinion that has
18 been reached and I followed the discussion about
19 use of the helicopters and use of aviation access.
20 So, at the time, I think I had a general
21 understanding of what those policies were. And I
22 think in looking back it's probably consistent
23 with where the Commission went.

24 Q. What was your understanding as to what the

1 standard was at that time?

2 A. The standard was that there would be -- the
3 use of the aviation assets was required to be used
4 for official business. And I think my
5 interpretation at the time which may not have been
6 accurate to the way the opinion was actual
7 written, was that it had to be primarily official
8 business and that the political side of it would
9 be somewhat incidental. And I think the standard
10 that I applied in reviewing this was based on that
11 sort of understanding that this was primarily, you
12 know, for official business. And in the course of
13 particularly the Governor's schedules there
14 happened to be some political stuff that was
15 interspersed within that that primarily official
16 business standard would reign. So, I now know
17 that wasn't necessarily the opinion of the Ethics
18 Commission, but that is the standard I was
19 applying in reviewing these situations. With the
20 Senator's situation probably less detailed in the
21 analysis. We would get the request, and I think
22 based on the experience that I had in December of
23 2005 with the denial of the helicopter was
24 immediately met the next day with a New York Post

1 article that appeared in the paper.

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

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

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

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

21 A. I would receive from our scheduling office a
22 copy of what had gone from the senator's office to
23 them. There was other than the one call from the
24 senator to myself I don't think there was ever any

1 direct contact between my office, Bill Howard's
2 office, and the senator's office. So, it always
3 came to me through another office in the executive
4 chamber.

5 Q. What would you get from that office, what
6 documentation?

7 A. The old version of the flight request form
8 before the January to February modifications of
9 this year.

10 Q. And is that all that you would receive from
11 the senator?

12 A. There was never a schedule or anything that
13 was clipped to that statement. It was always a
14 one-page document. And that was that one line
15 where it was -- it's not as strong a language as
16 they have under the Spitzer administration, but
17 there was an statement that needed to be made that
18 it was for official business. And there would be
19 some notation that it was for official business.
20 No signature or anything from the Senate, but some
21 one-line statement that it was for official
22 business.

23 Q. And what factors would you consider in
24 making a determination on the senator's request?

1 A. I mean I had no schedule to base the type of
2 judgments that I was basing the Pataki calculation
3 on. And I would say -- I also very infrequently
4 but I would also get requests from state agencies
5 where -- these were the commissioners;
6 particularly like Chauncey Parker from DCJS when
7 they were doing a major state run on DNA or some
8 other major legislative initiative, we also
9 approved the flights for the commissioners who
10 were a part of that effort because it was an
11 efficient way of getting around the state. So, I
12 paid a lot of attention to the commissioners'
13 schedules when they were flying. I paid a lot of
14 attention to Pataki's schedule when he was flying
15 and less attention to Bruno's schedule because I
16 simply didn't have the information available. And
17 I think my fingers were somewhat singed from the
18 last experience with Senator Bruno.

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

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

24 Q. Did you ever have any discussions with

1 anyone at the State Police concerning the
2 senator's use of the plane?

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

6 Q. What were those discussions?

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

22 Q. What were are the issues in ground
23 transportation?

24 A. I don't recall the first time that I ever

1 heard that the State Police was providing ground
2 transportation. But I remember being surprised to
3 learn that the State Police was providing ground
4 transportation to the senator and to his staff.
5 There was the issue that was described in the
6 first report and also in the newspapers about the
7 State Police actually accompanying him into
8 fund-raising events and into other events in the
9 City. And my belief was that based on complaints
10 that were made about the State Police escorting
11 him into these political events, that that
12 practice had stopped. Now, I thought -- and I
13 might have been mistaken in this -- but I thought
14 in the conversations that I had had, I believed
15 with Wayne Bennett who was the Superintendent at
16 the time, I believed that the actual ground
17 transportation aspects had stopped. It is now
18 apparent that they hadn't. And it may have been
19 confusion on my part; it is may have been
20 confusion on Wayne Bennett's part. It looks like
21 what was actually modified after the complaints
22 was not the pickup from the heliport and bringing
23 to the event but, rather, the actual State Police
24 going into the events with the senator. That

1 seems like that was a practice that stopped that
2 was about the time I thought I was having the
3 conversations with the State police to stop the
4 pickups. When I found out -- I think it was
5 January or February at a meeting in the Governor's
6 office but not with the Governor -- a meeting with
7 Marlene Turner, his Chief of Staff, and a fellow
8 by the name of Walt Tipple who is with the State
9 Police. I made the comment in the meeting when we
10 were talking about the flight request forms,
11 taking about how the helicopter worked, how many
12 times we did imputed income, on all these
13 wide-ranging issues that were within my duties in
14 terms of advising them on transition issues. And
15 I made a statement where I said that -- I said:
16 Be advised that Senator Bruno is going to be
17 asking you to use the helicopter. So, just be
18 aware that that is a request that's going to come
19 in. They were surprised. They didn't know that
20 was actually something that was done. I said that
21 in of the old days the State police actually had a
22 process of picking him up and the heliport and
23 bringing him to the events but I've stopped that.
24 And at the moment I said that, I thoroughly

1 believed that that practice that stopped. And I
2 now know from reading far too many reports that
3 that actually didn't stop and they continued to do
4 it. But it sounds to me like what they did,
5 either through interpretation or miscommunication,
6 they actually stopped going into the events with
7 the senator and waited in the car.

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

14 A. Right.

15 Q. -- in New York City?

16 A. Political events.

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

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

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

24 A. Yes.

1 Q. -- indicating that you wanted -- I am just
2 going to use the word "that" at this point to
3 stop?

4 A. Right.

5 Q. Your understanding was it included all
6 transportation as well as entering the political
7 events with him?

8 A. Right, yes.

9 Q. At some point you became aware that he is
10 still being provided ground transportation?

11 A. And I would date that to February of this
12 year, late January to February of this year.

13 Q. Did you have any understanding as to how
14 Senator Bruno was getting from the heliport to
15 wherever he was going when he got to New York
16 City?

17 A. My understanding, which would be back last
18 year, was that there had been a relationship that
19 developed -- and I kind of alluded to this earlier
20 -- a relationship that developed at the very least
21 between the senator's office and the State Police.
22 But I believe Troop New York City, State Police,
23 so that they were making their own arrangements at
24 some point for the pickups. And I have read the

1 paper over the weekend and looked at the material
2 that was provided by the State Police. I thought
3 it was interesting that in Bruno's own schedules
4 they indicated that these were State Police
5 drivers. And that was at least I think three
6 occasions in their own provided schedules to State
7 Police that they viewed the State Police as State
8 Police drivers in those forms.

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

13 A. I had not been provided with those
14 schedules. And I think there is an issue in the
15 Attorney General's report that I'm kind of tabbed
16 with this idea that I had said that I had never
17 seen a schedule in advance of, you know, a trip or
18 something along those lines. And that's taken
19 back by the A.G.'s office as a criticism that,
20 clearly, Howard had seen the schedule because the
21 schedule had been e-mailed to him on such-and-such
22 a date. My reference point in the testimony was
23 relating to being asked for a flight. Those often
24 came in advance. The issue was in my experience I

1 never saw an actual request for ground
2 transportation. That was something that was
3 somehow handled outside of the main system of just
4 approving the flight request. So -- and to this
5 day I don't think I ever saw a request for that
6 ground transportation -- never saw one, but
7 certainly never saw one in advance of a trip
8 planned for the City. And that was what my
9 comment back to the Attorney General's folks was
10 that I had never seen one of those in advance.

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

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

16 Q. During the Pataki administration?

17 A. During the Pataki administration. And, of
18 course, my experience with helicopters went away
19 during the Spitzer administration also. I had no
20 responsibility whatsoever dealing with helicopters
21 once the change of administrations. But during
22 Pataki I never saw is a itinerary, safe to say
23 either before or after a trip. And my approval
24 was based on the fact that I got that flight

1 request form and it had a sign-off sheet and they
2 attested to the fact, if you will, that this was
3 for official business purposes.

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

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

1 of form guiding their travels during the course of
2 the day.

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

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

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

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

21 Q. Did you have a conversation with either
22 Superintendent Bennett or Superintendent Felton
23 directing them to have the senator request ground
24 transportation directly through the

1 superintendent's office at any time during the
2 Pataki administration?

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

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

17 A. Yes.

18 Q. What was the nature of that conversation?

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

23 Q. Did you ever request that that relationship
24 be modified in any way?

1 A. I mean I was under the impression that it
2 had stopped. And I think that conversation came
3 with Superintendent Bennett. And I think that
4 that probably comes together in terms of the time
5 frame because I think that you have got Wayne
6 Bennett as the superintendent where I'm having
7 that conversation that I thought would lead to
8 this transportation stopping. But, at the same
9 time, you have got Felton as the First Deputy
10 serving Wayne Bennett. And I think the
11 conversation I had with Preston about that was
12 probably before he became Acting Superintendent.
13 So, those two conversations were all kind of
14 consequent to each other.

15 BY MR. TEITELBAUM:

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

24 A. I think that's accurate, yes.

1 Q. Why was that? Why didn't you do that, check
2 to see if the representation was correct?

3 A. I think we erred on the side of not creating
4 potential issues. We trusted that the statement
5 that was being made that this was for official
6 business purposes would be sufficient. I think
7 from my standpoint I saw the air asset that I was
8 regulating, if you will, as something that as much
9 information as I had available to me to make the
10 decision and I didn't have that information
11 available from the senator's office and,
12 admittedly, didn't seek it out either. But I had
13 that information from the Governor and from the
14 agency commissioners and other officials who
15 sought to use the helicopter, so I thought I was
16 performing my duties by being very diligent about
17 the Governor's use and the administration's use.
18 And probably, in retrospect, I thought I was
19 avoiding a lot of potential negative issues
20 related to the relationship between the Governor
21 and Senator Bruno by trusting that the statement
22 they made on the form that this was official
23 business and would be sufficient.

24 Q. You referred to not having information from

1 Senator Bruno but having information from the
2 Governor and the people in the executive branch.
3 What information are you referring to?

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

18 With the Governor I had a very, very
19 detailed schedule available to me. It's not the
20 same type of schedule that I would have had
21 available to me even in the position I was in with
22 Governor Spitzer. But with Governor Pataki I had
23 a very detailed schedule that told virtually every
24 minute of his day in terms of where he was going

1 from both personal, political, and professional
2 standpoint. So, I could look at that schedule and
3 get a really good idea as to the time frames and
4 who he was meeting with and get a good picture and
5 appropriate view of the helicopter or the air
6 assets for that purpose.

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

11 A. I don't recall ever having that
12 conversation. And I wasn't getting it directly,
13 so I don't know thinking back. I didn't really
14 miss it at the time in looking back at it. I knew
15 that the primary contact was between our
16 scheduling office and his scheduling office. And
17 I don't know that I didn't assume that there were
18 other conversations that were taking place. But
19 honestly, in retrospect, I thought it was
20 sufficient that someone was signing off that this
21 was for official business purposes. And I thought
22 that I had more control and more responsibility
23 over the Governor's use the administration's use
24 of the aircraft.

1 Q. Than you had over the legislature?

2 A. Than I had over the legislature.

3 BY MS. SULLIVAN:

4 Q. So, you didn't feel handicapped by not
5 having the senator's schedule?

6 A. I don't recall that as a feeling. As I sit
7 here today I don't recall that as a feeling. I
8 was skeptical of every Thursday a trip to New York
9 City. I had heard stories through the grapevine
10 over the years. And I believed that as long as he
11 was certifying that this was for official business
12 that if there were consequences to come from the
13 abuse, then they would come separate from anything
14 I could do in signing that form. If there had
15 been something that was of a detailed nature like
16 these schedules I am seeing here, or even the
17 Governor's schedule that have showed, I would have
18 looked at it and evaluated it and I probably would
19 have been in the newspaper a lot more for denying
20 aircraft. I didn't see it as part of my
21 responsibilities.

22 BY MS. TOOHER:

23 Q. You testified earlier, though -- we will
24 move into the Spitzer administration -- that you

1 had a meeting with Marlene Turner and Walter

2 Tepple --

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

4 Q. From the State Police --

5 A. He was with State Police.

6 Q. -- early in the Spitzer administration.

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

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

11 A. Very impressionistically, I would say I
12 think it wasn't like literally tied to documents.
13 It was at the stage where do document exist. I
14 mean this is the second transition I have gone
15 through and I really did want to be helpful to the
16 new -- I really wanted to be helpful to the new
17 folks. I'm being asked a whole bunch of questions
18 about everything. This was really square one in
19 terms of: Is there a policy? Do we have
20 something in writing? Who are the people that are
21 involved in this? What are the means by which
22 things are approved? And I think it was all
23 related to how do we get our arms around the issue
24 of travel. I think people were very spooked

1 spooked by it. They wanted to make sure they did
2 it exactly the right way. And they were looking
3 not so much for my technical expertise -- or legal
4 expertise, I should say -- not so much from a
5 legal standpoint because I'm not a lawyer, but
6 from my standpoint of having been in the
7 administration. How did you guys do this? How
8 did you guys make these decisions? What are some
9 of the issues? What are some of the land mines,
10 some of the things we need to be aware of. So,
11 all of that was part of the discussion. And,
12 then, by the way, there's this other thing that's
13 going to be out there that may surprise you. That
14 is, the Senator and Speaker and, occasionally it
15 commissioners will ask for either use of the
16 helicopter and airplane. That was my heads-up to
17 them that: Be aware that this is an issue. It's
18 kind of a hot potato from time to time and it's
19 coming your way. And I think the first request
20 came two days later.

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

23 A. There's how I saw it and there's what I
24 presented. What I presented didn't really -- was

1 not really indicative of what I was thinking at
2 the time. It was more of a heads-up. This is an
3 issue. You are going to get requests. You'd
4 better figure out what you want to do because it's
5 going to come at the last minute and you kind of
6 want to know how you're going to handle this in
7 advance of that. That's where I saw my value was,
8 trying to help people anticipate the things that
9 based on my 12 years of Pataki we kind of know are
10 going to come your way and just giving them the
11 heads-up that if you can think about it a little
12 in advance and make a decision. What was going on
13 in the back of my head and didn't express is that
14 this is a flash point issue. It's a flash point
15 issue of they all worked very well, very smoothly
16 when the airplane gets approved. When the
17 helicopter gets denied for whatever reason,
18 depending on where your relationships are with the
19 legislature all sorts of bad intend may came from
20 that and you could wind up in the newspaper on an
21 issue that you would never anticipate was going to
22 be picked up with the New York Post. So, it was
23 kind of my heads-up to them without saying all of
24 that.

1 Q. But, at this point, you didn't relay that
2 information to them?

3 A. Right.

4 Q. Did you ever relay to that information to
5 them?

6 A. No.

7 Q. When you say you told them this issue was
8 coming down the pike, so to speak, did you give
9 them any further guidance as to what they might
10 want to look at or what types of documents they
11 would be getting?

12 A. Yes. I said that we should have a better
13 policy and that we should really struggle toward a
14 policy that really tries to do this right. And
15 this was -- I don't mean to get emotional about
16 it, but it was kind of my second chance because
17 there were so many things I thought we had done
18 well under Pataki, and then there were things I
19 thought we hadn't done as well. From my
20 standpoint of where I sat in trying to help folks
21 set up the government and not thinking that I was
22 going to be able to serve in that government for
23 that long, my goal was to try to help identify
24 what those issues were that they didn't do as well

1 as they should have so that they could avoid
2 making those mistakes. And I saw that -- I don't
3 know how they saw me. But I saw that as what my
4 primary value to the administration was as a
5 student of history. It also comes back, you know.
6 And there are issues that are not going to be
7 unique to Pataki. They're going to come back on
8 Governor Spitzer, and I wanted these people to
9 succeed. Whatever happened to me, I wanted this
10 government to succeed. So, this was my way of
11 saying you really should have a policy that's
12 better than the policy we had and we'll kind of
13 work out the policy that gets us there. There
14 wasn't a lot of discussion in that particular
15 meeting because we had the fellow from the State
16 Police there. So, it wasn't a wide ranging policy
17 discussion. I think there was a phone
18 conversation later on. And somewhere -- and I
19 think it has been produced to the Commission --
20 there is a note in my handwriting that has some
21 observations about trying to put together, you
22 know, a form that requires the certification of
23 official business. And what I meant by that was
24 going beyond the form that Pataki had responded

1 to.

2 Q. Do you know approximately when that note
3 came into being?

4 A. It was around the time of that meeting.

5 Q. So, around February or early in the
6 administration?

7 A. I would say early -- probably February
8 because it wasn't something that I had at that
9 meeting which I think did predate the other
10 discussion.

11 Q. I would like to discuss what you did after
12 the meeting. During the meeting did you offer any
13 concrete suggestions as far as the ground
14 transportation or use of the helicopter or not?

15 A. No. I was kind of embarrassed by the ground
16 transportation issue. It wasn't really discussed.
17 What I said was that I'm kind of taking pride in
18 that "we stopped that; that's not going on
19 anymore," some statement to that effect. And I
20 looked over at Walt Tepple who was there and I saw
21 the look of surprise on his face which
22 communicated to me that this has not been stopped;
23 it's still going on. And I really don't want to
24 embarrass the State Police in front of the chief

1 of staff, so I didn't raise that issue any further
2 in that meeting. We had a discussion of a lot of
3 issues related to where the helicopters are
4 positioned, how long it takes to get to New York
5 City. How did you work out the imputed income
6 situation. I remember having a conversation where
7 I didn't know exactly how the calculation from a
8 tax standpoint had been done; they were done by
9 other folks. But I knew it was similar to the way
10 in which you would handle a vehicle that was an
11 official vehicle that was assigned. And you would
12 have the personal miles that you had to report and
13 you had to take that as imputed income. So, I
14 remember specifically talking about the issue of
15 imputed income in comparison to a prepared
16 statement.

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

19 A. I think I did. I think I said something
20 generally to the effect of having a stronger form
21 that would require either a schedule or greater
22 attestation would be helpful. But that was a
23 minimal part of the meeting. It was more about
24 the Governor.

1 Q. So, you don't recall having any further
2 detailed conversations concerning ground
3 transportation at that meeting?

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

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

11 A. Right.

12 Q. -- after the meeting?

13 A. I think that was a phone conversation.

14 Q. Who was that conversation with?

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

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

23 A. Yes.

24 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.

1 Q. You were sitting around a table?

2 A. No. I was sitting in Marlene's office. I
3 was sitting on the couch and she was behind her
4 desk. Actually, she was sitting on a chair in
5 front of me. There was a coffee table between us
6 and I was sitting on the couch.

7 Q. Was Ms. Turner taking notes or just
8 chit-chatting?

9 A. It was more informal chit-chat.

10 Q. Did you take notes?

11 A. I did not.

12 Q. Did you ever a pattern of taking notes when
13 up attended meetings when you were on the second
14 floor?

15 A. It really varied, and I think this meeting
16 I don't think was really scheduled. I think it
17 was something that as you are walking down the
18 hall and get dragged into it. So, I didn't take
19 notes at the meeting. And I don't think even had
20 a pad handy.

21 Q. But Walter Tepple at this meeting did take
22 notes?

23 A. Yes.

24 Q. When you would be sitting in meetings with

1 Marlene Turner, for example, would she be taking
2 notes?

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

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

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

14 Q. Summarize them in what fashion?

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

21 Q. The handwritten notes you would take in a
22 meeting frequently would be disposed of after you
23 prepared a more -- a summary of what was contained
24 in the note?

1 A. Yes. Unfortunately, in looking at my notes
2 they were not all that helpful to me after the
3 fact. By and large, I was not getting as much
4 from the notes as I did from the meeting. So, by
5 and large, I usually disposed of the notes after
6 the meeting. They were somewhat useless to me and
7 I disposed of them more often than not.

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

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

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

19 A. No.

20 Q. -- just to help you remember?

21 A. No. I think, you know, there were two notes
22 that were given over into, you know, as part of
23 the request for information and documents, and
24 those are the only two notes that I had in any

1 file when I emptied my file out.

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

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

7 BY MS. TOOHER:

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

11 A. Um-hmm.

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

14 A. After the initial conversation I wasn't
15 party to the conversations again. And the next --
16 after those two conversations, the one in the
17 Governor's Office and then the second conference
18 call conversation, some period of time went by. I
19 don't accurately recall the call. Weeks, maybe.
20 I don't think it was days; I think it was weeks.
21 And, somehow I got a hard copy of kind of -- kind
22 of an FYI, this is the revised form that is going
23 to be used. Not because I was responsible for
24 doing that anymore, but more as a closeout, I

1 think, on the conversation. And I don't recall
2 paying a lot of attention to the form when I saw
3 it to see the changes that were made. I
4 understood that they had kind of buttressed the
5 certification piece. But the piece that I got
6 when that comes over to me, I don't think that
7 actually was the one that ended up being used. I
8 think the one I had was even a little the stronger
9 than the one they ultimately adopted.

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

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

18 BY MS. SULLIVAN:

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

22 A. I don't think I did. I think I did with
23 Dave Nocente, but I don't think I did with Marlene
24 Turner at that time.

1 Q. Did you explain to Marlene when you looked
2 at the Governor's flights and evaluating whether
3 it passed the "smell test" as you said, that you
4 didn't have the same documentation in terms of the
5 schedule for the Senator?

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

8 BY MS. TOOHER:

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

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

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

22 A. I can't recall specifically saying that.
23 I'm sure that there was a conversation, but I
24 can't recall the specifics of it.

1 Q. But you believe you had a conversation?

2 A. I believe there was a conversation. I just
3 can't remember the details of it. Generally, I
4 think there was a conversation that related to
5 issues of accountability. But I think more --
6 less about Bruno and more about the Governor's
7 accountability, because I think that is what so
8 many of the conversations were about, trying to
9 craft something not so much from Bruno's
10 standpoint but more from the Governor's standpoint
11 to make sure he was doing it the right way.

12 Could I offer something up? Just tell
13 me if I'm going on too long here. There were kind
14 of three phases to my aviation experience with he
15 Spitzer administration. It starts out in January
16 and February with a discussion of old Pataki bills
17 for charter flights that were already starting to
18 appear in the New York Post. There was a
19 discussion on a couple of flights that were taken
20 at the end of the administration which were
21 charter flights and an issue of were those charter
22 flights appropriate because there was an argument
23 that the Governor needed to take the charter
24 flights because he had that recent health problem

1 and the charter air travel was better for his
2 health. So, we walked into the new administration
3 and, much to my surprise, there are a number of
4 unpaid charter bills that are still sticking
5 around. And I think that probably my first
6 interaction with folks in senior staff really
7 relates to the Pataki charter bills and trying to
8 resolve the old bills that had been sitting
9 around. And they kind of assigned me the task.
10 Darren Dopp actually gave me the task of trying to
11 navigate and negotiate with the old Pataki folks
12 to get them to pay the bills. Because based on
13 the press that occurred in the Post and issues
14 relating to how these things were structured they
15 didn't want to submit these bills to the Office of
16 the State Comptroller. And, actually, at the
17 Spitzer request I had actually talked with the
18 chopper folks to find out that under the radar
19 these bills were submitted and are they as bad as
20 I think they are. And the answer that came back
21 is, yes, they going to reject these. Send them
22 back to the chamber. These need to be resolved
23 through some other means. So, I had gone to folks
24 in the old Pataki administration and got them to

1 actually make payment for these bills. I think
2 the checked was actually on 5/15. I think that's
3 when all the old charter bills from Pataki are
4 taken care of.

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

22 Q. Did that also come from Darren Dopp?

23 A. This also came from Darren Dopp. I think
24 the reason for mentioning it is not to distract

1 from the issue but to just show there was kind of
2 this gliding into the issue of aviation that
3 occurred because of really three things; The first
4 thing being the old Pataki bills that needed to
5 resolve, hopefully without anyone's embarrassment
6 and done as appropriate as we possibly could.
7 And, the issue of Governor Spitzer's travel, now
8 that is handled and how to calculate the cost.
9 And there's a lot of traffic back and forth,
10 either through e-mails and phone calls to figure
11 out what is the appropriate amount of
12 reimbursement for the Governor to make. And he
13 makes that reimbursement, I think, on June 4th, if
14 I remember right. That's when he writes the check
15 which is given to the State Police.

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

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

22 A. It really comes at the end of the
23 negotiation of the Pataki bills. So, to the best
24 of my recollection and looking at everything

1 that's out there, I think it's around May 17th
2 where I get this call from Darren or e-mail from
3 Darren. I'm not sure how it comes. But,
4 basically, we're trying to get this leaders'
5 meeting together. The Senate is telling us they
6 can't do it because they have this big fundraiser
7 in the City they are flying to tonight. It must
8 have been verbal because I remember the
9 incredulous voice that said, "They're not flying
10 to this fundraiser; are they?" And, "I don't
11 know."

12 Q. That's you saying that?

13 A. That's Darren saying that to me; "They're
14 not flying to this fundraiser; are they?" And I
15 said I don't know. And he asked the question,
16 "Could I find out"? -- you know, out whether or
17 not he was flying. And that's really the first
18 time that I'm asked to do anything relating to
19 Bruno's travel and get documents relating to
20 travel.

21 Q. You believe this is May 17th?

22 A. I believe this is May 17th.

23 Q. Do you have any prior instances where you
24 reach out concerning Senator Bruno's travel?

1 A. Not to my knowledge.

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

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

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

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

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

21 A. I don't.

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

24 A. I am not.

1 Q. And, are you aware of requests by Mr. Dicker
2 around this same time frame?

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

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

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

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

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

23 Q. Did you review them with anyone?

24 A. No. My attorney had seen them when we had

1 gone in for questioning, but I don't believe I
2 have provided him with any copies of those
3 e-mails.

4 Q. Did you discuss those documents with anyone
5 in the chamber?

6 A. Other than Dave Nocente, and there was a
7 time earlier in the process with Peter Pope and
8 Sean Maloney where they had agreed to represent me
9 from an attorney/client standpoint earlier in the
10 process where we had discussed e-mails.

11 Q. When you say "early in the process" what do
12 you mean?

13 A. Soon after I went down and testified to the
14 Attorney General. So I think the testimony to the
15 Attorney General was on July 11th. And it was, I
16 think, by either the Friday or the Saturday
17 following that, that I had conversations with
18 Peter and with Sean and, at some point, I thought
19 -- and my recollection might be off on this. But
20 I think on Sunday or so there is a decision saying
21 that since these issues were arising out of the
22 course of the employment that there would be an
23 understanding that they would represent me from an
24 attorney/client standpoint. I might be wrong on

1 the timing, but that's my recollection.

2 BY MR. TEITELBAUM:

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

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

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

21 A. Yes.

22 Q. Do you know whether that information had
23 ever been conveyed to others within the executive
24 chamber?

1 A. That, I don't know.

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

5 A. Yes.

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

8 A. Yes.

9 Q. Did that point come?

10 A. I'm sorry?

11 Q. Did that point ever arrive?

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

14 Q. 20th?

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

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

19 A. Yes -- the issue of the divergence?

20 Q. No, what the interest was that caused the
21 divergence. Let me withdraw that. What were the
22 circumstances that created the divergence of
23 interest between yourself and these two lawyers?
24 Did they explain it to you?

1 A. No. I would say they explained that they
2 were representing the interests of the executive
3 chamber and -- that there may come a time when
4 they were representing the interests of the
5 chamber not the interests of Bill Howard. And if
6 that time comes, then at that point we would
7 recommend that you get your own legal
8 representation. But, the specifics of what those
9 issues were wasn't discussed.

10 Q. That come at or around the 20th?

11 A. I think there's a conversation at the
12 beginning of this, and then there's a conversation
13 taking place around the 20th that is very
14 explicit; that we think you should obtain your own
15 attorney and recommended the same to others.

16 BY MS. TOOHER:

17 Q. You indicated that you had a file or folder
18 with e-mails and documents that you had copied.

19 A. Um-hmm.

20 Q. And that you had discussed these with your
21 attorney.

22 A. Yes.

23 Q. Are you aware that there was a subpoena in
24 this matter seeking certain information from you,

1 e-mails and documents?

2 A. Yes.

3 Q. And did you allow your attorney to review
4 those documents in determining whether or not they
5 were responsive to that subpoena?

6 A. Yes.

7 Q. He was able to actually view the documents?

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

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

12 A. I don't know.

13 BY MR. TEITELBAUM:

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

16 A. Yes, to the Ethics Commission.

17 BY MS. TOOHER:

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

20 A. I do not.

21 Q. When you were first with the Spitzer
22 administration you indicated that you had this
23 sort of dual role and it was your understanding
24 that you were in sort of a temporary status with

1 the chamber. Would that be a fair description?

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

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

10 A. I never buy into the permanency of the
11 executive chamber. And that's what I liked about
12 serving in these capacities quite honestly is
13 being accountable every single day. I truly do.
14 But I got to the point where I had a discussion
15 with Rich Baum who I think it was at my urging
16 that we had it, basically to say: Are you getting
17 value out of me? I really felt drawn between two
18 things. I loved being in the Governor's Office.
19 But, on the other hand, I'm now in the Governor's
20 office in a far different capacity although I
21 still think I am providing value to them. But I
22 have also got the SUNY responsibilities that I am
23 trying to be very diligent about and I'm straining
24 to kind of balance these issues. So, I really

1 wanted to find out from Rich whether or not he
2 thought it was working. There wasn't a lot of
3 feedback coming my way. And the question was:
4 Are you getting something out of my being here or
5 should I just separate and go someplace else? And
6 the word back was: We really like having you
7 around. We're getting a lot out of this. Your'
8 re being very helpful in how we're setting up this
9 government. And I thought everything was great.
10 At that point then -- and he doesn't really know
11 this. But I think at that point the SUNY
12 relationship is one that we said, well, let's do
13 this for six month and see where it goes, see what
14 it's like at the end of the six months and we will
15 review it at that point.

16 Q. Do you know when this conversation took
17 place?

18 A. I would say early May.

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

21 A. Basically, an e-mail exchange saying: Glad
22 it all worked out and happy to have you as part of
23 it. Something along those lines, nothing
24 formalized at all.

1 Q. I am going to show you what has previously
2 been marked as Commission Exhibit 48.

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

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

7 A. Um-hmm.

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

10 A. Everything from I think piece of mind in
11 terms of during a difficult period of transition
12 that there was continuity with stuff that was
13 really important in homeland security and disaster
14 response. We had had -- I mean don't hold me to
15 this one. But we had a number of events maybe two
16 or three natural disaster events that I had
17 managed and the Governor was very pleased
18 particularly with the way the Oswego snowstorm was
19 handled. And we had flooding down in Westchester
20 County, so we had had some experience. And I
21 think there was some peace of mind that came from
22 knowing that I was working those issues. And I
23 think, honestly, I think I did them better than
24 anybody else that has ever worked on the second

1 floor. And my understanding when I looked is that
2 this was good. This was good news. I am making
3 an impact. I wasn't sure whether people really
4 see me as a valued person here. There are
5 difficult relations, you know. I'm a former
6 Republican in the Pataki administration at a very
7 high level. That's almost unprecedented to have
8 someone go from that level to continue working. I
9 was very proud that I was a person that was
10 allowed to do that. And it became important to me
11 that I understood that that was something that
12 they valued as much as I did. And I think that
13 they did from what I saw.

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

16 A. No. I mean I had very, very limited access
17 to Rich Baum. And he was very busy doing the
18 stuff that he was doing, so it was very sporadic,
19 maybe in the hallway kind of contact and, you
20 know, some of this stuff. This may have been --
21 at this point I don't know. But this may have
22 been the first e-mail that he ever actually sent
23 me. But I don't recall a lot of exchanges at all
24 with Rich. And most of my contact was with other

1 folks on staff: David Nocente, Darren Dopp,
2 Marlene Turner with some frequency, and Mike
3 Balboni who came in as the Deputy Secretary for
4 Public Safety who was my immediate report.

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

7 A. I didn't know him before. I had heard good
8 things about him before. Approachable, dedicated,
9 all good stuff, you know, pretty low key. I'm
10 pretty low key myself. And what I found out is he
11 was also a history buff. So, at odd times,
12 sometimes late at night, sometimes early in the
13 morning, we would literally sit around and talk
14 about issues of New York State history. I know he
15 was a history buff; he knew I was a history buff.
16 And it got more and more to the point where I
17 found out his son was a Civil War buff. And I was
18 a longtime collector of Civil War memorabilia.
19 So, every now and then I would come in and
20 surprise him, give him a little mini ball or some
21 little relic that I picked up on one of the
22 battlefields. And it would make his son stay.
23 And, when we had the big exhibit in the Capitol
24 that I put together for the July 4th celebration

1 he brought his son in for that. I presented him
2 with a couple of other little relics out of the
3 collection. That's how our social relationship
4 was developing. It was based on the mutual
5 interest.

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

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

22 Q. What you saw of Darren's role, would you
23 consider him to be the senior policy maker in the
24 chamber?

1 A. I would, yes.

2 Q. What led you to that conclusion?

3 A. He typically did not go to press

4 conferences, which I think was interesting for a

5 press secretary not to go to press conferences.

6 I'm not saying that as a criticism. I think his

7 duties went beyond going to press conferences. I

8 think he was setting a tone and a pace for the

9 administration. I can't recall other specifics.

10 But my impression was that he was involved in all

11 of the major issues for the administration at a

12 very high policy level with access to all the

13 folks in the administration that would also make

14 those decisions. And he was more than you would

15 typically expect to be a press secretary to any

16 political person.

17 Q. Did he have access to the Governor?

18 A. Yes.

19 Q. Did you consider his access to the Governor

20 to be on a par with other staff members?

21 A. I would have, yes. I would say I never saw

22 evidence of that, but I would have assumed that

23 that was the case.

24 Q. What was that based on?

1 A. Just my impression of what that position
2 would be really more than anything. I mean I
3 can't say that I saw the two of them together,
4 quite honestly. But you see that position and it
5 obviously means you have a relationship and close
6 connection with the Governor.

7 BY MR. TEITELBAUM:

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

11 A. I can't specifically say any, quite
12 honestly. I know when we were working on
13 scheduling issues, you know, the Fourth of July
14 celebration that I was a part of, events like that
15 that require coordinating the Governor's schedule,
16 coordinating time to make these events happen, he
17 really didn't seem to have to check with anybody.
18 He seemed very independently able to put these
19 things on the agenda. I'm not at that level in
20 this administration; I recognize that. But my
21 perception was that he was fulfilling for the
22 Governor similar to what Zenia had fulfilled for
23 Governor Pataki. And I may have been wrong on
24 that.

1 Q. I may be unclear on that. I thought you
2 said you viewed him as the major policy person
3 within the administration.

4 A. Right.

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

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

23 Q. Did anybody tell you that?

24 A. No.

1 MR. TEITELBAUM: Okay.

2 BY MS. TOOHER:

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

5 A. I mean the first issue was really the Pataki
6 bills, you know, which is a pretty slim slice of
7 what's important, I suppose. But he seemed pretty
8 impressed that I seemed to be able to handle it.
9 It was an issue that, with everything else going
10 on, I don't think people really wanted to deal
11 with it. He obviously had a high opinion of me, I
12 think, in the way he treated me and interacted
13 with me. I think he knew my reputation and
14 respected that. Directly, I worked with him on
15 some of our emergency response issues and gave him
16 a heads-up on some of the things we were doing,
17 predeploying some of our National Guard assets in
18 anticipation of snow storms, dealing with some of
19 the local political issues where someone might be
20 a little critical of the response and needed to be
21 dealt with. So, I'd give him a heads-up then;
22 that somebody so-and-so or Senator so-and-so or
23 Assemblyman so-and-so has an issue and we're
24 looking to work it out. My view was like almost

1 insurance or insulation. If I tell him or tell
2 the administration about those types of issues
3 that will help insulate them if the Governor
4 happens to be in a place where that Senator or
5 that Assemblyman is based. So, I think dealing
6 with the Pataki goals, some of the emergency
7 response issues, I think that whether we are doing
8 the press conference over at the state emergency
9 command bunker Darren pretty much let me set that
10 up for the Governor which is somewhat
11 unprecedented. So, when the Governor comes into
12 the bunker I basically was there to make sure
13 everything looked right, that we had the screens
14 behind him that looked informative so that the
15 news image that was there was a good, positive
16 image of someone in control of the situation, so
17 working with him on issues like that.

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

20 A. I don't think so; not at the time. I think
21 it gets into that, my recollection was that it got
22 into it in mid March where I thought it kind of
23 evolved. So, I'm still surprised of anything that
24 comes earlier than that in my recollection.

1 Q. When you say mid March, is it mid May?

2 A. May, I'm sorry.

3 Q. I know you have mid March in front of you.

4 So, mid May is your understanding of when it gets

5 into the Bruno situation?

6 A. Yes.

7 Q. And does the Pataki bills and the

8 information and work you are doing on that tie

9 into the Bruno issues at all?

10 A. I don't see it that way in my mind. I see

11 this kind of evolution that runs from how do we

12 develop the policy starting out. We have these

13 Pataki bills. How do they relate to the policy?

14 How do we get them resolved? What were these

15 really about? Were they business? Were they

16 political? What were they? And, then, I see this

17 evolving into a question that comes again, to my

18 best recollection, on May 17th where there is

19 supposedly this meeting and they are trying to

20 organize and can't get it together because Bruno

21 can't be that there night because of the

22 fundraiser. I don't know if that meeting is

23 somewhat incidental and I've just forgotten. But

24 in my own mind as I've gone over this, that's the

1 way I see the progression of the issues and that
2 it goes in that way and ends with the Bruno travel
3 issues; that they were separate and distinct but
4 all related to aviation issues.

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

8 A. Yes.

9 Q. How does that happen?

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

13 Q. This is Darren Dopp asking the question?

14 A. Yes, Darren Dopp asking the question. We're
15 trying to get this leaders meeting together and
16 the Senator is telling us he can't do it because
17 they've got the Senate fundraiser tonight. And,
18 "They're not flying to this event; are they?" I
19 said, "I don't know." I said I would check, and
20 then I think I get the Bruno faxed schedule back
21 to me which, again, I think my recollection is
22 that that's the first time I ever actually saw
23 anything provided by Senator Bruno for his own
24 schedule for travel.

1 Q. How does that happen? Who do you speak to
2 in terms of exploring this issue?

3 A. Preston Felton, the Acting Superintendent of
4 State Police.

5 Q. And, do you reach out to Preston Felton?
6 What do you do?

7 A. My dealings by and large with the State
8 Police would probably always be limited to three
9 people: The Deputy, the First Deputy
10 Superintendent, and just because of the homeland
11 security, Bart Johnson who heads up our
12 intelligence center and is now Superintendent for
13 Field Command but wasn't at that time.

14 BY MS. SULLIVAN:

15 Q. Can I just interrupt one minute? Why is
16 Darren Dopp calling you and asking you to check to
17 see whether Joe Bruno has a fundraiser that night?

18 A. Not to check and see if there's a
19 fundraiser.

20 Q. To see if he is flying that night.

21 A. Correct.

22 Q. Why would he be turning to you?

23 A. I wouldn't have seen it as inappropriate at
24 all in terms of what my responsibilities were in

1 terms of having the State Police in my chain of
2 command to the State Police.

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

5 A. He could have, but it didn't strike me as
6 odd that he reached out to me at all. I mean I
7 think my reputation for both administration was
8 the person that dealt with State Police issues,
9 homeland security issues, all of those issues.
10 And it might even have been know that I had
11 previous history with the helicopter flights. But
12 I mean even today it doesn't strike me as an odd
13 thing that he would have reached out to me and
14 asked me that question, no more that it would have
15 struck me as odd if he asked me some other
16 question: How many state police do we have? How
17 many State Police do we have deployed at the State
18 Fair? I would have seen it as relating to my
19 duties and the reporting relationship.

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

22 A. I couldn't speak for Darren but that would
23 be my guess as to why he would have reached out to
24 me. There were people in both administrations

1 both from State Police and from the standpoint of
2 the chamber would have thought Bill Howard is the
3 person they should have talked to. And they would
4 have done the same for the Division of Military
5 and Naval Affairs and for any of those agencies
6 that I covered. I covered those agencies very,
7 very well took those duties very, very seriously
8 and was identified with those agencies more so
9 than people in both administrations as a person
10 who was very engaged with the agencies and how
11 they operate.

12 BY MR. TEITELBAUM:

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

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

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

24 A. No, I'm not saying that. I am not

1 challenging the genuineness of it.

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

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

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

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

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

20 A. I don't know, sir. I'm not sure that I
21 would say it that way because I don't know how
22 incidental this was. I mean I picked one day in
23 my life just to get a benchmark on the kinds of
24 duties I had. I picked one day a typical day and

1 went from 5:10 in the morning to 12:52 and I got
2 128 e-mails. And what I said is that those
3 e-mails are not like FYI e-mails. Those are all
4 relating to the function of state government. All
5 require some analysis, some decision, and some
6 recognition that every single one of those
7 decisions is something that I could be held
8 accountable for. So, my best recollection was
9 that the Bruno issue began in mid May. I don't
10 have a recollection going back this far. I don't
11 know how incidental this was at this time. But if
12 you're asking when did the Bruno issue begin, I
13 would have to say even looking did this today that
14 began in May. That's when I saw much more
15 questions, much more directed questions that
16 needed to get information. I don't remember this.
17 And I don't know how much this stands out in
18 isolation to everything else I was doing. My
19 style is when I am asked a question, as long as
20 it's an appropriate question I would try to get
21 the answer. And I trust that's the case that I
22 didn't focus on this at that time as being
23 something so critically central to Bruno's
24 schedule.

1 Q. What is interesting about this to me anyway
2 is that Felton responds to you within four
3 minutes.

4 A. Right.

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

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

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

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

22 Q. You must have checked with someone; right?

23 A. No. I think more likely how we started this
24 is someone asked me a question say as to whether

1 or not he's using the helicopter tomorrow. I
2 think the other thing I would say -- just one
3 point.

4 Q. Go ahead.

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

19 Q. I want to give you an opportunity to explain
20 it, and I am having problems with your explanation
21 because if you were going to be asking whether Joe
22 Bruno what is going to be using the chopper
23 tomorrow, it seems to me he wouldn't be asking
24 what time is he going to be suing the chopper

1 tomorrow. You would have said something along the
2 line of: Is J. B. using the chopper tomorrow or
3 when is J. B. using the chopper tomorrow. This
4 statement indicates to me that you had prior
5 knowledge.

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

1 Q. I understand that you didn't do it on your
2 own volition.

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

19 BY MS. TOOHER:

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

23 A. And providing answers to the best of my
24 ability. I didn't see anything that was asked for

1 as being outside of my professional
2 responsibilities. And I can tell you if I had to
3 do it over again today and had to go through the
4 media pillorying I have gone through I wouldn't do
5 it. But absent that, if someone today asked me
6 for the same information I would do it the exact
7 same way. I would ask people for that
8 information. I do not think it was inappropriate
9 to ask me for that.

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

13 A. No -- no.

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

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

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

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

24 Q. You knew you were no longer signing the

1 forms?

2 A. Absolutely, yes.

3 Q. Did you say to Darren: I don't handle this
4 anymore. Perhaps there is someone in the chamber
5 you should speak to?

6 A. No.

7 Q. And did you believe that the superintendent
8 was responsible for signing those forms?

9 A. No. I knew the Superintendent was not
10 signing those forms. I would say my daily life on
11 the floor was -- it's like being thrown into
12 chaos. And I don't mean that has a negative
13 because we are trying to figure out which end is
14 up and which end is down when I first got there.
15 So, I am walking down the hallway and people are
16 grabbing me into offices seeking my advice on how
17 to set up a corporation system or how did it work
18 with people going through their individual phone
19 bills to determine how much they owe. Every
20 question of government was being asked of me. And
21 under other circumstances maybe I would have
22 thought twice and said, you know, I don't do
23 aviation anymore; Marlene Turner does that and
24 maybe you should talk to her. But at that moment

1 my whole orientation is to be helpful and help
2 these folks set up the government in a way that
3 succeeds. You probably could have asked me any
4 question. People are asking me: What's the
5 protocols for lowering the flags. I used to do
6 that. I know what those protocols are; I used to
7 do that stuff. Every question was fair game every
8 time I walked down the hallway someone would pull
9 me into the office and ask me some other question
10 on government. So, Darren asking me these
11 questions -- maybe I wish now that I had turned it
12 over to Marlene Turner. But it didn't seem like
13 an odd question because I was the resource.

14 Q. So, your response to Darren Dopp's inquiry
15 on May 17th was to turn to Preston Felson and ask
16 him for information?

17 A. Yes.

18 Q. And you asked him on the 17th of May to
19 provide you what?

20 A. I think the question was, you know, is
21 Senator Bruno flying to New York City. And it
22 wouldn't have occurred to me that we had that
23 scheduled. But what comes back to me the
24 schedule, the itinerary, if you will, for that

1 day. And I don't have a recollection of asking
2 for it because I wouldn't have known it existed.
3 But that is what comes back to me. I think it's
4 faxed back to me within a couple of days. It
5 doesn't come immediately.

6 Q. And, do you have any information prior to
7 receiving that schedule about the senator's plans?

8 A. Not to my knowledge, no.

9 (Commission Exhibit 58 was marked for
10 identification.)

11 Q. I will show you what has been marked as
12 Commission's Exhibit 58. This is a one-page
13 document William Howard dated May 17, 2007 at
14 12:03 p.m. to Darren Dopp. "Getting more, but
15 here's what I have."

16 A. Yes.

17 Q. Can you identify this document?

18 A. Yes. This is a document that relates again
19 to that give and take going back and forth between
20 the senior administration relating to the
21 Governor's travel. This is not related to Bruno's
22 travel.

23 Q. And the information contained in this
24 relates to what?

1 A. Really relates to the issue of trying to
2 figure out that policy that is going to apply to
3 the Governor in terms of what is a political event
4 and what is a state event.

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

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

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

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

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

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

23 Q. But you are looking for, and expecting
24 information concerning the passengers that are

1 flying with him?

2 A. Right.

3 Q. What would that expectation be based on?

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

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

13 A. Yes.

14 Q. Did you reach out to Marlene Turner?

15 A. I did not.

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

19 A. No.

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

22 A. Correct. And, again, it's because I was
23 asked to get the information so I sought to get
24 the information. It never would have occurred to

1 me to say: Why don't you call Marlene Turner to
2 get the form. That's not the way I do business.
3 When I am asked a question I get the answer. And
4 the only way I knew to get the answer was to go to
5 Preston because I thought he would have it.

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

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

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

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

22 (Exhibit 59 was marked for
23 identification.)

24 Q. I am going to show you what has been marked

1 as Commission's Exhibit 59. This is an e-mail
2 dated May 17, 2007 at 12:20 p.m., to Darren Dopp.
3 Can you identify this document?

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

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

21 A. I didn't the answer to that. It was a
22 question that was asked. I thought it was
23 interesting in terms of is it a person? Is it a
24 company? I just didn't know. I never heard the

1 name of the company and I typed it into the
2 Internet. And it took them two seconds to respond
3 the C.V. Starr is a global investment firm that
4 holds 2.4 billion shares of AIG stock.

5 Q. Had you received any other information on
6 C.V. Starr to this point?

7 A. No.

8 Q. I am going to show you what has previously
9 been marked as Commission Exhibit 16.

10 A. Yes, okay.

11 Q. Again, this is apparently an e-mail. Can
12 you identify this document.

13 A. As I said a little while ago I wasn't sure
14 whether the first team I knew of the schedule was
15 when it was faxed to me or whether something had
16 been shared over the telephone. I think this is
17 coming from a conversation that I had with
18 Preston, not the facts but this is the rough
19 schedule that Preston is giving me for that day.
20 And I gave this e-mail to Darren just indicating
21 12:30, C.V. Starr, 3:30 at the Sheraton, 9:00 a.m.
22 scheduled flight return tomorrow. But this is
23 before I actually had the schedule from Bruno that
24 was faxed. He made the initial request. I

1 contacted Felton and, as I said a little while
2 ago, I think what must have happened is that
3 Felton gave me the basics over the phone and then
4 followed up with the facts, the document.

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

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

24 Q. So, the first time you received information

1 concerning Senator Bruno's schedule wasn't when
2 you received the faxed itinerary from Preston
3 Felton. You already had that information when you
4 spoke to Darren on May 17th.

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

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

21 A. No. What I am saying is I think I probably
22 had a conversation with Preston telling me what
23 the schedules was, briefed Darren on that
24 schedule. And I think the interchange on who is

1 C.V. Starr comes in response to a verbal briefing
2 rather than an e-mail exchange.

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

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

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

24 A. I didn't mean to imply that. The question

1 of who is C.V. Starr was specifically in response
2 to a question from Darren. I thought in my
3 testimony what got us there was the sharing of the
4 faxed schedule. Looking at the time sequence of
5 these e-mails, I think it must have been that I
6 had an understanding verbally from Preston Felton
7 that this was the rough schedule for the day. He
8 is going to C.V. Starr, and Darren is asking me
9 the question of who is C.V. Starr. I think I'm
10 mistaken by thinking it all came in response to
11 the faxed schedule. It must have been done based
12 on a verbal conversation between Felton and myself
13 which I then briefed Darren on, which then
14 inspires the question. I can tell you I
15 distinctly remember being asked by Darren: Who is
16 C.V. Starr? What's that? I thought it was based
17 on the schedule. It obviously wasn't. It must
18 have been based on either me mentioning the
19 schedule for the day and him asking me that
20 question. So, if I messed up the testimony it was
21 through no intent to do so. It was just through a
22 misunderstanding of the sequence.

23 Q. Just so I'm clear, your testimony now is
24 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

1 questions asked. I struggled at various times to
2 be sure I was balancing my duties with these
3 requests. Because Darren was asking a lot of
4 questions about the schedules and how aviation
5 worked and those sorts of things. I didn't see
6 myself as extensively involved in this issue and
7 still don't.

8 Q. From your perspective who was extensively
9 involved in this issue?

10 A. I saw Darren as being very involved in the
11 issue.

12 Q. At what point in time?

13 A. I think probably closer to the end than --
14 probably around the time that I see the FOIL
15 coming in the end of June. I start to see all of
16 these things coming together resulting in the FOIL
17 request resulting in the story. I didn't know
18 where there was going at the very beginning. I
19 didn't know if this was something that was
20 collected to change the process. I didn't know if
21 this was something that was going to be referred
22 to Ethics or I the I.G. or at the beginning of
23 this process that it was going to be something
24 that went to the media.

1 Q. You are a man who has had responsibilities
2 for enormous projects in our state and you
3 described them for us; floods and complicated and
4 great tragedies. And, here you are being asked to
5 do relatively ministerial stuff.

6 A. Um-hmm.

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

10 A. What I can tell you is that it's a different
11 relationship. I am still finding the relationship
12 with these folks. I am still not being trusted on
13 a daily basis by most of these individuals. And
14 maybe it's a fault in terms of any transfer over
15 into the new administration. But what had been
16 very independently done during Pataki -- I mean I
17 closed a \$6.6 billion transaction with WellPoint
18 WellChoice with virtually no oversight at all and
19 thought I did exactly the right thing. In this
20 instance kinds of thrown into this new world with
21 new personalities with some people that want me
22 around and a lot that don't want me around on a
23 daily basis, I am basically doing everything I can
24 to respond and give them the information. I am

1 not asking a lot of questions and it didn't occur
2 to me to ask a lot of questions. It didn't. I
3 was happy that people were treating me with
4 respect and wanted to share in the knowledge that
5 I had. I wasn't in a position that I thought I
6 could ask a lot of questions. That said, I still
7 conducted myself as I always have, trying to do
8 everything as well and as appropriate as I
9 possibly could.

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

12 A. Right.

13 Q. You are somebody who is just making a phone
14 call.

15 A. I did that, too. I did that too with
16 Pataki. I did that too when I was in the
17 legislature. I have done it my whole career and I
18 have a very comfortable relationship with the
19 Commissioners and I want to make sure it is
20 understood also that I took some offense of the
21 idea that there was any kind of intimidation of
22 Preston Felton. I don't have a style like that.
23 I have style that is very collegial that I think
24 even Preston says in his testimony: We're on the

1 phone morning until night. That means that we
2 deal with important stuff and insignificant stuff.
3 I saw this as being very insignificant to the
4 course my work day, but it was a question I was
5 being asked when I was not being asked a lot of
6 other questions about the relationship with the
7 state police. And I did the best that I could to
8 get the answers to those questions.

9 BY Ms TOOHER:

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

13 A. Very clipped responses. And I know you have
14 probably seen the e-mails, but the e-mails you see
15 match the type of responses I was getting when I
16 would either hand-deliver something to him or get
17 a phone call from him. Very short, very brusque.
18 Thanks. Okay. Got it. Okay. That's it. Very
19 muted, very clipped responses, by and large.

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

22 A. There was a conversation at one point about
23 the potential of going to the Inspector General or
24 going to Ethics or going someplace with this

1 information if it turned out that there was abuse
2 of the assets.

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

5 A. No -- no.

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

9 A. Um-hmm, okay.

10 Q. Have you seen this document before?

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

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

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

20 Q. You didn't see this document on or about May
21 17th?

22 A. I don't believe I did.

23 Q. Did Darren ever discuss with you that he was
24 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
2 at 1:23 p.m. from you to Darren Dopp. And the
3 subject is, again: Time check. Can you identify
4 this document?

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

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

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

24 Q. And, after you received the information that

1 you provided to Darren Dopp on the 17th did you
2 have any follow up with the Superintendent on
3 Senator Bruno?

4 A. Not to my specific recollection. I might
5 have; I just don't recall what that could have
6 been. Do you mean on that same day?

7 Q. Yes.

8 A. I don't recall specifically. I might have;
9 I just don't recall.

10 Q. Prior to receiving the fax from him, did you
11 have any follow-up conversations with him?

12 A. I couldn't say yes or no with any accuracy
13 on that. I just don't know.

14 (Commission's Exhibit 61 was marked for
15 identification.)

16 Q. I am going to show you what has been marked
17 as Commission's Exhibit 61. This is an e-mail
18 from Preston Felton to you. It appears to be a
19 thread of a number of e-mails. Can you identify
20 this document?

21 A. I remember it. I can't recall what is
22 behind it. I remember reaching out to him and I
23 remember him responding to me saying that he can't
24 do it. He's on stage for the graduation. The

1 reason I remember that is because I initially
2 thought we are not having a State Police
3 graduation. What's the graduation ceremony? I
4 think he was actually speaking at a high school
5 graduation or something. I don't remember what
6 the issues were here at all, whether they were
7 related to Bruno or other issues. I just don't
8 know with any accuracy. I literally called this
9 guy scores of times in the course of a day. And I
10 can't tell you what this is in reference to, but I
11 remember the reference to the graduation.

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

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

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

22 A. I believe on 5/21, if I remember the fax
23 line, I got the copy of the Bruno schedule faxed
24 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

1 have paid a lot of attention to the fax sheet, I'm
2 99 percent sure this would have come to me from
3 the Superintendent, not from Anthony Williams.

4 BY MR. TEITELBAUM:

5 Q. When you say "this" what are you talking
6 about?

7 A. I'm sorry. The Bruno itinerary, Exhibit 5.
8 I might be mistaken on that, but I think that that
9 would be the first time Anthony Williams ever had
10 contact with me if he was the person who faxed
11 this up. My understanding was that Preston had
12 faxed this to me.

13 Q. Preston Felton specifically asks for an
14 itinerary for the trip on Senator Bruno.

15 A. Right.

16 Q. Had you specifically asked Preston Felton
17 for an itinerary on this trip?

18 A. I know it sounds convoluted but I think I
19 said we had a conversation leading to the
20 production of the schedules. I think in that
21 conversation there's no direction, there's no
22 order. There is a conversation that says, you
23 know, could you check and see if there is a trip
24 scheduled. And one way or the other -- I know I

1 didn't ask for an itinerary, but I think it was
2 suggested that either we -- could you -- at this
3 point we didn't even know that there was an
4 itinerary available. And I think it goes to the
5 first conversation held which was, you know:
6 Would you like us to put something together for
7 that? And I am not saying Preston on his own
8 decided he was going to put together this
9 itinerary for the Bruno travels, but I think it
10 was a conversation between he and I, very
11 collegial, very back and forth, and it didn't seem
12 like an inappropriate thing to say: Do you want
13 us to see what we can get? Do you want us to put
14 something together for you? I can't accurately
15 remember that, but it's my impression of how the
16 conversation went and then what came was not
17 something surprising to me at all. It was this
18 Bruno schedule, this itinerary. What came later
19 were those other documents that I'm sure you'll
20 get to.

21 Q. We will get to those. But this document
22 here specifically, Commission's Exhibit 5, the
23 Bruno itinerary for May 17 and 18, I believe you
24 testified earlier that you had never seen a

1 document like this before.

2 A. I didn't know that they necessarily existed,
3 right.

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

8 A. Right.

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

11 A. Right.

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

14 A. I don't believe so. I think until I got
15 this document I still remember -- I think very
16 accurately -- that I was surprised it came in the
17 form that it did. I was surprised that it had
18 Bruno's fax name on top of it. I didn't know what
19 they were going to do to provide any kind of
20 details on the travel or what was going to come as
21 a result of the request. But I remember being
22 surprised when I saw that it had Bruno's fax stamp
23 of top of it, which is Bruno is providing this
24 stuff himself.

1 Q. Did you ever ask Preston Felton where he got
2 the information you said he provided to you
3 earlier?

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

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

21 A. The only thing I can think of was a
22 conversation that would have taken place between
23 Preston and myself. I wouldn't have dealt with
24 Anthony Williams. There's nobody else in the

1 State Police I would have called. And the only
2 person I dealt with on this issue was Preston
3 Felton in the State Police. I didn't deal with
4 Glenn Valle or the press person. The only person
5 I consistently dealt with in the State Police on
6 this issue was Preston Felton.

7 Q. What about someone in the executive chamber?

8 A. Not that I can recall.

9 Q. Did you reach out to Marlene Turner at all?

10 A. I don't believe I did -- I don't believe I
11 did. My recollection on this issue is having no
12 conversations with Marlene Turner on these issues
13 and dealing only with the State Police, dealing
14 only with Preston Felton. That's my best
15 recollection. I don't recall having any
16 conversations with Marlene on this at all.

17 BY MR. TEITELBAUM:

18 Q. During the conversation between yourself and
19 the Acting Superintendent what was said between
20 the two of you?

21 A. It was so collegial that it's hard to
22 accurately remember it.

23 Q. Did you raise the subject of Senator Bruno's
24 travel itinerary?

1 A. Yes. I can say one thing. And, that is,
2 again, having been around for a long time I know
3 that this issue of the FOIL was swirling around
4 and I am very concerned about it myself because
5 that's something I take very seriously. And I
6 wanted to make sure that I say today -- and maybe
7 this is the perfect opportunity. I can't imagine
8 myself, knowing myself the way I do, that I ever
9 would have represented to anyone that this
10 information was being pursuant -- being pursuant
11 to a FOIL if I didn't actually have a FOIL or
12 wasn't told there was a FOIL in place. I have no
13 recollection of mentioning to Preston Felton that
14 there was an oral FOIL or that there was any
15 request for a FOIL out there until the end of June
16 when I heard we actually did have a FOIL. So, I
17 don't recall Darren telling me there was a FOIL
18 request for information. And, again, what I read
19 -- and I know it's probably not all that
20 pertinent. But what I've read about statements
21 about oral FOILs and those things -- I have been
22 around for 23 years. And, honestly, I think if
23 someone told me for the first time in my life that
24 there was an oral FOIL request I would remember

1 that. I have no recollections at all of being
2 told there was an oral FOIL request and someone
3 was engaged with reporters on a FOIL type issue or
4 the type of information that you could get from a
5 FOIL. So, the conversation that I had with
6 Preston was data related. It was, you know, are
7 we taking this trip? Are we involved in this
8 trip? Can we get information related to this
9 trip? Can you get me some information on it? And
10 my best recollection -- and I have wracked my
11 brain considering I know how important this issue
12 is, particularly to the Commission, and also to
13 me, I wracked my brain trying to figure out if I
14 ever heard anything about a FOIL, If I'm
15 misremembering or anything. And I don't recall.
16 I think I had a conversation with Preston that was
17 about getting the information about the travel and
18 getting that information to Darren, but it was not
19 done under any kind of understanding of FOIL. I
20 can't find it in myself. It would be easy to say
21 I somehow had some sort of vague recollection of
22 it. I wish I could because everyone else is
23 saying it was there, but it wasn't. It was just a
24 conversation with Preston that got me information

1 and then got me a faxed schedule that was
2 referenced here as Exhibit 5 that was faxed to my
3 office.

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

11 A. It seemed then and it seems now to be
12 perfectly appropriate on my part. I saw this
13 then, and I see this now as the use of a public
14 asset that belongs to the people of the State of
15 New York. And I'm being asked the question in the
16 way that someone would ask about a car: What's
17 the mileage report that's been done on that
18 vehicle. Here we have helicopters that are being
19 used back and forth from New York City. It's a
20 public asset that's under the control of state
21 police. It's under the control and responsibility
22 for accountability. It is somewhat on my plate in
23 the reporting relationship in the chain of command
24 to the state police. I thought that this was a

1 very legitimate public policy question: How are
2 our assets being used? And like I said, I would
3 not dip my toe into this water again today
4 considering what the media has done with this
5 issue. But, absent that, if someone asked me
6 today to get the same information, I would
7 endeavor to get the same information. I think we
8 have a right to know how our assets are being
9 used. And I put this together when I looked at
10 the A.G.'s report. You've got that flight on May
11 17th and 18th. And I put myself back in the old
12 Pataki chair. So, Bruno and his staff fly down to
13 the City on the 17th. They do minimal official
14 business but a lot of political business. He
15 stays over, goes to the Sheraton to the big
16 fundraising event, and then flies back the next
17 morning with no meetings in New York City. If I
18 had that trip on my plate for Pataki I would have
19 imputed his income for that second run of the
20 trip because you've got a helicopter that belongs
21 to the state police and the people flying down to
22 the City, dropping him off, flying back empty to
23 Albany -- that's \$4,000; \$2,000 on the way down,
24 \$2,000 coming back empty. It has to go back to

1 Albany the next day empty. That's \$2,000. And it
2 has to pick him up and bring him back. So, this
3 is a six thousand dollar hit to the taxpayers of
4 the State of New York for what amounted to
5 admittedly -- I don't know his schedule -- but
6 seems to be fairly insignificant official business
7 but an awful lot of political business. I feel I
8 have an obligation if I am asked to collect that
9 information to collect that information. And it
10 seemed to me whether that was information going to
11 Ethics, whether it was information that was
12 supposedly going to be generated for the I.G. or
13 whether someone decided at some point they were
14 going to release that to the media, all of that
15 information is public information. And I firmly
16 believe that today.

17 Q. Maybe my question was unclear. What I am
18 trying to find out from you is, as you had your
19 conversation with Acting Superintendent Felton on
20 May 17th, why did you think you were asking Felton
21 for this information? I mean it's not as if you
22 were going off on a white horse to do good for
23 the government. Someone was asking you to do
24 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

1 life for me in the executive chamber. Every
2 single day that I walked into that building out
3 there was a day someone asked me a question that
4 was completely outside of my realm of assigned
5 responsibilities. This was at least within my
6 range of assigned responsibilities. And it seemed
7 like a perfectly legitimate question to ask. And
8 if the next day someone said: Would you check
9 with OGS and find out how many state vehicles we
10 have and get the latest mileage for all the
11 vehicles assigned to the executive chamber or the
12 senior level staff for OGS, I wouldn't have
13 thought twice about doing that either.

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

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

21 Q. Was it your understanding at whatever point
22 in time you realized it, that part of Darren
23 Dopp's responsibilities included conducting
24 internal investigations of the executive chamber?

1 A. I go back to what I said at the very
2 beginning. Nothing would surprise me what that
3 position is or isn't. Maybe it's an error of
4 judgment on my part in terms of how he fits into
5 the senior staff of the Governor. But Zenia used
6 to handle FOIL requests on behalf of Governor
7 Pataki in dealing with the agencies. Zenia used
8 to direct all sorts of policy initiatives. And,
9 coming into this administration not knowing where
10 my boundaries are, not knowing which end us up
11 quite honestly and who's who in the
12 administration, it seemed perfectly legitimate to
13 me and still does based on everything that I have
14 read to think a person classed as the Director of
15 Communications is far more involved. And I don't
16 mean this as a negative on Darren. I think the
17 world of the guy. But he's far more involved in
18 the development of policy and issues of chamber on
19 the floor than a simple person serving in the
20 position of Director of Communication.

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

24 A. She could have coordinated them, sure.

1 Q. Did she?

2 A. I would have to think about that a little
3 bit. But she certainly was involved in every
4 single aspect of the administration of the
5 government.

6 Q. You mentioned that if someone had said to
7 you there was an oral FOIL request you would
8 remember that. Why would that stand out?

9 A. I have gone through this thing over and over
10 again and read all the accounts, both in the
11 formal reports as well as media reports people
12 have said, and I find that somewhat unusual. And
13 I think that -- I can't recall any time in the
14 course of 20-some years of government that I have
15 ever heard of an oral FOIL request. I'm not a
16 lawyer. I'm not speaking to whether there is or
17 isn't under the law the ability to do an oral FOIL
18 request. But I think if someone had told me this
19 information was being collected pursuant to an
20 oral FOIL, that would have registered with me and
21 I would have wondered about that. And the fact
22 that I don't recall that, to the best of my
23 ability to try to recall that, is indicative, I
24 think, to me that I don't believe that that

1 conversation took place. And I don't believe that
2 my motivations in this were related to collecting
3 information for a FOIL request.

4 Can I just add one other thing? I'm
5 sorry. The other piece I think that is important
6 that I have looked at -- and, again, all of these
7 people involved in this are great people with
8 dedicated public service careers and I don't want
9 to cast aspersions on any of them. But, if the
10 Acting Superintendent of the State Police was
11 acting on my claim that I wanted this pursuant to
12 FOIL why are my requests met with informal e-mails
13 that are amended and revised based on subsequent
14 information that comes into the process? That's
15 almost this dialogue that's taking place on an
16 e-mail basis. But when I say at the end of the
17 process that I was asking for the information
18 pursuant to FOIL request that I hadn't seen at the
19 time but which I was told was filed by Jim Odatto
20 of the Times Union, why then did the State Police
21 show up at my office with three bound copies of
22 documents all formally organized in a way that my
23 experience of twenty-some years of service, you
24 would get a response to FOIL. It seems to me,

1 again no aspersions intended, but it seems to me
2 that that makes sense from the standpoint of when
3 I asked for the response via the FOIL I get a
4 formal response. When I am asking for it
5 informally over the course of the process I didn't
6 get formal responses. And I think if I felt as
7 though I was doing it pursuant to a FOIL request,
8 and if they thought -- the State Police thought --
9 I was doing it in response to a FOIL request it
10 would have been a much more formal exchange of
11 data. And I would ask you to take a look at that
12 as you review it.

13 Q. You think that Commission 5 is the informal
14 submission to you?

15 A. The way in which it was sent to me I do,
16 yes.

17 Q. Why is that?

18 A. It was faxed to me. And it was once again
19 added into the final FOIL request at the end of
20 the process, added into the FOIL documents.

21 Q. You anticipated the protocol would be that
22 they would present it to you personally as opposed
23 to --

24 A. I would say formally rather than personally.

1 I said in the first testimony that I gave that I
2 was surprised when the State Police delivered the
3 packets to me, but it didn't strike me as
4 necessarily out of the ordinary either because
5 they frequently had couriers bring documents down
6 to me. But I would have expected if something was
7 done pursuant to a FOIL request it would have had
8 more formality attached.

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

12 A. No. I'm talking about the actual bound
13 copies of all the flight itineraries that was sent
14 down to me by the State Police. And what I did
15 with those is I had one copy, I think, for myself.
16 And I gave the other copy to Darren which was used
17 to respond to the FOIL. And when I did that,
18 again, just so we are clear, I know he's not a
19 lawyer. I know that he's not a FOIL expert. And
20 my assumption is that there were other people in
21 the mix that are responding to this and that the
22 other people would review the documents and
23 appropriately forward them to wherever they were
24 going. And I knew they were going to Jim Odatto at

1 that point. I'm not trying to be a good soldier
2 here. What I'm trying to say is that I'm giving
3 you information and assuming that other people
4 with experience are going to look at those
5 documents and make determinations about what's
6 releasable and what's not releasable.

7 One thing I took heart from the D.A.'s
8 report was, it seemed to me -- I have not seen the
9 testimony surrounding it. But it seems the two
10 impressions I have are actually sustained by the
11 D.A.'s report. On the one hand it does sound as
12 though people were trying to see whether the
13 Inspector General or the Ethics Commission would
14 be involved in looking at these documents or
15 looking at this issue. And the second piece is
16 that it's very clear to me from the D.A.'s report
17 that senior staff to the Governor reviews of
18 documents that I wasn't privy to because I'm not
19 at that level, and on the legal issues involved,
20 whether it's Peter Pope or Dave Nocente, there is
21 a discussion I'm not a party to where people are
22 looking at the legality issues and making some
23 judgments. I am not in that loop, but my
24 impression is that other people were having those

1 discussion. And it seems to me, not being
2 familiar with what they actually said, just what's
3 been reported in the report that those sorts of
4 conversations were taking place.

5 MS. TOOHER: I need a short break.

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

7 AFTERNOON SESSION

8 BY MR. TEITELBAUM:

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

11 A. Yes, thank you. I was walking around the
12 park after speaking with Fred, and I wanted to go
13 back to that 3/14 2007 e-mail, SPF 496 or Exhibit
14 27. That is important to me because I had no
15 recollection of that. The other thing that is
16 interesting to me is attributed to me at the
17 chamber address is, "What is the J.B.'s departure
18 time tomorrow?" I don't ever recall referring to
19 Senator Bruno as J.B. I am not saying this is not
20 authentic, but I wanted to at least put it on the
21 record that the more I think about it, the more
22 doubts I have about it. I'm looking at the
23 typeface issues here. I was disabled in one way
24 which I thought was smart in the way in which the

1 chamber e-mail worked for me; that my "sent" file
2 was deactivated. They did that because about four
3 years ago I found I had all these e-mails dealing
4 with the homeland security issues some of which
5 were secret level, some of which were law
6 enforcement and sensitive. And I was horrified to
7 think that these e-mails were sitting out there.
8 So, I had had my "sent" file deactivated within
9 the chamber about four years ago. So, when this
10 all broke I was at a great disadvantage for all
11 the things I thought I did right from a security
12 standpoint, I was at a disadvantage because I
13 couldn't get access to my own e-mails that I sent.
14 I trust it's coming out of the State Police system
15 as opposed to the executive chamber system. I'm
16 not saying that it's not authentic. I wouldn't
17 cast any doubts on anyone that produced this, but
18 it does surprise me a little bit to see attributed
19 to me, "What is the J.B. chopper departure time
20 tomorrow?" It seems like something that I
21 wouldn't necessarily say. And I wanted to make
22 sure that I had a chance to at least say that on
23 the record.

24 The other issue I raised with Mr. Newman

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

14 BY MR. TEITELBAUM:

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

17 A. No. I have the e-mails that I was actually
18 able to get off my e-mail account when I came in
19 that weekend. And have the e-mails that were
20 faxed to me on May 31st. They were faxed to my
21 office. If we get to those, I would like to talk
22 about that a little as well. And I have the
23 flight schedules I have available. Basically, my
24 whole file that I have on the issue you are

1 welcome to take a look at it. My understanding in
2 talking with Fred and others is that this was all
3 already turned over. So, if you would like to
4 confirm that --

5 BY MS. TOOHER:

6 Q. You indicated that you had notes in February
7 of 2007. Are those notes in that file as well?

8 A. Yes.

9 MR. TEITELBAUM: We would like to see
10 them.

11 THE WITNESS: Yes. I think that covers
12 my -- the last issue I wanted to say is when I
13 talked to Fred about the e-mails we represented
14 that there are no private e-mails. And I just
15 wanted to give that assurance again today; that I
16 have never used a private e-mail for any of these
17 chamber indications. I do have a private e-mail
18 account and I gave you that address, but we do not
19 use that for official business purposes.
20 Everything I did was unfortunately for me was
21 attached to my hip on the BlackBerry. I lost all
22 access to my computer, I guess, on July 24th.
23 Everything that was there was lost to me. Thank
24 you.

1 BY MS. TOOHER:

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

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

20 MR. TEITELBAUM: That is Exhibit 5?

21 THE WITNESS: 5, as well as the ones
22 that were typed up later on, the ones at issue as
23 having been recreated, I guess, for lack of a
24 better word, along with the flight logs, you know,

1 for the aircraft with the list of passengers, the
2 aircraft flight request forms and, for Bruno only,
3 because my understanding was that Darren already
4 had those for the Governor. He had already
5 collected those. And I had seen those on his desk
6 at one point with a lot of scribbles. It may not
7 have been accurate, but what I thought they were
8 at the time were the Governor's personal schedule.
9 The issue that was talked about in terms of what
10 is guiding the State Police when they are driving
11 Senator Bruno or the Lieutenant Governor or the
12 Governor, what are they using as their guides.
13 And the idea was that there is something sitting
14 on the seat next to them guiding them through the
15 course of the day. That's kind of what I was
16 looking for from the State Police for Bruno. But
17 that's also what Darren already had for the
18 Governor. And what I thought I saw on his desk is
19 a very intensive what looked like a personal
20 schedule and looked like had a lot of scribbles
21 and amendments and changes and things on it that
22 were being used to guide the State Police. I may
23 have been wrong about that. That may have been
24 the public schedule with those amendments on it.

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
4 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?

1 A. That is an issue I have testified on. And
2 my best recollection is, I think I found out about
3 the FOIL request on June 28th. I don't think I
4 knew about it on the 27th. And I think the packet
5 must have been delivered to me either on the 29th
6 or thereabouts is when the trooper came to my
7 office. And I didn't actually meet with the
8 trooper. I kind of heard him outside with my
9 secretary. And, then, I got brought in the
10 documents in this folder. And when I opened them
11 up I saw what I thought were very formalized
12 documents.

13 BY MS. TOOHER:

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

18 A. If you could show me an exhibit or something
19 I would be glad to take a look at it. I hope you
20 can appreciate the difficulty of going back on
21 this stuff because it's so hard with so much stuff
22 that has been written and the different inquiries
23 that have taken place. I'm doing the best I can
24 to be as forthcoming and as accurate as I can.

1 And I know I am being held accountable for those
2 statements and I want to make sure I get it right.
3 If you could show me an exhibit, that would help.
4 I have interactions with them all day long, and I
5 can't recall specifics, though.

6 BY MS. SULLIVAN:

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

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

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

23 --

24 A. "The senator, or something like that

1 depending on the context of the discussion. It
2 struck me as odd when you showed it to me, and I
3 wanted to make sure I came back on this a little
4 bit and the scheduling issues. And I also want to
5 make sure that I understand exactly what the
6 issues are, the timing and everything else.

7 BY MR. TEITELBAUM:

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

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

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

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

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

24 A. Yes, absolutely.

1 Q. And, that's true of all of the other
2 documents other than your notes?

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

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

10 BY MS. TOOHER:

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

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

16 BY MR. TEITELBAUM:

17 Q. What does it say?

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

21 BY MS. TOOHER:

22 Q. I am going to show you what has previously
23 been marked as Commission's Exhibit 32. It's an
24 e-mail from Preston Felton to William Howard,

1 5/21/07. There is a thread through the e-mail,
2 bottom e-mail: "Just received another request for
3 ground transportation from that same individual we
4 had last week in New York City."

5 A. Right.

6 Q. Do you recall receiving this e-mail?

7 A. I do recall receiving this e-mail.

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

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

23 Q. It's, "Do you want me to do the same
24 documentation we previously talked about for this

1 trip?"

2 A. It's interesting, because the way the
3 question was asked previously is: Do you want us
4 to continue to provide the ground transportation?
5 And that's the way it is both the A.G.'s
6 questioning and in the D.A.'s questioning. And
7 the fact that you read it the way you read it
8 right now is actually a new interpretation on what
9 this e-mail is all about.

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

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

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

22 A. No. I asked for information about this
23 trip. And then there was a conversation and he is
24 asking me in this e-mail: Do you want to continue

1 to get that information? The answer to that would
2 have been yes.

3 Q. And had you --

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

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

21 A. Yes.

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

24 A. Right. But I do think there is other e-mail

1 traffic around the same time where I am e-mailing
2 Darren that we just found out there is another
3 trip; would you like me to get the details. And
4 the answer is yes.

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

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

14 (Commission Exhibit 62 was marked for
15 identification.)

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

18 A. This predates the other e-mail.

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

23 A. Right.

24 Q. And you respond to him at 7:18 saying, "Can

1 you get me the details?"

2 A. Okay.

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

7 A. Right.

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

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

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

22 A. I would not concede that because there are
23 more direct conversations taking place than are
24 taking place in e-mails. And I can tell you in my

1 heart of hearts and everything else, I had no
2 interest in doing this in and of myself. I was
3 responding to Darren's request to do this.

4 Q. But the e-mails we have in front of us,
5 specifically Commission 62, it appears at 7:33 you
6 are advising Darren that the request has been made
7 and you are collecting the details on this request
8 --

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

10 Q. Let me finish, please -- and in Commission
11 32 at 7:18 you had already requested the
12 additional information.

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

21 Q. Now that you are receiving requests from
22 Darren Dopp to collect the information and collect
23 more than one schedule but another schedule, what
24 do you believe you are doing?

1 A. I am responding to his request for the
2 information. I have no knowledge of what they are
3 going to use the information for at this point.

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

6 A. I believe he has, yes.

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

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

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

20 A. Absolutely. Even the C.V. Starr
21 conversation which we referred to earlier was a
22 conversation that took place in his office that I
23 then went back and checked the computer. There
24 are lots of conversations that are taking place.

1 Q. What did he say to you about gathering the
2 information on Senator Bruno's schedule on May
3 21st?

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

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

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

20 Q. And did you relay that to Superintendent
21 Felton?

22 A. No. I don't think it was relayed to him in
23 that way because I think, again -- and the record
24 would probably show it -- a lot of specific

1 interactions about specific trips and time frames.
2 So I think I am coming at Preston from the
3 standpoint of, you know, as these trips are
4 scheduled can you get me the information. I don't
5 believe he would be on any kind of understanding
6 that this would be a continual stream of
7 information that would flow forward.

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

14 A. No. My take on that is he is referring to
15 the type of itinerary that we had for the 17th and
16 18th trip that he had provided to me.

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

21 A. It is that conversation. And I can't tell
22 you what day it was, but there is a conversation:
23 Can we get others? Can we get other trips? Can
24 we get those other trips? And, again, I didn't

1 specify the form. And I think the Superintendent
2 has even testified to that; that he wasn't
3 directed -- there was no specification as to form.
4 He decided to put the trips in the form that they
5 were sent to me. And I did not specify how I
6 wanted that information collected. And, honestly,
7 I didn't give a second thought to how he would
8 collect it, how he would get that information
9 again, like I said, whether scribbles between the
10 secretaries or whether he was talking to folks --I
11 don't know how he was getting it, but I expected
12 he would be getting me the information as he got
13 it available to him.

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

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

21 Q. In regard to this other trip that we are
22 speaking of now in Commission's 32 and
23 Commission's 62, did you receive additional
24 information concerning the trip by Senator Bruno?

1 A. Yes. I got -- I think I got a schedule for
2 the trip.

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

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

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

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

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

20 A. Right. And what I would say -- and I want
21 to make sure I get this on the record as well. I
22 have talked about what my daily life was like, and
23 I want to specifically talk about 5/23 and 5/24,
24 if I could, in terms of what Bill Howard's daily

1 life was on the second floor. May 23rd was a day
2 on which we were planning a trip to go to Fort
3 Drum to meet with the 10th Mountain Division with
4 the Governor. I spent most of the entire day
5 trying to put that trip together. But when I came
6 into the office that morning the news of the day
7 was the bodies of -- that there were two. The
8 initial reporter said it was two. It later turned
9 out to be one of the 10th Mountain Division
10 soldiers who was found over in Iraq, one of the
11 guys that had been captured by the Iraqi
12 insurgents. So, the entire day was basically
13 spent in meetings with Sean Maloney and other
14 folks going back and forth over: Are we doing
15 this trip or are we not doing this trip? What
16 does your trip look like? What is the nature of
17 what we were announcing up there? Can we really
18 do this at this point because we have got the body
19 of the soldier that has been found? So, the whole
20 day was spend basically tying to plan this trip
21 and in scheduling meetings and scheduling -- What
22 I said when I was reviewed the record for the D.A.
23 testimony was: I'll bet if you checked these you
24 will find two things. One, I either took the

1 e-mail off my BlackBerry and forwarded it without
2 thinking of it and, second, or it took me a really
3 long time to forward the e-mail. And, you can
4 tell me, but I think this e-mail was forwarded to
5 Darren Dopp in about four minutes. And later in
6 the day there is an amendment that comes out of a
7 change in the schedule. And I think it took me
8 close to four or five hours to actually forward
9 that e-mail to Darren. So, that's what I want to
10 get across in terms of how little attention I was
11 paying to this issue. I had other
12 responsibilities and other things driving me crazy
13 within the chamber. And I would encourage you to
14 look at what the rest of my schedule looked like
15 for that day in terms of how much attention I was
16 paying to these issues.

17 BY MR. TEITELBAUM:

18 Q. Do you have your schedules?

19 A. I Xeroxed those days and provided them to
20 David Nocente. I do have them, yes. I have those
21 schedules. The other thing I would say about
22 schedules, 5/31 when the fax comes into my office
23 -- it's a fairly heavy-duty fax that comes in
24 taking a couple of sections from Preston Felton to

1 myself. And it's the Governor's flight schedule,
2 the Bruno flight schedule. And I was actually out
3 of the office the May 29th through the 31st and I
4 came back into the office on June 31st, and when I
5 was putting all the documents together for Dave
6 Nocente I noticed that the April and May schedules
7 were missing from everything I had. I didn't know
8 if I xeroxed them, left them in the machine or
9 what had happened to those schedules. Sean
10 Maloney made a point of making sure I did a
11 diligent search of my office and suggested that I
12 look through everything that a document could be
13 in. Look in your in-box and in places that you
14 don't necessarily put things. In my in-box when I
15 went back on the Saturday following my testimony,
16 so I think if that's the 14th of July, I found in
17 the middle of my heavy-duty in-box the April and
18 May schedules that were faxed in to my office. I
19 am not saying they didn't get delivered to Darren
20 Dopp when they came in by my secretary, but I
21 would like you to know that, honestly, I didn't
22 even look at those schedules when they came in
23 until July 14th when this whole issue was starting
24 to break. And, again, that's how much I was

1 paying attention to these issues.

2 (Commission Exhibit 63 was marked for
3 identification.)

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

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

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

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

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

22 A. Like I said, this is what my life is like,
23 and this is how I operate my BlackBerry when
24 things come in. I'm positive I was in a meeting

1 on scheduling issues when this came in. I
2 immediately forwarded it. I don't think there is
3 any comment from me on it. I just forwarded it to
4 Darren as soon as it came in because he had
5 requested it.

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

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

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

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

23 Q. Well, what is the question you think you are
24 being asked here that you are sending the

1 information to Darren Dopp in response to?

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

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

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

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

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

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

20 A. I had never seen them before. When I asked
21 Superintendent Felton at some point did they have
22 those, he said no; they're like destroyed or
23 shredded at the end of the day. We don't have
24 those.

1 Q. Did you relay that information to Mr.

2 Dopp --

3 A. Yes.

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

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

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

22 A. Yes. And I think the reference "as per
23 Leslie J.B. office, the schedule is as follows," I
24 think what I was told by the Superintendent is

1 that this schedule came as the result of
2 conversations -- and "scribbles" was the word --
3 between the two secretaries, the State Police
4 secretary and the secretary in Bruno's office.

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

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

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

20 A. Right.

21 Q. This appears to be a fairly direct line of
22 communication between Investigator Swansen,
23 Williams, and Felton. Is that a fair
24 characterization?

1 A. It looks like that way, yes.

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

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

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

21 A. I didn't see this as security. In my
22 conversations with the superintendent I don't
23 think he saw it as security. I had one
24 conversation that I did not remember in my A.G.

1 testimony but I remembered almost immediately
2 after the testimony which was, you know, they kind
3 of hammered me on the issue of the security
4 aspects of the schedule. And I remember talking
5 to Preston Felton after the fact about it. I'm
6 pretty sure it was Preston Felton; It wasn't Wayne
7 Bennett. And I asked the question: Is there any
8 security value associated with these schedules?
9 And the response back -- I can hear his voice --
10 was "No!" After an event is over there's no value
11 whatsoever in the security aspects of the
12 schedule.

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

15 A. Right. But I'm also not under the
16 impression that any of this is being shared. I
17 deal with sensitive information all day long and
18 share it with Dave Nocente. I'll share it with
19 the State Police Superintendent or I'll share it
20 even with Darren Dopp, all sorts of homeland
21 security information that is very sensitive. I'm
22 not sharing secret information with people that
23 don't have the clearances, but I am sharing
24 sensitive information with people during the

1 course of the day. If Dopp had told me we are
2 going to be releasing this stuff to the media
3 later this afternoon, I would have said, "You
4 can't do that. There is security value in this."
5 But being asked to produce it and not seeing any
6 signs of this stuff being released to the press, I
7 didn't think that there was any issue with sharing
8 that information. It seemed to me to be public
9 information, public asset information related to
10 how these assets are being used on a daily basis,
11 not dissimilar from the information -- and
12 probably in less detail in many ways -- than
13 information being shared about the Governor.

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

16 A. Collecting it.

17 Q. For what purpose?

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

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

22 A. Yes.

23 Q. Did it occur to you that Darren Dopp was
24 perhaps collecting this material to provide it to

1 the media?

2 A. Not at this point. And it wouldn't have
3 surprised me that he was asking for it, that
4 anyone on senior staff might have been asking for
5 it. And, I was aware of some conversations on the
6 issue of whether or not this was something that
7 was legal, whether this was legitimate, whether
8 this is something that we should be referring to
9 --

10 Q. "This" being what?

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

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

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

17 Q. You were aware of these conversations going
18 on?

19 A. I thought Darren was having the
20 conversations. And I said a little while ago is
21 that I was somewhat heartened to see what I
22 thought were suspicions seemed to be confirmed by
23 the D.A.'s report. There were people that were
24 having conversations.

1 Q. What was your understanding as to who Darren
2 was talking to at this juncture?

3 A. I didn't know the answer to that.

4 Q. But you believed he was having conversations
5 with senior staff?

6 A. I absolutely did.

7 Q. What was that based on?

8 A. Just the impression I had on how the
9 information was being handled internally. It
10 didn't seem to be a particularly media type
11 packaging like I had seen in the past, and I was
12 under the impression that there were some
13 conversations going on about what could be done
14 with this information.

15 Q. Did Darren say something to you in that
16 regard?

17 A. There was a reference at one point to the
18 Inspector General, and I indicated that I didn't
19 think the I.G. had jurisdiction.

20 Q. What was that conversation? The I.G. was
21 going to be looking at what?

22 A. The whole issue of that appropriate split
23 between official business and political travel.

24 Q. What was your input in that regard

1 concerning the I.G.?

2 A. That I didn't think the I.G. had
3 jurisdiction; that was pretty much it.

4 Q. What did you think the I.G. had jurisdiction
5 over?

6 A. The Legislature.

7 Q. Was anyone else a party to that
8 conversation?

9 A. No. It was just Darren and myself.

10 Q. Did Darren indicate that he was speaking to
11 anyone else about this?

12 A. Not specifically, but I left with the
13 impression that he was.

14 Q. What was that impression based on?

15 A. Just a gut feeling. I can't say, and it
16 would probably be unfair to go any further than
17 that because there was no specific references to
18 any individuals or anything. I just had the
19 impression based on the questions that were being
20 asked that he was in conversations with other
21 people.

22 Q. "Other people" with senior staff in the
23 executive chamber?

24 A. I wouldn't even say necessarily senior

1 staff; other people that had something to say
2 about this; whether they were lawyers, but other
3 people within the administration.

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

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

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

23 A. No.

24 Q. Did you ever speak to Michael Balboni, your

1 supervisor, and indicate to him that you were
2 receiving these requests?

3 A. No.

4 Q. Is there a reason you didn't go to Mr.
5 Balboni?

6 A. First off, Mike came into the administration
7 on difficult circumstances. He had left his
8 Senate seat and there were a lot of burned
9 feelings between him and Senator Bruno. It didn't
10 strike me, one, as something I should necessarily
11 have to report to him on. And, secondly, I really
12 saw in this instance that my reporting
13 relationship wasn't to Mike Balboni who was the
14 Deputy Secretary, but rather to Darren Dopp who
15 was asking me the questions. Maybe it's an error
16 on my part, but I did compartmentalize that and
17 say: If Rich Baum is asking me a question of
18 report, my report is to Rich Baum. If Darren Dopp
19 is asking me a question, my report is to that
20 senior staff member. And I saw that in that way
21 as it related to this issue. And, I didn't think
22 it would be good to put Michael in the middle of a
23 situation involving his former majority leader.

24 Q. So, you felt it might be a sensitive issue,

1 the issue of Senator Bruno's travel and Mr.
2 Balboni's prior experience in the Senate?

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

8 Q. Why is that?

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

18 Q. That "someone" being Senator Bruno?

19 A. Senator Bruno, right.

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

23 A. At some point. I think it was later in the
24 month, but at some point I asked for the travel

1 records for April and May that I referred to just
2 a little while ago and got the Bruno travel
3 schedules and the Governor's travel schedules --
4 I think actually the Lieutenant Governor's
5 schedules as well for the months of April and May.
6 Those were the ones faxed to me on May 31st.

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

9 A. Yes, I have seen this.

10 Q. You have seen this document before?

11 A. I have.

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

15 A. Yes.

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

22 A. I believe that I am.

23 Q. What are the records that exist going way
24 back?

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

23 Q. You had clearly indicated that you had the
24 last two trips in your possession. And at this

1 juncture it seems fairly safe to say we are
2 talking about the 17th and 18th and 24th reflected
3 in the e-mails you have been provided.

4 A. Yes.

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

10 A. Right.

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

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

1 I was talking about. I'm sure of that.

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

4 A. Right.

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

7 A. No.

8 Q. So, as of May 23rd --

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

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

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

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

24 A. Yes.

1 Q. What was that information?

2 A. Just other information related to other
3 schedules. As the trips developed, you know, more
4 information on it. Nothing beyond the type of
5 stuff that we have here, just consistently: Give
6 me the information on other trips to the City.

7 Q. What about the flight manifests, the logs
8 you spoke of earlier?

9 A. I don't think he ever asked for that. I
10 don't believe he ever asked for that information.
11 You may have something that says otherwise, but I
12 don't remember him ever asking. He clearly asked
13 for the flight records, but not the flight logs
14 that exists back at State Police headquarters that
15 have all the fuel and technical information about
16 the aircraft.

17 Q. Well, what are the records you understand
18 him to be looking for?

19 A. He's looking for travel itineraries and
20 basic flight records on who flew, on what date,
21 and the time of departure and time of arrival time
22 of departure back, time of arrival back in Albany.
23 I mean: If you have those, fax those. It was
24 stamped for 5/31. And that's the impression of

1 the other records that he was looking for
2 regarding other flight records.

3 (Commission's Exhibit 64 was marked for
4 identification.)

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

9 A. I do.

10 Q. Can you identify this document?

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

1 flights. And I said on this e-mail previously
2 that I don't ever recall getting January,
3 February, and March for him. I never recall
4 asking for those records. It occurred to me, and
5 my recollection says he already had those. I
6 don't know how he got those records. I don't know
7 who he went to in order to get those records, but
8 I don't think I provided him with those records
9 for the first three months of the year. I think
10 somehow he got those separately. And, to my
11 recollection this was the first time I was being
12 asked to come up with the records for April and
13 May. And I called or e-mailed the superintendent
14 and they were faxed to my office sometime on May
15 31st.

16 Q. When you say they were faxed to your office,
17 you mean the records for April and May?

18 A. Yes, and in like two large faxes bunches
19 that came in at some time. Just so I am clear on
20 this I just want to make sure -- just the language
21 on these flight schedules is confusing. My
22 thinking there is that there are really two types
23 of records. And, issue one is what I could call
24 the Bruno schedules. It could also be

1 itineraries. And, then, there is the flight
2 records which are the actual records in the State
3 Police system: Who flew the helicopter, who is on
4 it as a passenger, where it took off from, where
5 it landed, where it took off from and where it
6 landed on the return trip. And they are all
7 summarized all in about a two-inch or so section
8 of the document. And, as I recall this document,
9 they were all listed in this multipage -- and it
10 was basically ordered by date. And it had -- I
11 think it might have been separated for Bruno and
12 the Governor and Lieutenant Governor. But I
13 believe it was each one of them had separate
14 entries.

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

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

21 Q. Do you know who faxed them to you?

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

24 Q. Do you recall what your request was to

1 Superintendent Felton in this regard?

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

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

17 A. Yes.

18 Q. What is your recollection of the article?

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

21 Q. Yes.

22 A. I just want to make sure there is not
23 something I am missing here. I think it's a
24 Sunday article that came out in the Albany Times

1 Union. It's somewhat electrifying in terms of the
2 amount of space that is given to this article. It
3 talks about issues of pork sale. It talks about
4 an FBI investigation that is pending. And, you
5 know, it's got a lot of detail and a lot of ink is
6 devoted to this.

7 Q. Is there a reaction in the executive chamber
8 to this article?

9 A. Not one that I saw. Maybe one that I
10 initiated from the standpoint of sending an e-mail
11 to Rich Baum. But my impression at the time was
12 that Rich was living in Orange County. I don't
13 know that that's true. He may have moved up to
14 Albany by that point, but I didn't know that. And
15 my thought is that relations are pretty difficult
16 and strained. You need to be aware that this is
17 an article that appeared in the Albany Times Union
18 today.

19 Q. Did he respond to that?

20 A. He did.

21 Q. Did you continue you are communications with
22 him?

23 A. I did, yes.

24 Q. What was the nature of your communications?

1 A. Would it be possible for you to show me the
2 e-mail because I would love to get this right.

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

5 A. I have gone over that so many times. I
6 can't tell you what I was thinking. I think it's
7 somewhat embarrassing, quite honestly, because --
8 I hate to admit that because it comes hard for me.
9 But I think, you know, I e-mailed him, one, to
10 probably let him know that there is this story
11 that appeared. I'm not sure where he is living t
12 this point, so be aware that there's an Albany
13 Times Union story. Why I wanted to be the first
14 one to tell him that is beyond me. And he
15 responded, which is one of the rare times he
16 actually responded to my e-mail. And, then, I
17 e-mailed him back. We'll probably get to that in
18 a second. But I think that what's going on in my
19 head is this kind of advice that: You have been
20 collecting all of this information. I don't know
21 what you are going to do with all this
22 information. But, based on what I just read in
23 the Albany Times Union, whatever you are going to
24 do with it, you should probably do it soon because

1 I think this guy really is in a tough spot. And I
2 will tell you, I don't know at this moment what
3 they are going to do with the information. But I
4 know it's going to be something they could use to
5 some advantage, including potentially confronting
6 the senator with the information: You've been
7 flying on this helicopter. You've been splitting
8 the business between Albany and political stuff.
9 There could have been a whole bunch of things they
10 could have done with this information on how to
11 make the situation better, maybe force some
12 accountability on the use of the asset. It's an
13 e-mail that I've looked at way too many times that
14 I wish I hadn't written because I think it implies
15 a familiarity and a relationship that I don't
16 have. That's the thing that's most embarrassing
17 about the e-mail, is that at that point in my life
18 I am not with these guys. I'm not part of their
19 circle. And that's one e-mail that says to me:
20 Hey, guys. If you are not just reading the Albany
21 Times Union, here's the story. And then the guy
22 responds to me and I go back to him with this
23 advice: Whatever you're collecting the
24 information for, now is the time for you to use

1 it. I mean I look at it and I'm embarrassed by it
2 quite honestly.

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

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

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

12 A. Right.

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

15 A. I did, yes.

16 Q. What is that based on?

17 A. Just I think it goes back to how we began
18 this conversation; that I don't have any specific
19 knowledge that he was. But my impression is that
20 Darren is the chief policy maker for the
21 administration. Maybe I'm wrong in that, but it
22 strikes me that if you are that guy, then you are
23 communicating with everybody else in the
24 administration. I don't know that to be true and

1 I wouldn't want it to be read that I think it's
2 true. But that's where I was in my head at that
3 particular moment.

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

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

7 Q. You believed it to be true?

8 A. Yes, I did.

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

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

20 BY MR. TEITELBAUM:

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

23 A. Right.

24 Q. And, you refer to impending travel stuff

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

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

14 A. I would say that I am making a political
15 observation in this e-mail that I wish I had not
16 made. And I am embarrassed that I made it. You
17 are right. It was presumptuous. That's what
18 bothers me so much about this because I feel like
19 the fact that that is in the record makes it seem
20 -- and I understand -- that there were all sorts
21 of other conversations and contexts that was
22 there. And I am telling you that that was not
23 there. There was no context for this other than
24 my belief that people must have been in the loop

1 on this prior to my involvement. But I have no
2 direct knowledge that that's the case.

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

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

20 Q. My question wasn't what was in your head.
21 My question -- I am asking you what is in written
22 form on 48. 48 indicates to me that there is a
23 political dimension to the work that you have been
24 doing because you now say: "I think timing right

1 for that move" which is a political comment. Do
2 you agree?

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

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

21 A. No. That would be putting words in.

22 Q. I am saying that the inference here is that
23 the timing is right now because he is getting
24 hammered pretty good. So, now, the timing is

1 right; we can hammer him some more. Isn't that
2 what this really says?

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

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

23 A. There is an aviation policy document. That
24 is 1985, revised in 1995, I believe. And I saw it

1 at the D.A.'s testimony. I saw it at the Attorney
2 General's testimony, and I have it in my file in
3 case you haven't seen it.

4 Q. It's a '95 document?

5 A. It's a '95 document that I don't believe has
6 been amended since.

7 MR. TEITELBAUM: If you could provide us
8 with both the '85 and '95 documents.

9 THE WITNESS: All one document with
10 notations in '85 and '95.

11 MR. TEITELBAUM: The full document?

12 THE WITNESS: Yes.

13 BY MS. TOOHER:

14 Q. After you sent the June 3rd e-mail to Mr.
15 Baum what did you do next in regard to Senator
16 Bruno's travel?

17 A. There was no response to the e-mail.

18 Q. What did you take that to mean?

19 A. Maybe there wasn't as much familiarity as I
20 had thought; that maybe faced with an e-mail like
21 the one I sent to him he recognized its
22 sensitivity in some way and then chose not to
23 respond.

24 Q. Were you aware at this time that Richard

1 Baum indicated this issue should not be pursued?

2 A. Absolutely not -- absolutely no.

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

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

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

12 A. No, absolutely not.

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

16 A. No.

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

20 A. No.

21 Q. Did Mr. Dopp ever indicate to you
22 discussions with anyone in the executive chamber
23 concerning pursuing the issue of Senator Bruno's
24 travel?

1 A. No, not to my -- I don't recall any other
2 conversations on that point that said that this
3 was something that he was not going to be
4 pursuing. Again, I am providing information to
5 Darren but the information that is being provided
6 to Darren, I am not giving it to the reporter.
7 That FOIL request comes in -- I thought at the
8 time it came in to state police. I wasn't even
9 aware because I never even saw the FOIL until the
10 A.G.'s report. I wasn't aware that the FOIL was
11 actually made to the executive chamber. I didn't
12 even realize it had come in there. I gave the
13 documents to Darren and it's Darren that gives the
14 documents to the reporter. I had no involvement
15 whatsoever in handing the documents over to the
16 reporter other than what I gave to Darren. And I
17 was under no understanding that anyone had said
18 they didn't want this to move forward.

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

23 A. Yes.

24 Q. What did you think the purpose was?

1 A. I think accurately on June 3rd I am still
2 thinking it's related to a possible investigation
3 or confrontation with Bruno over the fact that
4 they have these documents.

5 Q. Has anyone relayed that to you?

6 A. No.

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

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

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

16 A. Not at this juncture, no.

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

19 A. Late in the process.

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

21 A. I was getting to that. I'm sorry. I am
22 aware that Darren is having some conversations
23 that seem to me to be media related questions that
24 are coming up. But I don't definitively know that

1 the documents are being turned over until he tells
2 me there is a FOIL request. I can remember that
3 conversation; it was a phone conversation. He
4 called me up and said: We've got a FOIL. Can you
5 have the State police put together the documents?

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

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

13 Q. From what do you draw that impression?

14 A. The was he's asking questions about how the
15 policy worked, how the travel worked, and some of
16 those issues. It seems to be moving away from the
17 policy issues we talked about previously into much
18 more specific types of questions. And, I would
19 say, very late in the process, maybe the 27th or
20 28th of June.

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

23 A. Yes.

24 Q. In the beginning of June do you have any

1 conversations with him about Senator Bruno's
2 travel activities?

3 A. Beginning of June?

4 Q. Yes.

5 A. You know, I can't specifically remember it.
6 But I think we are having some conversations about
7 the travel, you know, from that May 17th date all
8 the way through to the FOIL.

9 Q. You are continually having conversations
10 about the travel from May 17th on?

11 A. Yes, off and on.

12 Q. Solely with Darren Dopp or with anyone else?

13 A. Exclusively with Darren Dopp.

14 Q. What about Superintendent Felton?

15 A. Oh, yes. I'm sorry, with Preston as well.

16 Q. Did you ever say anything to Preston Felton
17 about the nature of these inquiries?

18 A. No, not a lot of -- ask the question, got
19 the answers, provided the information. That's
20 really the way it worked.

21 Q. Did there ever come a time where Darren Dopp
22 asked you for additional information on Senator
23 Bruno's itineraries besides that provided in the
24 e-mails?

1 A. Not to my recollection. I don't recall
2 anything that went beyond the itineraries.

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

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

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

10 A. I have.

11 Q. Can you identify this document?

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

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

18 A. Yes.

19 Q. And, when did this conversation take place?

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

23 Q. And Commission's Exhibit 23 comes into your
24 house?

1 A. Yes. I don't know how it comes in, whether
2 e-mailed or faxed or both. I don't know. Maybe
3 you would know from the records, but at some
4 point, yes. I do remember seeing this document.
5 And I don't think I ever actually asked for the
6 May 3rd and 4th trip. I think that just comes
7 because it's the summary of all of the trips in
8 May. I don't think I knew there was a trip that
9 early. I think it comes later in the process.

10 Q. So, Superintendent Felton provides this
11 document to you, Commission's 23, in response to
12 your request for additional itinerary information?

13 A. I don't know that I would say "additional"
14 itinerary information. I would say itinerary
15 information. I think this is coming to me in a
16 whole bunch of different ways. I think it's
17 coming in e-mails, it's coming to me in faxes, and
18 it's coming to me in this form as a retyped
19 document. And, I think what they've done here,
20 they basically retyped the May 24th schedule which
21 we have in e-mail as 34 and that other appended
22 one, and they are retyping it when whenever this
23 is transmitted which would be sometime in June.

24 Q. Had you requested that it be provided to you

1 in a typewritten separate form?

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

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

14 A. Right. Correct, yes.

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

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

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

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

22 Q. Did you ever ask Superintendent Felton?

23 A. No.

24 Q. What did you do with this information?

1 A. I gave this to Darren.

2 Q. You forwarded this information to Mr. Dopp?

3 A. I think I gave him a hard copy of this
4 originally. I don't think -- might have forwarded
5 the e-mail. If the record shows that I did, I
6 did. Whatever I got, I gave to Darren. I want to
7 be very clear about that. The information I got I
8 saw as coming from the request, so I provided it
9 to Darren.

10 Q. When you say "the request" what is the
11 request you are responding to at this point?

12 A. I have gone over this. The request is for
13 the scheduling information for the senator and, as
14 I got the information, I gave it to Darren.

15 Q. Even though you were getting the same
16 information again and again and again?

17 A. Honestly, I probably didn't even notice
18 that. I mean I remember this; this stuck in my
19 mind because it was typed. I didn't remember this
20 which is 34. I didn't remember that. But anyone
21 that has ever worked on the second floor knows
22 what daily life is like there. And, this was not
23 something so important to me that I was focusing.
24 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

1 break this information down into three separate
2 documents?

3 A. Not to my recollection; I don't remember
4 that. I don't recall that.

5 Q. Did you ever ask Superintendent Felton to
6 break this information down into three separate
7 documents?

8 A. Not to my recollection; I do not remember
9 that.

10 Q. Did you ever receive this information in a
11 different format than is presented on Commission's
12 23?

13 A. I think I received the information on
14 separate pages. I do remember that. I just don't
15 remember asking for it.

16 BY MR. TEITELBAUM:

17 Q. Let me ask you a question. You say you
18 don't remember asking for it. You could have
19 asked for it?

20 A. I might have; I just don't remember. I know
21 how important it is. I hate to say I did if I
22 don't remember, and I just don't remember it.

23 Q. What conceivable reason might you have had
24 if you had asked for it on separate pages?

1 A. I don't know. I wouldn't even speculate on
2 that, other than just having it separately framed.
3 But I don't know why that would have come up that
4 way. I don't remember asking for it. I really
5 don't. If I did I would say so. I just don't
6 remember asking that.

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

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

19 BY MS. TOOHER:

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

1 it.

2 A. Okay.

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

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

7 Q. When did you receive this e-mail?

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

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

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

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

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

20 Q. Did you request these documents from Preston
21 Felton?

22 A. These are the documents that we talked
23 about, you know, which were the synopsis of the
24 Bruno schedule.

1 Q. When you say "we talked about" --

2 A. Preston Felton and I talked about getting
3 synopses -- I think that was Preston's word --
4 synopses of the Bruno schedules. I don't know how
5 they did it, whether it was interviews with the
6 driver or the notes or the scribbles or whatever,
7 however they did it. But I knew they were putting
8 together schedules on the travel, and these are
9 the documents they sent me in response to that
10 request.

11 Q. When did you have this conversation with
12 Preston Felton?

13 A. I can't accurately recall that. Obviously,
14 it was sometime before this and sometime after,
15 probably, the 5/31. I don't remember ever asking
16 them to be separately framed in this way. I don't
17 remember that. I don't ever remember having them
18 separate each page.

19 Q. Do you remember receiving Commission's 23?

20 A. I do remember receiving this, yes.

21 Q. And if you would take a moment and compare
22 Commission's 1, 2, and 3 with Commission's 23, I
23 think you'll see it's virtually identical
24 information.

1 A. All right.

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

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

1 motive.

2 Q. If Darren Dopp had asked you to put the
3 documents onto separate sheets would you have
4 relayed that request to Superintendent Felton?

5 A. I would have, but I don't recall it. And I
6 would tell you today if I remembered that as a
7 request from Darren Dopp. I wouldn't hesitate to
8 tell you that. I just don't recall ever
9 instructing that they be put on separate sheets.
10 But, yes. If Darren had asked me to put them on
11 separate sheets I would have asked for them to be
12 put on separate sheets for whatever reason he
13 wanted them in that form. I just don't remember
14 that ever being a request and I don't remember
15 making that request to the Superintendent.

16 Q. You did provide the three separate
17 documents, Commission's 1, 2 and 3 to Darren Dopp;
18 didn't you?

19 A. Yes. 1, 2 and 3 were definitely provided to
20 Darren. I can't speak definitively as to whether
21 23 was shared with him. I guess would be that
22 whatever I got I shared, so I possibly did share
23 23 with him as well. I just don't recall any
24 interchange around that. I'm sure I would have

1 given it to him. Anything he would have asked
2 for, I gave to him.

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

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

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

20 A. Darren to myself, yes.

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

23 Q. I am going to show you what has been marked
24 as Commission's Exhibit 65. It's an e-mail from

1 you to Darren Dopp dated June 21, 2007. Can you
2 identify this document?

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

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

14 A. I think it's another observation about: You
15 should move forward on campaign finance. He said
16 something in the paper -- there was an article in
17 the paper on campaign finance that I remembered
18 and I think that's how it's relevant. I don't
19 think it relates to this issue. I never remember
20 mixing the campaign finance with this other stuff
21 in my head. I just don't recall that.

22 BY MR. TEITELBAUM:

23 Q. Mr. Howard, as part of your responsibilities
24 did you have anything to do with campaign finance?

1 A. Not as part of my formal responsibilities.
2 Just -- I am on the floor and people ask me lots
3 of questions but not necessarily campaign finance
4 questions. There certainly was a huge sprawl of
5 interest and discussion about campaign finance.

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

8 A. I think there was a leaders' meeting or a
9 big discussion that didn't go well on campaign
10 finance issues. And I think there was a news
11 article that appeared -- and don't hold me to the
12 fact that there was a leaders meeting or some
13 public forum, but I think there was. And my best
14 recollection is that it was not in reaction to any
15 of this stuff but in reaction to other stuff that
16 was going on in the newspaper. In terms of my
17 duties, I am a member of the administration. I
18 have the ability to weigh in with opinions on
19 certain things even if they are outside of my
20 assigned responsibilities. And this was just a
21 one-sentence remark about something that was going
22 on in the newspaper, you know: Time for you guys
23 to make campaign finance resonate. And maybe that
24 happened because I am being asked a million

1 different things in the course of a day. Maybe my
2 formal responsibilities aren't always clear to me.

3 Q. Maybe it happened because you are getting
4 close to making with Mr. Dopp Commission's 1, 2
5 and 3 public?

6 A. No, I don't see any connection to that. I
7 don't see anything inappropriate with what I did
8 with regard to getting the schedules, quite
9 honestly. So I don't have any reason to not make
10 the connections that would otherwise look like
11 they could be made because I don't have any issue
12 with what I was asking for from the State Police.
13 I think this is an issue that the public has a
14 right to know about and the executive chamber has
15 the right to ask questions about it. I believed
16 it then. I believe it now. I'm sorry that I'm in
17 the newspaper the way I have been in the
18 newspaper. I'm sorry I've suffered the stuff that
19 I've suffered. But I still fundamentally go back
20 to the fact that if we can't ask questions about
21 how the state helicopter is being used and how
22 other resources are being used, then I don't know
23 what government accountability is. I mean that
24 sincerely. For every fundraising event that this

1 guy went to there are state police officers
2 sitting in a car outside. We have a right to know
3 that they're sitting out there and how much it
4 cost to have them there. We have a right to that,
5 I think. I may be wrong. I'll let the lawyers
6 make those decisions.

7 BY MS. TOOHER:

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

11 A. Yes.

12 Q. When did that happen?

13 A. I wracked my brain on that issue to try to
14 figure out as accurately as I can. I think it's
15 dated June 27th. I don't think it was on June
16 27th that I found out about it. I think it was
17 the next day, and I think it was a conversation
18 with Darren, a very hushed conversation which, in
19 his usual style, he says: We've got a FOIL
20 request for all of the Bruno travel information.
21 Can you have the State Police put that together?
22 And I wish I had. I should have. I didn't ask
23 the question: Can I see the FOIL? Send it to me.
24 Let me take a look at it. Has Dave Nocente or

1 anyone else on the floor taken a look at this? It
2 didn't occur to me that I needed to do that. And
3 I assumed in getting the information before it
4 went out the door people who had those
5 responsibilities would look at it. And I believed
6 that would be the case.

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

12 A. It was different. It was set up
13 differently. And maybe that's my biggest mistake,
14 if you will, or if I will admit that in some of
15 this is that in transmitting my Pataki experience
16 into the Spitzer administration, but things don't
17 necessarily jive in the same way. When I was
18 sitting in my chair with Pataki -- and we're
19 having senior staff meetings every single day and
20 sometimes two or three times a day. And I'm in
21 all of these meetings and I'm hearing all the
22 stuff that's going on in government and all the
23 things that people are working on and dealing
24 with. And I'm hearing Rich Plotkin report back

1 with a possible perspective, and I'm hearing
2 Jeffrey Lovell and other people talk about what's
3 going on in their world and I'm sharing what's
4 going on in my world. In this instance my only
5 real contact, my only genuine contact is Darren
6 Dopp. And I'm not wired into Nocente. I'm not
7 wired into Baum. I'm not wired into the Governor.

8 Q. That's not the question.

9 A. No. It is, though, because in the old days
10 I would have asked the question at those staff
11 meetings. In this world I don't have the access
12 to really ask the question. Could I have raised
13 my hand and called Nocente? Could I have walked
14 into his office? Could I have tried to get in
15 there? I probably could have tried to get in
16 there to ask the question. Did it occur to me
17 that I could? What I was being asked to do, I was
18 fulfilling my responsibilities and Darren was now
19 on the hook for whatever he needed to do in terms
20 of getting that out the door. It never occurred
21 to me that lawyers wouldn't look at the FOIL
22 before it went out to the newspaper. It never
23 occurred to me that that would have been the case.
24 But I didn't see that as my responsibility.

1 MS. TOOHER: I understand. Could you
2 read back the question, please?

3 (The requested portion was read.)

4 A. No.

5 Q. You didn't ask to see the FOIL.

6 A. No. But I would have been much more
7 familiar with what was going on based on my access
8 in the meetings. I would have heard people
9 describing. I would have been engaged in those
10 dialogues. But I never would have asked an agency
11 to give me a copy of the FOIL or something like
12 that.

13 Q. If there was a FOIL in front of the
14 executive chamber that concerned your agencies,
15 you gathering information, would you ask to see
16 that FOIL?

17 A. Probably not. And I can't think of -- I say
18 probably not. I can't think of any situation
19 where I did have FOILs in the old Pataki days
20 where I also asked to see the FOIL. I knew there
21 were FOILs out there. I knew there was a request
22 for information. I knew that I was involved
23 sometimes in the give-and-take providing
24 information to whoever was in the executive

1 chamber facilitating dialogue with the agencies.
2 I can't recall ever seeing a FOIL request that
3 came from the agencies that were under my charge,
4 but I probably was better informed than I was in
5 this instance as to what the context of the FOILS
6 were.

7 Q. So, if Darren Dopp had told you there was a
8 FOIL, you wouldn't have asked to have seen it?

9 A. I probably wouldn't have asked to have seen
10 it. I think if I had been told that there is an
11 oral FOIL I would have asked for more information
12 about that because it strikes me as kind of an odd
13 thing that I have never heard about before. And I
14 do think I would have asked the question if he had
15 told me about it.

16 Q. But if he told you there was a FOIL you
17 would not have asked any questions?

18 A. No. I don't think I would have.

19 (Commission's Exhibit 66 was marked for
20 identification.)

21 A. There's just one thing I would like to add
22 to that point. I wouldn't have asked for it but,
23 also, it still occurred to me that at the time I
24 was preparing this information I still thought

1 that the FOIL actually was, you know, to the State
2 Police. I didn't think it was to the executive
3 chamber. And as you evaluate all this stuff I
4 want you to keep that in mind; that I didn't
5 assume that this was a FOIL done of the chamber.
6 I don't know if that is of significance to you,
7 but I didn't see this as a FOIL that was done to
8 the chamber. I thought it was done to the State
9 Police, but I did think that the chamber was
10 coordinating the response.

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

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

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

21 A. Because it had been done that way in the
22 past. Clearly, on the second floor -- whether
23 it's appropriate or not is another question. But
24 the second floor had coordinated agency responses

1 to FOIL in the past. I do think the agencies
2 responded to those FOILs and provided those
3 documents pursuant to the FOIL. But in the past
4 there were many occasions where the second floor
5 actually did coordinate the response to the FOIL.
6 I think the perfect one -- the one that is most
7 striking is the issue of the Thruway FOIL that was
8 at the end of Pataki, and I think people in the
9 executive chamber were very involved with how that
10 was structured. And, again, whether that was
11 appropriate or not I don't know, but the chamber
12 was heavily involved in processing the FOIL. So,
13 it wouldn't strike me as odd that the chamber was
14 in a position of helping or being the primary
15 respondent to the FOIL. I see that issue now as I
16 sit here, but I didn't see that issue then
17 contemporaneous to those documents as a particular
18 issue. I didn't see it as an inappropriate issue
19 or unusual.

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

23 A. This is the first time I have seen it in
24 this form. I haven't seen it in this form. I saw

1 it as it was summarized in the D.A.'s report and
2 I believe it was summarized in the A.G.'s report.
3 And that's the only time I saw the document. I
4 didn't see it in the form as you show it to me
5 until today.

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

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

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

16 A. That we had received a FOIL request.

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

19 A. Yes.

20 Q. What did you do?

21 A. He asked me at that point to talk to the
22 State Police about getting the information for the
23 FOIL request. And I don't know exactly how that
24 was phrased, but what I did was I got the flight

1 records and asked Preston Felton to submit to me,
2 you know, all the flight records that we had. And
3 he sent them to me in a package because we had
4 received a FOIL. I don't remember getting into a
5 lot of detail with him on this. And, again, I was
6 under the impression because it was a State police
7 FOIL that they were already familiar. So, I think
8 in the A.G.'s report it says I considered it a
9 courtesy call. I don't think I would have said it
10 that way, but I did think I was advising him that
11 we, thinking them, the State Police, received a
12 FOIL. We need to have all information put
13 together on the flight records. I don't recall
14 any kind of detailed discussion with Preston about
15 how that would be or how it would deal with this
16 FOIL. And it didn't specify any of the
17 information. And when I got, I provided it to
18 Darren. And I know that doesn't look like good
19 government.

20 Q. When you get from Preston Felton?

21 A. What I got was what I called the flight
22 records which were the records of the flights with
23 the requests for the flights signed by Marlene
24 Turner, whoever the passengers were that were on

1 the flights. My recollection was that these
2 documents marked Exhibits 1, 2, and 3 that we
3 talked about earlier were also in this packet
4 because I remember seeing them in the packet as I
5 leafed through it. I didn't look through it in
6 any kind of detail. It looked like the type of
7 information Darren was looking for. I remember
8 just leafing through it to see that it all made
9 sense in terms of the kind of information, dates
10 and things, and not paying a lot of attention to
11 walking it down there. And shortly after I got it
12 I hand-delivered it in these what I called
13 alligator-clipped packets. I walked it down to
14 his office and gave him the documents and he said
15 thanks.

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

18 A. I didn't actually see the person. I heard
19 the trooper outside and caught a glimpse of the
20 trooper delivering them. When Judy Brady, my
21 secretary, walked in and said, "The trooper just
22 delivered this." My recollection is that it was
23 sealed but not like security sealed like some of
24 my stuff comes. It was just in an envelope. I

1 opened it up and I kind of remember seeing the
2 alligator clips, seeing the three copies, pulled
3 it out, looked at it, and they had delivered the
4 stuff that I hadn't anticipated being delivered to
5 me. I leafed through it very quickly, walked down
6 the hall and gave it to Darren. And he said
7 "Thanks," or some other comment and that was it.
8 There was no real discussion about it.

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

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

24 Q. Did Superintendent Felton at that time or at

1 any time indicate to you that the documents
2 identified as Commission's 1, 2 and 3 were not
3 appropriate for release under FOIL?

4 A. No. And I have to tell you, I saw that in
5 the D.A.'s report for the first time. And if that
6 had been said to me, that would have changed my
7 opinion of this, I guarantee you. Had someone
8 told me that this was specifically not public
9 records or should not be shared -- I would not
10 have shared them if I had been told that
11 information. And, again, I'm not saying anything
12 about integrity or anything else because I hold
13 all of these people in extremely high regard. But
14 I can tell you many things about my background and
15 ethics and everything. And if anyone had told me
16 that the documents couldn't be shared or were not
17 public records, either one of those things would
18 have flagged something in my head that at the very
19 least I would have said this is something that --
20 a lawyer has to review this. And I would also add
21 that this doesn't extend to what I said previously
22 about thinking lawyers were involved in this
23 issue. Had someone specifically told me these
24 weren't public records or shouldn't be shared,

1 having the assumption that a lawyer was involved,
2 the end of the process would definitely not have
3 been sufficient. I would have either not shared
4 them or demanded to talk to a lawyer.

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

8 A. He used the word "synopses" and said they
9 were put together based on notes. I never heard
10 the word "interviews," but notes that existed.
11 So, in my brain, my thought was that these weren't
12 necessarily based on interviews with the troopers
13 but, rather, based on some sort of contemporaneous
14 record, whether it was the record that existed,
15 again the secretary's scribbles I referred to
16 earlier, or whatever they had sitting on the
17 passenger seat of that car as they drove the
18 senator around. I thought what they were giving
19 me was not the literal document sitting on the
20 seat because that was supposedly destroyed at the
21 end of the day, but they were providing me the
22 synopsis of the summary of what those documents
23 were. And that is as clear as I can state it.
24 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.

1 Q. Do you know if this was part of the
2 documents that were provided as the FOIL package,
3 the package you said was delivered to you by the
4 State Police and included the flight records as
5 well as Commission's 1, 2 and 3?

6 MR. TEITELBAUM: You are talking about
7 23 now?

8 MS. TOOHER: 23, yes.

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

15 BY MS. SULLIVAN:

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

19 A. I want to be careful about this because I
20 know how important it is. I mentioned to him that
21 the State Police indicated that these were
22 synopses of the schedules. And he said "that's
23 okay." Now, I didn't really have a chance to
24 explain what I meant by "synopses." There wasn't

1 a lot of, you know -- there was a certain --
2 because he was very busy, a certain brusqueness
3 from him because I'm sure he had a million things
4 going on. But I'm sure that is what I remember
5 and I don't remember any other deep conversation
6 about it or any other ability to explain what
7 these were. But I just said to him, "I would
8 think twice" -- I told him these are synopses of
9 the documents. And, in my mind that meant -- and
10 I was hoping to convey -- these weren't literal,
11 original documents that were sitting on the car
12 seat but, rather, were based on that stuff and
13 were the synopses of those documents. I don't
14 think I ever used the word "recreations" and I
15 have not used it since in talking about it. My
16 understanding is how these were created is that
17 they were based on the information. They were
18 based on the documents. But what I tried to
19 convey to Darren is that these were not the
20 literal documents but the synopses of what was
21 guiding the State Police as they drove the senator
22 around. And I said that twice.

23 Q. Twice in the same conversation?

24 A. Twice in the same conversation so that he

1 got it. I didn't have the chance to tell him any
2 more about that because he basically cut it off
3 with, "That's okay." My sense was that he got it
4 and I walked out of the office and thought that he
5 understood that there was a distinction there
6 between original documents and what these were.

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

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

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

13 A. Yeah, probably.

14 Q. And you walked the packet that you indicated
15 was provided to you, which included Commission's
16 1, 2, and 3, down to Darren Dopp in response to
17 the FOIL request, did you mention Commission's 1,
18 2, and 3 at that time?

19 A. I don't recall mentioning it at that point.
20 My knowledge is that he knew they were in the
21 packet because he asked for them. So he knew they
22 were there. And part of his interest was getting
23 what the transportation schedules were for those
24 days, so I knew he knew they were in the packet,

1 but my recollection is just coming in and handing
2 him the FOIL packet that had come in from the
3 State Police and not a lot of conversation. Maybe
4 no conversation; maybe just giving him the packet
5 and walking out. I don't think there was any
6 interchange that I can recall. There might have
7 been, but I don't recall any kind of conversation.

8 Q. Did you feel there was any distinction
9 between Commission's 1, 2, and 3 and the remainder
10 of the aviation packet?

11 A. I didn't -- I didn't. I mean like I said, I
12 go back to that point of public records and all of
13 those issues. If I felt like there was anything
14 inappropriate about this I would have put the
15 brakes on it and I would have stopped it and I
16 wouldn't have participated in it. I wouldn't have
17 done that. I didn't see any issue with getting
18 there information at all, and I didn't see a
19 distinction between this and --

20 Q. "This" being Commission's 1, 2, and 3?

21 A. This being Commission's 1, 2, and 3 and the
22 other information. And I'm not sure if I am
23 supposed to do this or not, but even in -- I think
24 it's the D.A.'s report, there is this conversation

1 with the Superintendent where he is maintaining
2 that there was this FOIL request and indicates in
3 his testimony, apparently indicates in his
4 testimony, that he understood that the flight
5 records were under a FOIL request. And the
6 question is: Did you ask about the Bruno travel/
7 ground itineraries? No, because I thought they
8 were related to the same FOIL request. I mean
9 that is what they kind of literally summarize. So
10 my view was just as the flight records are
11 appropriate and could be released, the schedules
12 were something that could appropriately be
13 collected and be released.

14 BY MR. TEITELBAUM:

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

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

21 Q. 23 you are talking about?

22 A. Maybe 23. But it was related to handing him
23 the documents. And as we're sitting here -- and I
24 don't know that anyone has really asked the

1 question -- I think there was a phone conversation
2 where it was related as well.

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

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

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

12 A. It was whenever I first got them.

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

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

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

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

20 Q. Why?

21 A. Because the Superintendent had said it.
22 And, again, I would have remembered those other
23 points that were made; that these are public
24 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

1 car?

2 A. It would be something along those lines,
3 pretty close. They're not just driving him around
4 wherever he wants to go. I mean there is, just
5 like with the Governor, you know, with the
6 clipboard and I see the guy -- and it's: Darren,
7 I see the guy sitting in the passenger's seat with
8 a clipboard with the schedule. They do that for
9 him, too; right? Can we get access to that? Is
10 that something that we can get? So, that's where
11 this whole passenger's seat of the car -- I
12 thought it was important to underline to him and
13 maybe I didn't do it as effectively as I should
14 have. But I saw the distinction between what he
15 was looking for and what he was provided, not the
16 issue of public records or FOILability or any of
17 that stuff, but the fact that you asked for this.
18 This is what I have that has been given to me by
19 the state police and this is a synopsis of those
20 records.

21 Q. Let me ask you one other question concerning
22 your experience in the Pataki administration and
23 FOIL. You said it happened frequently in the
24 Pataki administration that FOIL requests that went

1 to the agency would be coordinated by the second
2 floor.

3 A. Right.

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

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

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

20 A. Right. And I was also not aware until read
21 the footnote in either the D.A.'s or the A.G.'s
22 report and state police request that Fred Dicker
23 had made and those documents and all of that stuff
24 that went back and forth. I wasn't familiar with

1 those issues. And I can't think of any
2 circumstance in the past where I dealt with a
3 State police FOIL. There might have been some,
4 but I can't remember anything in Pataki where I
5 actually did deal with the state police.

6 BY MS. TOOHER:

7 Q. Were there instances that you are aware of
8 them during the Pataki administration?

9 A. Not that I think of right now. I went
10 through a bunch of them and had a list. And I may
11 be able to pick out a bunch of them but not as I
12 sit here can I recall it.

13 Q. Did you ever see any response to the FOIL
14 request beyond the packet that you received from
15 the state police?

16 A. No. What I gave to Darren is what I have
17 provided to Darren. And like I said, I looked
18 through it before I gave it to him. But I never
19 actually saw what had gone to the reporter.

20 Q. Did you ever see any documents Darren
21 prepared to provide to the reporter concerning
22 Bruno's travel?

23 A. No.

24 Q. Did you ever see any document that Darren

1 had prepared internally concerning Senator Bruno's
2 travel?

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

6 (Commission's Exhibit 67 was marked for
7 identification.)

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

13 A. Until today I have not seen this document.

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

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

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

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

22 Q. Did Mr. Dopp ever advise you that he is
23 working on a document of this nature during the
24 time that the FOIL request came in?

1 A. No.

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

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

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

12 A. There was after the story broke.

13 Q. The story being the July 1st?

14 A. The July 1st story. I was called down with
15 some frequency by Darren to answer questions that
16 he was getting from reporters. I think Glen Miner
17 from the State Police was their public information
18 officer. He was e-mailing me about his response
19 to some of the press inquiries that he was
20 getting. I think there is, you know, maybe -- I
21 don't want to speculate, but maybe because it's so
22 hard to get the people in the press office, I
23 think the PIO, the public information officer
24 dealing with me tried to get some sense of where

1 is Darren going with the statement. Are you guys
2 putting anything out. So there is some e-mail
3 traffic I recall between Glen Miner and that
4 myself where he is basically giving me the report
5 back on how the press inquiries went, how that
6 stuff went. And that's typically the way agencies
7 PIOs might use me in the past and even into Pataki
8 and even now.

9 Q. But that's after the story.

10 A. After the story, yes.

11 Q. But prior to that are you having additional
12 conversations with Darren concerning the FOIL
13 request?

14 A. I think there are questions being asked. I
15 can't remember specific questions and fitting them
16 into the time frame. But I'm sure he is asking me
17 questions.

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

20 Q. Showing you what has been marked as
21 Commission's Exhibit 68. It's an e-mail from you
22 to Darren Dopp dated June 27, 2007.

23 A. Yes.

24 Q. "I have read through 73 several times and

1 have a hard time finding an applicability to this
2 issue."

3 A. Yes.

4 Q. Are you familiar with this document?

5 A. I am. And when I was looking at the record
6 trying to figure out when I first heard about the
7 FOIL this is one of those documents saying to me
8 that I don't think it was until the 28th because I
9 remember the circumstances of this. I was leaving
10 for the night and you will see at 7:02 p.m. I
11 stopped by Darren's office to say goodnight.
12 There weren't too many people left in the capitol
13 at that point. And he made a comment that he was
14 checking through Section 73 of the Public Officers
15 Law: Don't you think that the Bruno travel issues
16 would be a violation of Section 73 of the law. I
17 don't know 73 of the law. I have heard of it but
18 I don't know specifically what it said. So, I did
19 one of my things. I went back to my office,
20 looked up Section 73, read it over a couple of
21 times. And I was basically telling him here: I
22 don't know what you're talking about. I don't see
23 any applicability at all to the issues of the
24 Bruno travel here.

1 Q. You are indicating that this is prior to the
2 time you knew there was a FOIL request?

3 A. Yes. This is actually one of the things
4 that I used as the benchmark to try to understand
5 when did I hear of the FOIL, because Darren could
6 have told me on the night of the 27th that we had
7 received a FOIL. But I am very sure that this
8 conversation only related to Section 73 that night
9 and didn't relate to the FOIL, so I don't think it
10 was until the next day that I actually heard there
11 was a FOIL. We would have had a conversation if
12 it was that night. And I do remember this
13 conversation. I remember it being very brief. I
14 remember stepping in the office. I remember
15 leaving the office, but I don't remember any
16 discussion of the FOIL. That tells me it was
17 probably the next day.

18 Q. You indicate, "I am going to check out some
19 other sections"?

20 A. Right. I didn't do that.

21 Q. Why not?

22 A. You know, it was late for one thing. I
23 might have done it the next day or something. I
24 might have looked at 74 or some other sections.

1 So, I actually use this was one of benchmarks for
2 why I didn't -- I don't believe there was any
3 conversations on the 27th related to the FOIL. If
4 I remember them I would have told you. There's no
5 reason to not.

6 Q. What were you looking for concerning Section
7 73 at this point?

8 A. He had told me --

9 Q. Meaning Darren Dopp?

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

24 Q. You indicated that you didn't check out

1 other sections that evening but perhaps the next
2 day?

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

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

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

16 Q. You are not an attorney; are you?

17 A. I am not an attorney, no.

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

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

22 Q. You thought he was discussing Section 73
23 issues?

24 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

1 would have had that conversation. That's why I
2 think I don't find out about it until the 28th
3 because if I thought it was a FOIL I would have
4 remembered that on the 27th. If I remembered it
5 was the 27th I would tell you it was the 27th.

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

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

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

22 A. I'm talking back and forth in terms of
23 questions and things related to the travel. I
24 think the I.G. conversation -- you know, that

1 conversation was a one-time thing early on in this
2 process I talked about already.

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

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

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

10 A. No.

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

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

16 Q. Prior to the appearance of the article.

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

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

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

24 (Commission's Exhibit 69 was marked

1 for identification.)

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

7 A. Oh, yeah. I had forgotten about this.
8 Darren asked me the question of how much does it
9 cost to land the helicopter at the various
10 heliports in the City.

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

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

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

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

1 had fees for the landing. I remember that.

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

4 A. If you could show me something that would
5 refresh my memory I would be glad to look at it.
6 I didn't even remember the landing fee issue, but
7 I remember it now.

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

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

14 Q. Were you aware that this was from Mr. Odatto?

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

22 Q. Did Darren ever discuss with you whether Jim
23 Odatto was making any further inquiries concerning
24 the senator's travel?

1 A. Yes.

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

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

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

9 A. I don't think so.

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

12 A. Yes, I'm sorry. And that sparked my
13 recollection because there was an issue of I think
14 Darren coming back to me and saying that -- and I
15 don't know if he said Odatto and I don't know if he
16 said the reporter. I don't remember Odatto's name
17 being part of that. I remember what came back to
18 me is that the Senate in their response to the
19 reporter was indicating that this was all due to
20 death threats that had been made against the
21 senator. And Darren asked the question of me:
22 Has a threat assessment ever been done on the
23 senator. And I believe that I e-mailed or called
24 Preston Felton and asked him if a threat

1 assessment had ever been done. I don't think he
2 knew the answer to that question. I think he said
3 he would get back to me after he checked and he
4 got back to me and said there was some lobbyist
5 that showed up at his office that was diffused,
6 and there was an issue in Saratoga at his district
7 office where someone lit a garbage bag on fire and
8 then left a threatening note at one point. But
9 there had been no formal threat assessment that
10 had been done.

11 Q. What is your understanding of a threat
12 assessment?

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

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

24 A. Unfortunately, it goes back to Pataki and

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

16 Q. Did you have other familiarity with threat
17 assessments?

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

1 enforcement analyzing those letters or threats.

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

5 A. Yes, I can.

6 Q. What is this?

7 A. It's an e-mail from Preston Felton from
8 myself. I think it took him some time to find
9 this on his BlackBerry. I asked the question --
10 it's in military time so I'm not good on that,
11 18:53:27, "Did the 'flying Senator' ever have a
12 threat assessment done by State police?" And this
13 was in response to Darren asking me that question:
14 "And their defense reminds me of Hevesi," in
15 reference to the fact that I was a little stunned
16 that the Senate was taking the position publicly,
17 from what I heard from Darren, that all the State
18 Police stuff, all this driving service was based
19 on death threats and security and that they
20 actually said that publicly. And it surprised me
21 that they had said that because none of the
22 conversations I had ever had with the state police
23 said that it was about security. Everyone had
24 always said that this is about convenience and

1 driving.

2 Q. Are you upset about this position?

3 A. No. Their defense reminds me of Hevesi.

4 It's an observation of what they are saying.

5 There is no negatives in it at all.

6 Q. Well, did the "flying senator" ever have a
7 threat assessment? That seems to be a somewhat
8 derogatory term.

9 A. It wasn't intended to be that. I would hate
10 to see a lot of people's e-mails in terms of how
11 people express themselves in e-mails. If I am
12 guilty of being loose with language there, then
13 I'm sorry for that, but it was not intended to be
14 derogatory.

15 Q. "Their defense reminds me of Hevesi" --

16 A. It was almost the same defense that Hevesi's
17 people made; that he needed the driver for his
18 wife for security purposes. So, it's really a
19 matter of fact in terms of what it reminded me of
20 which was Hevesi had stepped out and said that the
21 driving services being provided were being
22 provided for security purposes. There is probably
23 not a person in the world that thought that that
24 was the case. And this defense reminded me of

1 what Hevesi had come out of the gate with in terms
2 of why he needed access to public employees to
3 drive his wife. Not a negative. It just reminded
4 me of what Hevesi had said.

5 Q. And the Hevesi defense was not a successful
6 defense; is that correct?

7 A. Yeah. I wasn't thinking that far ahead. I
8 guarantee you that.

9 Q. From what I gather from what you said so
10 far, you are not finding this a credible statement
11 on the part of the senator; that you had never
12 heard anything concerning any kind of death
13 threats in the past, and your understanding of
14 State police driving was not related to a security
15 issue; is that right?

16 A. I had been told specifically by the
17 Superintendent that driving the senator had
18 nothing to do with security and had everything to
19 do with convenience. So, it was not an opinion
20 that I was expressing; it was knowledge of what he
21 understood and what I believe as well.

22 Q. "He" being --

23 A. The Superintendent. He very specifically
24 said that this was not about security; that this

1 was about driving, picking up people at the
2 heliport and taking them to that schedule. You
3 know, it's not intended to be cranky or obnoxious
4 or anything else. It's just intended to be
5 stating somewhat of a fact. Their defense did
6 remind me of what Hevesi said. Their claim was
7 that state police security was needed because of
8 death threats and I thought it was understood by
9 the superintendent that those facts weren't true
10 based on everything I learned from him in looking
11 at this issue.

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

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

24 Q. It says here that, "The security issues in

1 the last couple of years" --

2 A. Yes. And every member has had security
3 issues over the years. That's probably an
4 exaggeration, but lots of members have had
5 security issues. And if there is a real security
6 issue then I think the state police has a real
7 obligation to address it and provide security.

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

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

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

18 A. I might have had a conversation with Darren
19 based on the conversation with the superintendent
20 that would have said: There is no public figure
21 -- I mean if I were to ask for a threat assessment
22 on myself -- I have had people threatening me from
23 time to time -- I'm sure that I would come up with
24 a low threat assessment. They are never going to

1 say it's a zero, that there is no risk to the
2 individual. I think I explained it in that way
3 that for any public official if you did a threat
4 assessment you would find at a very minimum a low
5 threat level. It might range based on certain
6 circumstances. But they're never going to say
7 that there's no risk to a public official.

8 Q. Did the superintendent relate to you any
9 information concerning the level at which Senator
10 Bruno would come in?

11 A. There had not been a threat assessment done,
12 and I think there was one initiated by the
13 Governor after the story broke. But I think the
14 senator put the brakes on having that done, but I
15 don't remember him rendering an opinion. I don't
16 think he would have rendered an opinion based on
17 an analysis without doing an analysis of the
18 facts.

19 Q. Did you relate to Mr. Dopp that there were
20 these prior incidents involving the senator?

21 A. Yes.

22 Q. Did you get any response from Mr. Dopp?

23 A. No. I viewed them as the type of thing we
24 deal with in daily life. I have had threatening

1 letters that have been sent to me by phone. I
2 consider it to be part and parcel of public life.

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

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

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

1 executive chamber.

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

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

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

1 operating under the assumption that I didn't know
2 we were dealing with the media.

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

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

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

22 A. I still thought it was all public
23 information and I still thought it was within my
24 duties. And I still think it is to this day. I

1 think had I been told by anyone that it was not
2 subject to release as FOIL or that it was not a
3 public record, that would have made a difference
4 in me sharing this information. But as a point of
5 information in this process I would have advised
6 them more on what I think the likely repercussions
7 were of a media story rather than the
8 appropriateness of what we did. I don't think I
9 did anything inappropriate. I think what I was
10 asked to do was within the rights of the executive
11 chamber to ask for.

12 BY MR. TEITELBAUM:

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

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

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

22 A. Maybe a bad choice of words. I was thinking
23 from a media defensive standpoint. I knew behind
24 the scenes on this e-mail before this e-mail.

1 Whether it was McArdle or their other guy who was
2 the press guy, I didn't necessary know. But I
3 knew their response back to the reporter which was
4 then conveyed to Darren is that they were taking
5 some defensive structure within the security
6 aspect to defend what they were using in
7 connection with what they were using these drivers
8 for. So, "their defense" refers to the issue of
9 they are defending themselves publicly as to why
10 they are using or misusing this State Police
11 asset. It reminded me of Hevesi because it seemed
12 Hevesi was saying, well, I need this because of
13 the security issues surrounding my wife. That's
14 why I need to have a public employee driving my
15 wife. It struck me almost the same exact
16 language.

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

19 A. I'm not thinking that far ahead on this. I
20 am looking at it from a press standpoint. I'm
21 looking at this from what they said in response to
22 the press now saying to them: How do you justify
23 the State Police asset being used? And they are
24 saying its because of the death threats that the

1 senator faces.

2 Q. When you are using the term "defense" are
3 you telling us it is unrelated to the work that
4 you and Dopp were doing is going to result in an
5 accusation of inappropriate use of aircraft?

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

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

14 A. I know there is an article being written
15 now. The FOIL has been shared. I know there is a
16 reporter engaged in a dialogue with everybody of
17 interest in this thing. And I know when
18 confronted by the reporter the Senate has
19 responded back that: We need this for security
20 purposes. I don't know that anyone inside
21 government or inside this issue looks at this as
22 necessarily being security coverage for the
23 senator. It looks like driving services. There's
24 one guy driving a car or two guys driving a car if

1 they have their staff in the one behind. The real
2 issue here is what they are saying publicly.
3 Their public defense to the media strikes me as
4 what Hevesi was saying when Hevesi was saying when
5 he was initially confronted on this issue.

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

10 A. I don't ever remember that, and I don't
11 think I would have had that sort of conversation.
12 I know I had those conversations related to
13 Pataki. We talked a lot about the Pataki risk
14 level and the fact that we didn't have -- we had
15 some threatening letters but not a lot of stuff
16 that was active. And I remember the summary of
17 this being he was of low threat. But I don't
18 remember ever having any kind of discussion about
19 Bruno where I would suggest that he was of low
20 threat. There may have been in the context of a
21 conversation but doesn't strike me as the kind of
22 thing that I would say. I don't think I have
23 enough knowledge about this to have ever rendered
24 an opinion like that.

1 Q. Were you aware that there came a time in mid
2 May where a conclusion was reached in the
3 executive chamber that the Senator's use of the
4 aircraft didn't violate any law?

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

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

12 A. Yes, two things. One, because I was being
13 asked to do it. And, two, because I wasn't aware
14 that anyone reached a decision that they no longer
15 wanted to pursue this. I am in the weakest of all
16 positions on the second floor. My interest is not
17 in bucking decisions of the senior staff. My
18 interest is providing service to them and the best
19 advice. And if anyone had told me at any point
20 there was no interest in pursuing this and there
21 was no interest in engaging in this, that would
22 have been the end of it. Again, Darren -- not
23 throwing any stones here, but Darren continued to
24 ask me questions, continued to ask me for

1 information, and I provided it. If at any point
2 someone had said: By the way, the Governor and
3 senior staff no longer wants to pursue this thing,
4 that would have been the end of from my
5 standpoint.

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

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

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

24 A. It does not.

1 Q. It does not?

2 A. No. If anyone said to me they no longer
3 wanted to pursue this I would have stopped it. I
4 didn't see my role as being a political role. And
5 I think that I go back to looking at the
6 information, looking at the issues that are out
7 there. And it seems now that every single day
8 there are new issues out there. I go back to
9 whatever the Governor wants to do, whatever Rich
10 Baum wants to do as a direction from the
11 administration is one thing. But from the
12 standpoint of the information that was collected,
13 how it was collected and what it was, I don't
14 think there was anything inappropriate in what was
15 collected. Whether or not other people seek to
16 use it for political purposes is a whole other
17 matter. But going back to what I thought my role
18 was, our right to know about this information, my
19 ability under the chain of command to collect that
20 information based on a request, I thought it was
21 perfectly legitimate for me to do that. And I go
22 back to that today. What other people were going
23 to do with it was at pay grades above my level at
24 this point.

1 Q. I appreciate your remarks. And perhaps my
2 question is not clear, I'm not asking you now
3 whether you were pursuing a political agenda. I
4 am asking you now as somebody whose career has
5 been steeped in government services at a high
6 level. As you look at the course of events that
7 occurred and the fact that in mid May the
8 conclusion had been reached to drop this and that
9 nothing illegal was being done by the senator that
10 the continuation of collecting information on this
11 subject -- I am asking about you, not what your
12 intention was, but as somebody who has been in
13 government -- would you agree with me that it
14 appears that there was a political agenda being
15 pursued.

16 A. I don't want to go there on that. What I
17 would say is if I knew that someone had made the
18 decision, whoever it was that ranked above Darren,
19 whether it was the Governor or Rich or David
20 Nocente from the legal standpoint, if that
21 decision had been made to not pursue this, that
22 should have been the end of it. And whatever
23 other people decided to do with the information
24 certainly has political repercussions and

1 ramifications. And I agree with that and see it
2 now. But from my standpoint the fundamental issue
3 is I was operating under the thought that this was
4 something that I was being asked to do that was
5 something that was clear to the process. If there
6 was ever a point where someone said they didn't
7 want to pursue it, it should have stopped. And
8 whoever continued to do it at that point should
9 have been instructed to stop because it did have
10 all of those issues.

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

17 A. I don't.

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

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

23 Q. I'm not asking you that. I am asking you,
24 as you look at the course of events -- I'm asking

1 you to comment on whether he breached it. I am
2 asking as a man who has been in government all of
3 those years at high level positions, as you look
4 at this situation sitting here today do you agree
5 with the Governor that there is an appearance that
6 there has been a breach in that wall?

7 A. I don't think there was. I don't.

8 BY MS. TOOHER:

9 Q. Just a few more questions. The article from
10 the Times Union comes out on July 1st. And prior
11 to that time are you in communication with Jim
12 Odatto from the Times Union?

13 A. Prior to that I think there is one call
14 after the article comes out that I got from Jim
15 Odatto dealing with the threat assessment issues.

16 Q. And, you believe that that was after?

17 A. I think it was after. I'm not sure if it's
18 after the article came out or after the FOIL. But
19 I know I got a call from Jim Odatto. And the
20 context of the call was the threat assessment
21 issue, so I think it was in response so the Senate
22 telling him that this is all about security. And
23 he is asking me if he can get access to any threat
24 assessment that has been done.

1 Q. And he did reach out to you?

2 A. He did reach out to me on that occasion,
3 yes.

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

6 Q. I'm going to show you Commission's Exhibit
7 70. This appears to be --

8 A. I think I remember this. It would be
9 sometime after the FOIL but before the article
10 appeared. Jim called me on the phone and asked me
11 if a threat assessment had ever been done on the
12 senator and, if one had, whether the State police
13 would ever share something like that. And I think
14 it was a very brief conversation. I said I don't
15 know if they have ever done one because I don't
16 think I knew at that point. I wouldn't have told
17 him if I did. But I don't know if they had done
18 one, and I was pretty sure that they wouldn't have
19 shared something like that. It would have been
20 very inside. And he seemed to accept that.

21 Q. This was after you had e-mailed and had
22 gotten a response from Superintendent Felton as
23 set forth in Commission's Exhibit 36?

24 A. I don't know the time frames there.

1 Q. The time of the e-mail to hear back from
2 Preston Felton is 5:44 a.m. on June 29th, and this
3 message was given to you at 10:18 a.m. June 29th.

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

7 Q. Why is Odató calling you?

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

24 Q. From mid May to June 29, 2007, had you had

1 other conversations with Odatto?

2 A. I'm sure I had other conversations with
3 Odatto.

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

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

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

18 A. I don't think I did.

19 Q. Were you aware that the FOIL request came
20 from Mr. Odatto?

21 A. Certainly later on. I don't know that I did
22 in the first instance, as I said earlier. I think
23 Darren said to me: We received a FOIL. I don't
24 think he said it was from the Times Union. He

1 have might said it was from Odatto and I might have
2 told the Superintendent: We got a FOIL from
3 Odatto. I don't remember saying that. I remember
4 saying that we got a FOIL request.

5 Q. Do you provides other materials beyond the
6 packet that the State Police had provided to you
7 in response to the FOIL?

8 A. To the FOIL?

9 Q. Yes.

10 A. Darren had asked me if there was some policy
11 related to aviation policy, if there was a formal
12 policy related to aviation. And I had given him a
13 copy of the FOIL I had. And I think there is an
14 e-mail someplace that says I put it on his chair.
15 That's what I gave him, and that was coming up as
16 part of the conversation as well.

17 Q. When the article come out in the Times Union
18 on July 1st did you see the article?

19 A. Oh, yeah.

20 Q. Did you see the documents annexed to the
21 article?

22 A. I didn't until later on. I didn't bother to
23 on line and check them out, so I didn't.

24 Q. When did you see the documents?

1 A. I don't think I ever actually did check them
2 out on line. I think I saw them as part of the
3 A.G. -- no, it couldn't have been the A.G. The
4 A.G. didn't share any documents with me when I
5 went down for the testimony. So it must have been
6 the D.A. or prepping for the D.A.'s testimony or
7 something like that. But I didn't really bother
8 to look at them at the time the story was
9 published.

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

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

18 Q. That he had gotten another FOIL request?

19 A. I think he said he got another FOIL request.
20 And I either e-mailed or called Felton and asked
21 for any of the June trips. I think that's on July
22 2nd. I'm not positive of the date.

23 (Commission Exhibit 71 was marked for
24 identification.)

1 Q. I'm going to show you what has been marked
2 as Commission's Exhibit 71. Can you identify this
3 document?

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

15 Q. I'm going to show you Commission's Exhibit
16 4.

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

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

24 A. I was operating on the assumption that Jim

1 Odato had FOILED for this document, had a separate
2 FOIL for this document.

3 Q. If I told you Jim Odato's separate FOIL
4 didn't come in until July 10th would that change
5 your explanation?

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

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

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

1 was told.

2 BY MS. SULLIVAN:

3 Q. Who told you that?

4 A. Preston Felton told me there was one meeting
5 with I think Mayor Bloomberg that was supposed to
6 take place on this day and because of weather
7 issues they couldn't do that meeting. So what we
8 were left with is basically a political meeting
9 but no official business meeting for that day.
10 And I'm pretty sure I expressed that to Darren as
11 an issue. In fact, I know I expressed to him the
12 weather issue because I thought it was somewhat of
13 a mitigating factor that: Yes, it's true that
14 this would probably violate even the previous
15 ethics policy, but on the other hand there was a
16 weather issue. And I wanted him to be aware of
17 that.

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

21 A. I don't know that I ever did. I can't ever
22 remember having that discussion with him in the
23 past. But I remember in the context of this trip
24 mentioning to him: This looks to be a purely

1 political meeting, but be aware that there is this
2 issue of the weather. Apparently, they decided to
3 come back from the City so there is no official
4 business for this day. And I know there had
5 probably been general discussions about the mix of
6 political business and official -- we talked about
7 that previously. But I think this might have been
8 the first time that I actually indicated: But
9 don't get too excited here because I think the
10 weather issue mitigates those other factors.

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

14 A. Mostly -- and I won't say not at all about
15 Bruno, but mostly about the Governor when I talked
16 about the split between the Pataki bills and the
17 Governor's travel and the Bruno issue, within the
18 context of the Governor's travel issue there's a
19 lot of discussion with Darren, some of which is
20 probably reflected in the e-mails and a lot of
21 which I remember as direct conversations about how
22 did you do this? How did you guys decide with
23 Pataki what was political and what was not? How
24 did you work the schedule? And I tried the best I

1 could to give guidance. So, those issues were
2 being discussed back in -- I don't know. Pataki
3 pays the final bill I think on May 15th for the
4 charter trip. So, prior to that there was all
5 sorts of discussions about: Is this appropriate?
6 If we did a whole bunch of business trips and one
7 big political trip at the end of the day, would
8 that pass muster? So, there were a lot of
9 discussions not about Bruno but about the Governor
10 and comparing to Pataki and how he did things.

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

14 A. Right.

15 Q. And the standards for looking at that?

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

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

20 A. That's why when you showed me the earlier
21 e-mail I don't remember a discussion that went
22 back that far. But in my mind this evolved from
23 the discussion about Governor Pataki's travel and
24 the settlement of the bills, the discussion of

1 Governor Spitzer's travel and figuring out the
2 appropriate reimbursement level and it gets into
3 the Bruno piece. That's why in my mind I had it
4 pegged to like mid May.

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

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

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

16 A. Right.

17 Q. -- by Senator Bruno?

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

24 Q. So, Darren is looking at the issue of

1 Senator Bruno on May 15 -- May 17th as an issue of
2 whether this is the political -- the use of the
3 helicopter for political purposes?

4 A. Potentially, yes, absolutely.

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

9 A. Yes.

10 Q. Can you explain that?

11 A. You know, it's not untypical of the
12 relationships. The press officers often would
13 call me on stuff because, as I said, they had
14 trouble getting an answer or they weren't getting
15 their phone calls returned, because the press
16 office is very busy. So, I don't know how it all
17 started, but it may have started with just a
18 response back to me from Glen -- e-mail response,
19 I think -- indicating that, you know, he is in
20 dialogue with the reporters and he has this one,
21 that one, this one asking questions. And, then, I
22 think he sends me another e-mail almost
23 apologizing for not throwing one or two other
24 reporters in the mix who are inquiring. And he is

1 now engaged from the press standpoint and he's in
2 contact with me to give me a heads-up that the
3 press is asking questions and he needs to know the
4 answers to those questions. I don't know if in
5 Glen's frustration -- he can speak to that. Many
6 times the press officers get frustrated because
7 they are not getting guidance from the press
8 office sometimes as quickly as they need it to
9 satisfy the press inquiries.

10 Q. So, he is now turning to you?

11 A. Not for the responses or not what he says,
12 but: Can you get me -- is there a statement that
13 has come out from the Governor? Are you guys
14 saying -- is there something that I should be
15 saying in that response? And I think I am either
16 walking down to Darren's office to try to
17 encourage them to deal with Glen, or: We're in
18 the process of putting out a statement and I know
19 there is a draft statement that's done. We have
20 it a binder there where I do run it by state
21 police and ask them the question: Is that okay?
22 They tell me it's okay and I bring it back to
23 Darren saying the state police is okay with the
24 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

1 second floor and they are saying you are the
2 reason for all of this stuff. And I said, you
3 know -- I don't know what my response was, just
4 basically to poo-poo that. And he said: Well,
5 keep your head low, my friend, because bad stuff
6 is coming your way. And I assumed that that was
7 an attempt to see whether or not when it really
8 hit the fan whether or not Bill Howard would step
9 up and support Senator Bruno. That's what I
10 thought. And I thought it was a clear warning
11 note given to me in a pleasant non-threatening way
12 by the Secretary to the Senate. And I thought
13 that that was something I needed to report to Rich
14 Baum.

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

17 A. I think that's one of those issues when the
18 Secretary to the Senate calls up, particularly now
19 that the story appeared and people are calling for
20 investigations and things like that, that's
21 something I felt like I needed him to be aware of.
22 It was a contact with the Senate under the worst
23 of circumstances. Well, we didn't see the worst
24 of circumstances at this point. But it was under

1 bad circumstances and he needed to know about it.
2 I didn't know what they were going to do about it.
3 And, my goal was to be as smart as I possibly
4 could in dealing with the Senate because I assumed
5 everything I said could end up in the newspaper.

6 Q. So, at that point you are reaching out to
7 Baum that you had been approached by the Senate?

8 A. Right. And I thought the clear intent is to
9 see whether Bill Howard is willing to kind of step
10 forward and buck the administration. That's kind
11 of what I thought was in the message.

12 Q. Did you have any conversations with Richard
13 Baum about this?

14 A. I did. I told help kind of what was said,
15 how it was said. There was a brief conversation.

16 Q. And what was his response?

17 A. Just, you know, no real response. Not
18 really taking it all that seriously, kind of
19 laughing it off. Again, I wouldn't want to leave
20 here with the impression that -- I have been
21 threatened a lot in my career. I didn't take this
22 as a threat. I thought this was a little shot
23 across the mouth. Some bad stuff is going to come
24 your way and I want to be sure it does.

1 MS. TOOHER: I think we are done.

2 INTERVIEWEE: Can I say something at the
3 end?

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

7 INTERVIEWEE: I want to thank you for
8 the way I have been treated. I want to thank you
9 for the opportunity to look at exhibits. It's
10 something that when I was sitting with the
11 Attorney General I was not given the opportunity
12 to look at any exhibits. I think there is
13 confusion at some point in my testimony because I
14 wasn't able to look at exhibits. And I think if
15 you review that testimony -- you probably already
16 have -- there are at least several points where
17 the Attorney General folks indicate: We will show
18 you testimony. They never did. And I think
19 everybody is trying to do the best job they
20 possibly can to figure out the story here and
21 figure out whether or not there has been any
22 violations of any of the laws. And I appreciate
23 your efforts to try to get to that same result. I
24 tried to the best of my ability to be honest and

1 forthright and to tell you everything that I know.

2 And I have tried to do that very sincerely today.

3 I would also like to get on the record

4 the issue that -- I mean -- I hope I can get

5 through this. This has been very, very difficult

6 for me. And I am a person that is very proud of

7 what I have been able to do for State government

8 over many, many years. I think that when I look

9 at the accomplishments that I have had in state

10 government and I see how it has been impacted and

11 affected by this series of events. I still do not

12 believe that I did anything that was

13 inappropriate. I don't think I did anything that

14 was out of my assigned duties. I know that isn't

15 part of -- sorry.

16 MS. SULLIVAN: Do you want a glass

17 of water?

18 INTERVIEWEE: Yes, please. One of the

19 things you will have to determine as you analyze

20 the record and analyze the testimony, but I wanted

21 to --

22 MS. TOOHER: Take your time.

23 INTERVIEWEE: I wanted to let you know

24 the impact that this event has had on my -- oh,

1 man. I'm sorry -- has had on me and my family
2 including my mother and father who are very proud
3 of what I have done in state government over the
4 years. I think I have acted with a supreme ethic
5 over the course of my career. I never took a meal
6 from a lobbyist in all those years that I was in
7 the legislature. I have always believed that I
8 stood to ethics in government and good government.
9 And if I felt at any point in this process that I
10 had done anything wrong I would have stopped it
11 because that's who I am and that's what I bring to
12 government.

13 I don't see anything that I did in this
14 that was out of my responsibilities and out of my
15 official duties. I think that I did, under very
16 difficult circumstances, what I was asked to do.
17 And I did it to the best of my ability. And if I
18 had it to do over again I would do things a lot
19 differently. I would probably talk to more
20 lawyers as I went through this process because I
21 think that's something that was probably missing
22 at my level in the interactions on this. But I
23 want to be very clear, if I can, and just say that
24 I would hope that as you look at these whole

1 circumstances, evaluate it based on 23 years of
2 state government, evaluate it based on what I have
3 done for the people of the state, and that there
4 was never a moment when I didn't walk into that
5 building and feel proud of what I did and what I
6 thought I was doing for the people of the state.
7 And this has been very, very difficult
8 emotionally. Financially, I have taken about a
9 \$20,000 pay cut. I don't know what the future
10 holds in terms of my employability or continued
11 service in State government. I do think state
12 government is better for Bill Howard being in it.
13 I truly do. And I think if you look at things
14 that are far outside of politics that I have had
15 an unusual career from the standpoint of being a
16 person who has been thrust into a political
17 position but has not been a political person. And
18 I think you look at the Alfred E. Smith award for
19 Public Administration, you look at the highest
20 level of National Guard award that has ever been
21 presented to a civilian, you look at all of those
22 things that independently recognized a person who
23 has never solicited that stuff -- I couldn't have
24 cared about it. If I was going to be honored with

1 something I wanted it to have come from what was
2 real and not what was orchestrated.

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

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

16 MS. TOOHER: Let me just say to you
17 thank you for coming in today. We do appreciate
18 it. The interest here is solely in doing a
19 complete and thorough investigation into what
20 happened. And we appreciate you coming in and
21 testifying today. Thank you.

22 INTERVIEWEE: Thank you.

23 (The interview was concluded.)

24

1 STATE OF NEW YORK)
) SS:
2 COUNTY OF ALBANY)

3

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

11

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

16

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

22

23 IN WITNESS WHEREOF, I have hereunto set my
24 hand.

25

26

27

28

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

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